

**OREGON ADMINISTRATIVE RULES
CHAPTER 800
BOARD OF TAX PRACTITIONERS**

**DIVISION 1
PROCEDURAL RULES**

800-001-0000

Notice of Proposed Rule

Prior to the adoption, amendment, or repeal of any rule, except temporary rules adopted under ORS 183.335(5), the State Board of Tax Practitioners shall give notice of the proposed adoption, amendment, or repeal:

(1) In the Secretary of State's Bulletin.

(2) By mailing a copy of the notice to persons who have requested such notice.

(3) By mailing a copy of the notice to the following organizations or publications:

- (a) Associated Press;
- (b) Oregon Association of Tax Consultants;
- (c) Oregon Society of Tax Consultants; and
- (d) Oregon Association of Independent Accountants;
- (e) Oregon Society of Enrolled Agents.

Stat. Auth.: ORS 183.335 & ORS 673.730(5)

Stats. Implemented: Hist.: TSE 5, f. & ef. 12-4-75; TSE 4-1981, f. & ef. 8-13-81; TSE 2-1987, f. & ef. 10-2-87; TSE 1-1993, f. & cert. ef. 2-23-93; TSE 1-1995, f. & cert. ef. 5-5-95

800-001-0005

Contested Cases

The Board of Tax Practitioners adopts the current version of the Attorney General's Model Rules of Procedure under the Administrative Procedure Act. **The Board may close a contested case hearing to members of the public to keep confidential personal financial information gathered by the Board pursuant to an investigation.**

Stat. Auth.: ORS 183

Stats. Implemented: Hist.: TSE 1, f. 2-19-74, ef. 4-20-76; TSE 7, f. & ef. 4-20-76; Renumbered from 852-010-0005; TSE 2-1978, f. & ef. 3-27-78; TSE 1-1980, f. & ef. 4-17-80; TSE 1-1982, f. & ef. 3-22-82; TSE 1-1985, f. & ef. 1-15-85; TSE 1-1986, f. & ef. 7-14-86; TSE 2-1988, f. & cert. ef. 8-26-88; TSE 15-1991, f. & cert. ef. 12-20-91; BTSE 1-2001, f. & cert. ef. 4-19-01

800-001-0010

Assistance in Hearing

(1) The Board Administrator or Compliance Specialist is authorized to appear (but not make legal argument) on behalf of the agency in a hearing or in a class of contested case hearings in which the Attorney General or the Deputy Attorney General has given written consent for such representation. A copy of the list of

contested case hearings for which the Attorney General or the Deputy Attorney General has given consent is maintained by the agency and the Department of Justice.

(2) Legal argument as used in ORS 183.450(8) and this rule has the same meaning as in Model Rule OAR 137-003-0008(1)(d).

(3) When an agency employee represents the agency, the presiding officer shall advise such representative of the manner in which objections may be made and matters preserved for appeal. Such advice is of a procedural nature and does not change applicable law on waiver or the duty to make timely objection. Where such objections involve legal argument, the presiding officer shall provide reasonable opportunity for the agency officer or employee to consult legal counsel and permit such legal counsel to file written legal argument within a reasonable time after conclusion of the hearing.

Stat. Auth.: ORS 673.

Stats. Implemented: Hist.: TSE 7-1990, f. & cert. ef. 9-4-90; BTP 1-2003, f. & cert. ef. 9-23-03

800-001-0015

Requiring an Answer to Charges as Part of Notices to Parties in Contested Cases

In addition to the notice requirements under the Attorney General's Model Rules of Procedure, the Notice to Parties in Contested Cases may include the statement that an answer to the assertions or charges will be required, and if so, the consequence of failure to answer. A statement of the consequences of failure to answer may be satisfied by enclosing a copy of OAR 800-001-0005 through 800-001-0020 with the notice.

Stat. Auth.: ORS 673.705 - ORS 673.990, SB279

Stats. Implemented:

Hist.: BTSE 1-2001, f. & cert. ef. 4-19-01

800-001-0020

Hearing Request and Answers: Consequences of Failure to Answer

(1) A hearing request, and answer when required, shall be made in writing to the Board by a party or his/her attorney and an answer shall include the following:

- (a) An admission or denial or each factual matter alleged in the notice;
- (b) A short and plain statement of each relevant affirmative defense the party may have.

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- (2) Except for good cause:
- (a) Factual matters alleged in the notice and not denied in the answer shall be presumed admitted;
 - (b) Failure to raise a particular defense in the answer will be considered a waiver of such defense;
 - (c) New matters alleged in the answer (affirmative defenses) shall be presumed to be denied by the board; and
 - (d) Evidence shall not be taken on any issue not raised in the notice and answer.

Stat. Auth.: ORS 673.705 - ORS 673.990, SB279
Stats. Implemented:
Hist.: BTSE 1-2001, f. & cert. ef. 4-19-01

**DIVISION 10
CODE OF PROFESSIONAL CONDUCT**

800-010-0015

Definitions

As used in these rules, unless the context requires otherwise:

(1) "Board" means the State Board of Tax Practitioners.

[(4)] (2) "Client" means a person for whom a licensee performs or agrees to perform professional services for a fee and the services are related directly or indirectly to the client's personal income taxes.

[(5)] (3) "Confidential Information" means information furnished to a licensee for, or in connection with, the preparation of a client's income tax return.

(4) "Designated Consultant" means a consultant who is the responsible individual for the preparation of all personal income tax returns prepared for the public for each registered business.

[(2)] (5) "Licensee" means a tax consultant, tax preparer, or any person, corporation, firm or partnership falling within the purview of ORS 673.605 to 673.735.

(6) "Resident Consultant" means the tax consultant who is physically present to conduct and carry out his/her duties in the principal or branch office.

[(6)] (7) "Tax Consultant or Tax Preparer Practice" and a licensee's "professional practice" means any service performed or supervised by the

licensee for a client, including any advice or recommendation made by the licensee to the client, when it is related directly or indirectly to the client's personal income tax return, if the licensee also prepares the client's personal income tax returns.

[(3)] (8) "Tax Preparation Business" means a sole proprietorship, partnership, corporation or other entity that offers personal income tax preparation services to the public, for a fee, whether operated under an individual's own name or under an assumed business or corporate name, and including tax preparation businesses operated on a full- or part-time basis.

[(7)] (9) "Valuable Consideration", as used in ORS 673.615 and OAR Chapter 800, means a benefit that accrues to a person as a result of preparing, advising or assisting in the preparation of personal tax returns for others, or offering to perform such services. Valuable consideration need not be translatable into dollars and cents.

Stat. Auth.: ORS 673.

Stats. Implemented: Hist.: TSE 6, f. & ef. 1-5-76; TSE 2-1982, f. & ef. 5-10-82; TSE 1-1985, f. & ef. 1-15-85; TSE 6-1986, f. & ef. 12-31-86; TSE 3-1987, f. & ef. 10-2-87; TSE 1-1990, f. & cert. ef. 1-25-90; TSE 4-1991, f. & cert. ef. 10-28-91

800-010-0017

Incompetence and Negligence

Under ORS 673.700(3):

(1) A licensee is incompetent who has engaged in conduct which evidenced a lack of ability or fitness to perform his or her professional functions.

(2) A licensee is negligent who has engaged in detrimental conduct of such magnitude as to indicate a willful indifference to the consequences of his or her actions.

Stat. Auth.: ORS 673

Stats. Implemented: Hist.: TSE 8-1990, f. & cert. ef. 9-4-90; TSE 9-1990(Temp), f. & cert. ef. 10-30-90; TSE 1-1991, f. & cert. ef. 1-3-91; BTP 1-2003, f. & cert. ef. 9-23-03

800-010-0020

Confidential Information

(1) A licensee shall not disclose any confidential information obtained in the course of professional engagement except:

- (a) With the consent of the client;
- (b) After being subpoenaed by a court or governmental agency of competent jurisdiction;
- (c) In response to an inquiry by the Board or its investigator.

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(d) As required by federal or state regulations for electronic filing.

(2) Members of the Board and its employees shall not disclose any confidential client information which comes to their attention except as required to carry out their official responsibilities.

Stat. Auth.: ORS 673
Stats. Implemented: Hist.: TSE 6, f. & ef. 1-5-76; TSE 1-1985, f. & ef. 1-15-85; BTSE 1-2001, f. & cert. ef. 4-19-01

800-010-0025

Integrity and Objectivity

(1) A licensee shall not knowingly misrepresent facts while preparing or advising in the preparation of income tax returns. A licensee may resolve doubt in favor of a client if there is reasonable support for the position.

(2) A licensee who finds that a client has made an error or omitted information or related material required on an income tax return shall promptly advise the client of such error or omission.

(3) A licensee shall not arrange for or permit a client's individual income tax refund check to be mailed to the licensee at any time, for any purpose.

(4) Commissions earned for the personal services of the licensee, such as real estate, insurance, investment and securities sales, may be earned if the licensee also holds any license, permit or registration required by law to perform the services. A licensee shall disclose in writing that s/he will be compensated for any personal services. The client will acknowledge receipt of the disclosure in writing.

(5) Fees in connection with preparation of tax returns must be stated separately from, and in addition to, any other professional services provided.

(6) [(a)] A licensee shall, upon written request by a client, make available or return within a reasonable time to the client, personal papers or source material in the manner furnished to the licensee by the client;

[(b)] (a) A licensee who has provided a tax return to a client shall, upon written request by the client, make available within a reasonable time to the client, copies of depreciation schedules that support the return;

[(c)] (b) A licensee is not required to furnish records to a client more than once under this subsection.

(7) A licensee shall not engage in fraudulent, deceptive or dishonest conduct relating to the licensee's professional practice.

(8) A licensee shall not violate any position of trust, including positions of trust outside the licensee's professional practice.

Stat. Auth.: ORS 673.730(6)
Stats. Implemented: Hist.: TSE 6, f. & ef. 1-5-76; TSE 3-1980, f. & ef. 8-22-80; TSE 1-1985, f. & ef. 1-15-85; TSE 4-1986, f. & ef. 8-15-86; TSE 3-1989, f. & cert. ef. 12-20-89; TSE 1-1992, f. 3-24-92, cert. ef. 6-1-92; BTSE 1-2001, f. & cert. ef. 4-19-01; BTP 1-2003, f. & cert. ef. 9-23-03

800-010-0030

Accountability

(1) A licensed tax consultant or registered business shall only allow persons to practice in the consultant's or business' name who are licensed as tax consultants, tax preparers, or described in ORS 673.610.

(2) A tax consultant shall not permit the use of the consultant's license to enable others to establish and carry on a business for the preparation of personal income tax returns wherein the consultant's only interest is the receipt of a fee for use of the consultant's license and the consultant does not provide supervision of the tax preparation activities as defined in OAR 800-025-0050.

(3) A tax consultant or a tax preparer shall not state or imply that a tax preparer preparing tax returns to which the consultant's license number or business information is affixed is not:

- (a) Fully subject to the supervision of the consultant or registered business; as defined in OAR 800-025-0050; or
- (b) Acting as agent of the consultant or registered business.

(4) A tax preparer shall not engage in the preparation of tax returns, assist in such preparation, gather tax information, or provide tax advice unless the preparer is under the supervision of a tax consultant as defined in OAR 800-025-0050.

(5) A licensee shall not maintain a financial interest in or hold an employment position with any business entity that offers personal income tax preparation services, if any other person maintains a financial interest in the entity, or holds a management position involving authority over the business operations of the entity, and:

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- (a) That person's tax consultant's or tax preparer's license has been permanently revoked; or
- (b) The Board has refused to issue or renew a license to that person; or
- (c) Another state regulatory agency or the Internal Revenue Service has revoked or refused to issue or renew an occupational license, registration or permit held or requested by that person, for conduct involving tax preparation or dishonesty.

(6) If required to do so under section (5) of this rule, a licensee shall be allowed a reasonable time, not to exceed 180 days, to sever an existing relationship with a person whose license is revoked or refused.

(7) Section (5) of this rule does not apply to a licensee or a person described in subsections (5)(a) through (c) of this rule, whose only financial interest in a tax preparation business is the ownership of ten percent or less of the stock in a publicly-held corporation.

Stat. Auth.: ORS 673
Stats. Implemented: Hist.: TSE 6, f. & ef. 1-5-76; TSE 1-1979, f. 6-14-79, ef. 6-15-79; TSE 1-1985, f. & ef. 1-15-85; TSE 8-1987, f. & ef. 12-21-87; BTSE 1-2001, f. & cert. ef. 4-19-01

**800-010-0035
Contingent Fees**

A licensee shall not render or offer to render professional services under an arrangement whereby no fee will be charged unless a specific finding or result is attained, or where the fee is otherwise contingent upon the findings or results of such services.

Stat. Auth.: ORS 673
Stats. Implemented: Hist.: TSE 6, f. & ef. 1-5-76

**800-010-0040
Identification**

(1) A licensee shall include the licensee's business name, permanent address, and signature on the original and all copies of federal and state personal income tax returns or electronic filing documents prepared by the licensee, together with all other data required of by the Internal Revenue Service, Department of Revenue, and State Board of Tax Practitioners. Office copies are exempt from this requirement.

(2) Where the licensee's signature appears on the tax return, there shall be included the State license number of the tax consultant responsible

for the preparation and the State license number of the individual preparing the return.

(3) In addition to the original copies of returns provided to or filed on behalf of a client, at least one duplicate copy of the complete set of the returns, including all accompanying forms and schedules, shall be supplied to the client. A licensee is not required to provide duplicate records to a client more than once. However, in the case of a joint return, each spouse is entitled, upon request, to a copy of the return.

Stat. Auth.: ORS 673.730(5)
Stats. Implemented: Hist.: TSE 6, f. & ef. 1-5-76; TSE 12, f. & ef. 9-20-77; TSE 1-1978, f. & ef. 2-3-78; TSE 2-1982, f. & ef. 5-10-82; TSE 1-1985, f. & ef. 1-15-85; TSE 2-1995, f. & cert. ef. 5-5-95; BTSE 1-2001, f. & cert. ef. 4-19-01

**800-010-0041
Address and Telephone**

Licensees shall file with the Board their current residence address and telephone number and shall also file with the Board their current business address and telephone number and a year-round telephone number and address where clients and the Board may contact the licensee.

Whenever any of the information required in this section changes, the licensee shall immediately notify the Board.

Stat. Auth.: ORS 673
Stats. Implemented: Hist.: TSE 1-1985, f. & ef. 1-15-85

**800-010-0042
Communications**

A licensee shall, when requested, respond in writing to communications from the Board within twenty-one days of the mailing of such communications to the address furnished to the Board by licensee.

Stat. Auth.: ORS 673.730(5)
Stats. Implemented: Hist.: TSE 2-1982, f. & ef. 5-10-82; TSE 1-1985, f. & ef. 1-15-85; TSE 3-1995, f. & cert. ef. 5-5-95

**800-010-0045
Experience and Competence**

A licensee shall not prepare tax returns or give advice that is outside the field of the licensee's experience and competence without the assistance of a person who is competent in the area of concern.

Stat. Auth.: ORS 673
Stats. Implemented: Hist.: TSE 6, f. & ef. 1-5-76; TSE 1-1985, f. & ef. 1-15-85

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800-010-0050

Advertising and Solicitation

(1) As used in this rule, "advertise" and "advertising" means any form of printed, broadcast or electronic material that makes known professional tax services. This includes, but is not limited to, business cards and business stationery of an individual or business that offers such services.

(2) No licensee or tax preparation business shall advertise or solicit clients in a false, fraudulent, deceptive or misleading manner.

(3) All advertising must be in the name of a firm that has complied with ORS 673.643 or in the name of a licensed tax consultant.

(a) Only a person holding a valid tax consultant's license may use the designation "L.T.C." or the titles "Licensed Tax Consultant" or "Tax Consultant."

(b) Only a person holding a valid tax preparer's license may use the designation "L.T.P." or the title "Licensed Tax Preparer".

(4) All advertising must be reviewed and approved in advance by the designated tax consultant. The designated tax consultant and the designating business shall each be responsible for the business's compliance with the provisions of this rule.

(5) No licensee shall give or offer to give a discount unless:

- (a) The discount is based upon a conspicuously posted basic fee schedule at the licensee's place of business; and
- (b) The posted basic fee schedule is the usual and customary charges; and
- (c) The posted basic fee schedule is made available to the general public.

Stat. Auth.: ORS 673.663

Stats. Implemented: Hist.: TSE 6, f. & ef. 1-5-76; TSE 2-1981(Temp), f. 2-18-81, ef. 2-19-81; TSE 3-1981, f. 7-22-81, ef. 7-23-81; TSE 4-1981, f. & ef. 8-13-81; TSE 3-1982, f. & ef. 11-19-82; TSE 1-1985, f. & ef. 1-15-85; TSE 3-1986, f. & ef. 7-14-86; TSE 2-1990, f. & cert. ef. 1-25-90; TSE 2-1992, f. & cert. ef. 5-15-92; BTSE 1-2001, f. & cert. ef. 4-19-01

**DIVISION 15
EDUCATION**

800-015-0005

Basic Education

(1) An accredited college [or] / university, educational service district (ESD), or a private firm that has met or is exempt from the registration requirements of the Oregon Department of Education or a private firm offering classes only to its own employees and is exempt from the Oregon Department of Education requirements may act as a sponsor for the basic income tax course.

(2) Sponsors shall apply for course certification on a form provided by the Board.

(3) A basic course shall include:

(a) At least 80 classroom hours of basic tax preparation instruction. If the course is offered through correspondence, it must be the equivalent of 80 classroom hours of instruction;

(b) Instruction in each of the subject areas specified in the Preparer Examination Index maintained by the Board;

(c) Sufficient working problems to instruct in the use of appropriate forms and schedules; and

(d) A midterm and final examination.

(4) The Board may require that a sponsor applicant submit evidence that course materials and lesson plans comply with section (3) of this rule.

(5) Basic course sponsors shall employ only instructors to teach basic courses who are actively licensed or who fall within the exemptions of ORS 673.610(2)(4) and who prepared taxes for at least two (2) tax seasons immediately prior to teaching the course.

(a) The Board may grant a specific waiver to instructor qualifications when unusual or extenuating circumstances exist.

(b) Sponsors shall submit to the Board the names and qualifications of instructors teaching each basic course.

(c) Repeated low passage rates of an instructor's students on the tax preparers' examination is evidence that the instructor may not be qualified to teach a basic tax preparation course.

(d) The instructor's approval to teach Basic Tax Preparation courses may be revoked at the option of the Board.

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(6) Evidence of successful course completion shall be furnished to students by course instructors on a Board-approved session attendance certification form. Forms may be reproduced by course sponsors. If a student misses a portion of the class sessions, the instructor may provide makeup work.

(7) Applications for course certification shall be submitted annually at least 60 days prior to the course starting. Certification shall be for the subsequent 12 months.

(8) The Board may refuse to issue or withdraw a course certification for failure to meet any of the course or instructor requirements contained in this rule.

Stat. Auth.: ORS 673.625(1)
Stats. Implemented: Hist.: TSE 9, f. & ef. 6-28-76; TSE 1-1979, f. 6-14-79, ef. 6-15-79; TSE 2-1979, f. 9-28-79, ef. 10-1-79; TSE 3-1979, f. 11-28-79, ef. 11-30-79; Renumbered from OAR 800-020-0040 by TSE 2-1980, f. & ef. 5-30-80; TSE 3-1982, f. & ef. 11-19-82; TSE 1-1985, f. & ef. 1-15-85; TSE 3-1990, f. & cert. ef. 1-25-90; TSE 7-1992, f. & cert. ef. 12-22-92; BTSE 1-2001, f. & cert. ef. 4-19-01; BTP 1-2003, f. & cert. ef. 9-23-03

**800-015-0010
Continuing Education**

(1) Except for renewal of an initial license, a tax consultant or tax preparer renewing a license shall submit evidence of attending at least 30 hours of acceptable continuing education since the last renewal date.

(2) Continuing education credit will be accepted only for courses and seminars that comply with all Board rules regarding continuing education.

(3) The Board may verify continuing education information submitted by licensees.

(4) Education hours earned in excess of 30 hours annually cannot be carried over from one renewal period to the next, except extra hours earned during the month of renewal may be withheld by the licensee and submitted with the following year's renewal.

(5) Continuing education credit shall be granted only once during a license year for attendance at **or instruction of duplicate seminars offered by the same sponsor.**

(6) Continuing education credit for courses at accredited universities and colleges will be 15 hours for each semester hour credit and 10 hours for each quarter hour credit. For all other courses and seminars, one hour of continuing education credit will be allowed for each hour of classroom attendance.

(7) Continuing education credit may be accepted for instructors of basic or advanced courses or seminars. The credit allowed will be **[one hour] two hours** for each hour of teaching **which includes preparation time. No more than ½ of total required continuing education credit can be in teaching.**

(8) Correspondence study courses may be accepted if the program and sponsor comply with all Board rules regarding continuing education and:

- (a) The sponsor requires evidence of satisfactory completion of workbooks or examinations before certificates are issued.
- (b) The hours credited do not exceed the credit that would be allowed in a resident course covering the same material; and
- (c) A course outline with accompanying workbooks or exams is submitted to the Board, prior to offering the material, for approval of course content and hours of credit claimed.

(9) "In-Company" instruction may be accepted if the course or seminar is presented to ten or more people and all other requirements for continuing education sponsors are met. Portions of such educational sessions devoted to administrative and firm matters shall not be accepted.

(10) If a licensee claims credit for a course or seminar in the reasonable belief the instruction qualifies as acceptable continuing education, but the Board finds all or part of the hours claimed to be unacceptable, the licensee may be granted an additional period of time, not to exceed 60 days, to make up the rejected hours.

(11) Consultants and Preparers who have extenuating circumstances and are unable to obtain all their continuing education by their license due dates shall, upon written request and approval of the Board, be allowed three additional months, at no extra cost, to obtain the remaining continuing education hours. Preparers will be allowed until December 31 and Consultants until August 31.

Stat. Auth.: ORS 673.645 - ORS 673.667
Stats. Implemented: ORS 673.645 - ORS.673.667
Hist.: TSE 9, f. & ef. 6-28-76; TSE 1-1979, f. 6-14-79, ef. 6-15-79; TSE 2-1979, f. 9-28-79, ef. 10-1-79; TSE 3-1979, f. 11-28-79, ef. 11-30-79; TSE 2-1980, f. & ef. 5-30-80, Renumbered from OAR 800-020-0045; TSE 3-1980, f. & ef. 8-22-80; TSE 2-1982, f. & ef. 5-10-82; TSE 3-1982, f. & ef.

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11-19-82; TSE 1-1985, f. & ef. 1-15-85; TSE 3-1985, f. & ef. 12-5-85;
TSE 9-1987, f. & ef. 12-21-87; TSE 1-1997, f. & cert. ef. 7-2-97; BTSE 1-
2001, f. & cert. ef. 4-19-01; BTP 1-2003, f. & cert. ef. 9-23-03

800-015-0020

Continuing Education Program Requirements

(1) Acceptable continuing education is that which contributes directly to the expertise of the individual in the preparation of income tax returns, and is presented by a sponsor who meets the requirements of all Rules. It is the obligation of each licensee to select a course of study which will contribute to his or her competence in the preparation of income tax returns.

(2) The following general subject matters are acceptable:

- (a) Taxation.
- (b) Practitioner Ethics
- (c) Accounting and payroll theory directly related to taxation.
- (d) Estate, tax or investment planning.
- (e) Others, if the licensee can demonstrate a direct relationship to the preparation of a client's income tax returns.

(3) Programs primarily directed towards the licensee's personal benefit, rather than that of his or her clients, and programs relating primarily to general business management, are unacceptable. Some examples of unacceptable subjects are:

- (a) Memory improvement.
- (b) Buying or selling a tax practice.
- (c) Setting fee schedules.
- (d) Character development.
- (e) Behavior modification.
- (f) Business management
- (g) Labor law.
- (h) Economic forecasts.
- (i) Learning to operate office equipment.

(4) Programs must be at least one hour in length, including reasonable breaks, with credit given in whole hours only.

(5) Programs must be conducted by a qualified instructor whose background, training, education or experience make it appropriate for the person to lead a discussion on the subject matter of the particular program.

Stat. Auth.: ORS 673.645 - ORS 673.667

Stats. Implemented: ORS 673.645 - ORS 673.667

Hist.: TSE 9, f. & ef. 6-28-76; TSE 1-1979, f. 6-14-79, ef. 6-15-79; TSE 2-1979, f. 9-28-79, ef. 10-1-79; TSE 3-1979, f. 11-28-79, ef. 11-30-79; TSE 2-1980, f. & ef. 5-30-80, Renumbered from OAR 800-020-0045; TSE 1-1985, f. & ef. 1-15-85; TSE 3-1985, f. & ef. 12-5-85; TSE 2-1989, f. & cert. ef. 10-27-89; TSE 8-1992, f. & cert. ef. 12-22-92; TSE 2-1997, f. & cert. ef. 7-2-97; BTSE 1-2001, f. & cert. ef. 4-19-01; BTP 1-2003, f. & cert. ef. 9-23-03

800-015-0030

Continuing Education and Basic Sponsor Requirements

(1) Sponsors shall:

- (a) Maintain for at least two years an outline of each program presented;
- (b) Maintain for at least two years a record of attendance for each program presented;
- (c) Maintain for at least two years a record of instructor names, addresses and qualification; and
- (d) Provide the student a certificate or other verification of completion at the conclusion of the program. If the sponsor is an accredited college or university, a student transcript or grade report showing the credit earned will be acceptable verification. For all other sponsors, the certification shall include:
 - (A) Student's name;
 - (B) Sponsor's name and address;
 - (C) Location of program;
 - (D) Title of program;
 - (E) Date(s) attended;
 - (F) Number of classroom hours of instruction.

(2) Sponsors must conduct their programs in an honest and ethical manner.

Stat. Auth.: ORS 673.655

Stats. Implemented: Hist.: TSE 9, f. & ef. 6-28-76; TSE 1-1979, f. 6-14-79, ef. 6-15-79; TSE 2-1979, f. 9-28-79, ef. 10-1-79; TSE 3-1979, f. 11-28-79, ef. 11-30-79; TSE 2-1980, f. & ef. 5-30-80, Renumbered from OAR 800-020-0045; TSE 1-1985, f. & ef. 1-15-85; TSE 3-1985, f. & ef. 12-5-85; TSE 4-1995, f. & cert. ef. 5-5-95; BTP 1-2003, f. & cert. ef. 9-23-03

**DIVISION 20
PROCEDURES**

800-020-0015

Application for Examination

(1) Application to take the examination for a tax preparer or tax consultant must be filed with the Board on forms prescribed and furnished by the Board, together with the examination fee. The application must be signed.

(2) The application and examination fee shall be filed with the Board no later than one month prior to the examination date, except when the Board sets tighter deadlines due to time constraints.

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(3) Tax preparer applicants may file an application to take the examination before completing the basic tax course. Applicants who have completed a course of study which has not received prior approval of the Board shall furnish the Board a brief outline of courses completed, together with a transcript from the educational institution. If, in the judgment of the Board, the courses completed are comparable to those described in OAR 800-015-0005, the applicant shall be eligible to take the examination.

(4) **Completed [B]**basic course certification forms as required under OAR 800-015-0005(6) shall be submitted to the Board by the student *[together with application to take the tax preparer's examination.]* **with the application for license.** If the student has not completed the basic tax course prior to filing the examination application, the *[basic course certification shall be]* **student may still submit[ted] the exam [with] application [for license].**

(5) A tax consultant applicant who is a licensed tax preparer shall submit verification by the applicant's employer or employers, on forms prescribed and furnished by the Board, that the applicant has worked in the capacity of a tax preparer for not less than a cumulative total of 780 hours during at least two of the last five years.

(6) A tax consultant applicant who is claiming equivalent tax preparer experience shall submit on forms prescribed and furnished by the Board:

- (a) Verification by the applicant's employer or employers that the applicant has worked in the capacity of a tax preparer for not less than a cumulative total of 780 hours during at least two of the last five years.
 - (i) The Board will accept employment as an income tax auditor or taxpayer service representative with the Internal Revenue Service or State Department of Revenue as being equivalent experience.
 - (ii) For the purpose of meeting the work experience requirement for tax consultants, one hour of experience gained through volunteer tax preparation programs such as VITA and

AARP-TCE will be accepted for each five hours spent preparing, advising or assisting in the preparation of tax returns through the volunteer program, up to a maximum of 150 hours credited. To qualify for the one to five hour experience credit, total hours worked in the volunteer program must be verified in writing by a supervisor.

- (b) To claim experience under this section, the applicant must submit a petition signed under penalty of perjury that the work experience claimed is true, correct and complete.

(7) Applicants for the tax consultant examination must have completed, within a year prior to submitting application, a minimum of 15 hours of acceptable continuing education in personal income taxation to meet the requirements of OAR 800-015-0010 to 800-015-0030. This requirement is in addition to the required 780 hours of work experience earned during at least two of the last five years.

(8) A tax consultant applicant claiming tax consulting experience in another state shall:

- (a) Submit, **on a form** prescribed and furnished by the Board, a petition signed under penalty of perjury, claiming self-employment as a tax consultant for no less than two of the last five years; and
- (b) Furnish documented proof of self-employment as a tax consultant.

(9) A tax preparer or tax consultant applicant who has worked in the capacity of a tax preparer or tax consultant in another state or in an exempt status may request Board approval to substitute work experience for up to two-thirds of the classroom hours of basic income tax education otherwise required to qualify as a tax preparer or tax consultant. Approval may be granted to substitute experience for education only if:

- (a) The applicant was actively engaged in a tax preparation business within two years prior to the date of application;
- (b) The applicant has at least three years experience in a tax preparation business;

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- (c) In the opinion of the Board, the applicant has gained a competency level through work experience that is equal to those applicants who have successfully completed the basic income tax course; and
- (d) The applicant submits verification by the applicant's employer(s) or evidence of self-employment regarding the work experience.

(10) The Board may accept education credit for courses completed by a tax consultant applicant to substitute for up to 260 hours of work experience at the rate of one classroom hour of education for five hours of experience if:

- (a) The subject matter of the course was related to taxation;
- (b) The applicant completed the course within one year of applying to become a tax consultant; and
- (c) Credit for the course is not claimed to fulfill continuing education requirements.

(11) Information required of the applicant and on the application forms shall be completed before an applicant may be admitted to an examination.

Stat. Auth.: ORS 673.625

Hist.: TSE 8, f. & ef. 5-19-76; TSE 1-1979, f. 6-14-79, ef. 6-15-79; TSE 2-1979, f. 9-28-79, ef. 10-1-79; TSE 2-1980, f. & ef. 5-30-80; TSE 2-1982, f. & ef. 5-10-82; TSE 3-1982, f. & ef. 11-19-82; TSE 1-1985, f. & ef. 1-15-85; TSE 3-1985, f. & ef. 12-5-85; TSE 4-1988, f. & cert. ef. 11-2-88; TSE 5-1990, f. & cert. ef. 5-3-90; TSE 9-1992, f. & cert. ef. 12-22-92; BTSE 1-2001, f. & cert. ef. 4-19-01; BTP 1-2003, f. & cert. ef. 9-23-03

800-020-0020 Examinations

(1) Licensing examinations shall be scheduled as the Board deems appropriate.

(2) Tax preparer and tax consultant applicant's examination shall be written. Questions shall be so constructed as to measure the applicant's knowledge of Oregon and **ffFederal** personal income tax law, theory and practice; the provisions of ORS 673.605 to 673.735 and the **Code of Professional Conduct**. The tax consultant examination shall require a higher standard of knowledge.

(3) A tax preparer applicant must have at least a 75 percent grade or score on the entire examination to pass.

(4) A tax consultant applicant must have at least a 75 percent grade or score on Part A of the

examination and at least a 75 percent grade or score on Part B of the examination to pass. However, a person who passes only one part of the examination shall have thirteen months from the date of such examination to retake and pass the other part in order for the successfully completed portion of the examination to remain valid. Failure to retake and pass the part of the examination failed within the prescribed period shall necessitate the submission to and passing of another complete examination.

(5) An agent holding a valid treasury card who is enrolled to practice before the Internal Revenue Service must have at least a 75 percent grade or score on the consultant's state-only portion of the examination to pass.

(6) Pass or fail results of the examination shall be mailed to the applicants. Scores shall be furnished to all candidates. No review of examination questions by the applicant will be granted.

(7) An applicant who fails to pass the examination shall be eligible for a succeeding examination upon making application and payment of the examination fee.

(8) An applicant who passes an examination must apply for licensing within 60 days from the examination date. If application for license is not made within 60 days, the applicant must be reexamined, unless there are verifiable circumstances beyond the reasonable control of the applicant, subject to the discretion of the Board.

[Note: Preparers must submit verification of completion of the 80 hour basic course when making application for licensure.]

Stat. Auth.: ORS 673

Hist.: TSE 8, f. & ef. 5-19-76; TSE 10(Temp), f. & ef. 11-29-76 thru 3-28-77; TSE 11, f. & ef. 4-6-77; TSE 1-1979, f. 6-14-79, ef. 6-15-79; TSE 2-1980, f. & ef. 5-30-80; TSE 1-1981 (Temp), f. 1-2-81, ef. 1-5-81; TSE 2-1982, f. & ef. 5-10-82; TSE 1-1983, f. & ef. 3-10-83; TSE 1-1984(Temp), f. & ef. 12-20-84; TSE 1-1985, f. & ef. 1-15-85; TSE 2-1985(Temp), f. & ef. 6-11-85; TSE 2-1986, f. & ef. 7-14-86; TSE 4-1987, f. & ef. 10-2-87; TSE 1-1989, f. & cert. ef. 6-8-89; BTSE 1-2001, f. & cert. ef. 4-19-01; BTP 1-2003, f. & cert. ef. 9-23-03

800-020-0022 Examination Conduct; Disqualification

(1) Examination Conduct: Examinations shall be conducted in a designated area with restricted access. Approval notification of an applicant's eligibility to take the examination must be issued by the board office prior to scheduling an appointment for examination.

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Authorization must be provided by the board office or proctoring site before bringing any materials, electronic equipment or devices into the examination area. Applicants shall be required to provide photographic identification such as a driver's license before being allowed to take the examination.

(2) Examination Disqualification: A candidate may be immediately disqualified during or after the examination for conduct that interferes with the examination. Such conduct includes:

- (a) Taking or attempting to take any unauthorized items, notes, materials or devices into the examination area;**
- (b) Giving or attempting to give assistance to others in answering questions during the examination;**
- (c) Receiving or attempting to receive assistance during the examination, including assistance from other individuals, notes, books or devices to answer questions;**
- (d) Removing or attempting to remove any secure examination-related information, notes, or materials from the examination site;**
- (e) Failing to follow directions relative to the conduct of the examination;**
- (f) Exhibiting behavior which impedes the normal progress of the examination; and**
- (g) Endangering the health or safety of a person involved in the examination.**

(3) Disqualification will invalidate the examination and result in forfeiture of the examination and fees. The candidate will be required to reapply, submit additional examination fees, and request in writing via submission of a new application to schedule another examination. Reexamination can be scheduled upon receipt of an approval notification issued by the board office.

800-020-0025

Fees

(1) The fee for application for examination for a tax preparer's license is \$40.

(2) The fee for application for examination for a tax consultant's license is \$70.

(3) The fee for issuance or renewal of a tax preparer's active license is \$65.

(4) The fee for an initial Preparer license issued within 6 months of the renewal date will be one-half the annual fee.

(5) Except as provided in subsection (a) of this section, the fee for issuance of a tax consultant's active license is \$75.

(a) If an applicant holds an active tax preparer's license which was renewed less than six months previously, the fee for issuance of a tax consultant's active license is offset by a credit equal to 50% of the preparer license fee.

(6) The fee for renewal of a tax consultant's active license is \$75.

(7) The fee for issuance or renewal of a tax preparer's inactive license is \$35.

(8) The fee for issuance or renewal of a tax consultant's inactive license is \$50.

(9) The fee for reactivation of a tax preparer's inactive license is \$65.

(10) The fee for reactivation of a tax consultant's inactive license is \$75.

(11) The **late** fee for restoration of a tax preparer's or tax consultant's lapsed license is \$25, plus payment of all unpaid renewal fees.

(12) The fee for a replacement or duplicate license is \$10.

(13) The fee for a replacement tax consultant's certificate is \$15.

(14) The fee for issuance or renewal of a tax preparation business registration is \$95.

(15) As provided by subsection (a) and (b) of this section, [T]the fee for issuance or renewal of a combination tax consultant's or tax preparer's license and tax preparation business registration is \$120:

(a) For Consultants – If postmarked on or before June 15th.

(b) For Preparers – If postmarked on or before October 15th.

(16) The fee for issuance or renewal of a branch office registration is \$5.

Stat. Auth.: ORS 673.730

Stats. Implemented: ORS 673.685

Hist.: TSE 4(Temp), f. & ef. 11-20-75 through 3-19-76; TSE 8, f. & ef. 5-19-76; TSE 14, f. 10-25-77, ef. 11-1-77; TSE 1-1979, f. 6-14-79, ef. 6-15-79; TSE 3-1979, f. 11-28-79, ef. 11-30-79; TSE 1-1985, f. & ef. 1-15-85; TSE 2-1986, f. & ef. 7-14-86; TSE 1-1987(Temp), f. 6-30-87, ef. 7-1-87;

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TSE 5-1987, f. & ef. 10-2-87; TSE 7-1987(Temp), f. & ef. 11-17-87; TSE 1-1988, f. & cert. ef. 2-19-88; TSE 4-1990, f. & cert. ef. 5-3-90; TSE 3-1991(Temp), f. 8-14-91, cert. ef. 9-29-91; TSE 5-1991, f. & cert. ef. 10-28-91; TSE 12-1991(Temp), f. & cert. ef. 11-25-91; TSE 3-1992, f. 5-15-92, cert. ef. 6-1-92; TSE 3-1997, f. & cert. ef. 9-4-97; BTSE 1-2001, f. & cert. ef. 4-19-01; BTSE 1-2002(Temp), f. & cert. ef. 8-6-02 thru 1-1-03; Administration correction 4-16-03; BTP 1-2003, f. & cert. ef. 9-23-03

800-020-0026

Refunds of Examination Fees

(1) A \$10 nonrefundable processing charge shall be retained from all examination application fees. The remainder of an examination application fee shall be refunded only when the applicant is not qualified or when there are verifiable circumstances beyond the reasonable control of the applicant, subject to the discretion of the Board.

(2) Except as provided in section (3) of this rule, an applicant who has been approved to sit for the examination but who fails to take or pass the examination shall not be entitled to a refund of the examination fee.

(3) If application for examination is made in anticipation of successfully completing the required basic course and the applicant fails to complete the required course a refund of the examination fee will be issued only if:

- (a) The applicant establishes that failure to successfully complete the course was beyond the reasonable control of the applicant subject to the discretion of the Board; and
- (b) The applicant notifies the Board within 30 days before or after the scheduled exam date.

Stat. Auth.:ORS 673.730(3)

Hist.: TSE 1-1979, f. 6-14-79, ef. 6-15-79; TSE 2-1982, f. & ef. 5-10-82; TSE 1-1983, f. & ef. 3-10-83; TSE 1-1985, f. & ef. 1-15-85; TSE 2-1986, f. & ef. 7-14-86; TSE 6-1991, f. & cert. ef. 10-28-91; BTSE 1-2001, f. & cert. ef. 4-19-01; BTP 1-2003, f. & cert. ef. 9-23-03

800-020-0030

Licenses -- Renewals

(1) Applicants who pass the required examination and meet all other requirements shall be issued a license upon request and payment of the license fee. The licensee shall be assigned a permanent license number.

(2) Tax preparers' licenses shall expire [each year] annually on September 30.

(3) Tax consultants' licenses shall expire [each year] annually on May 31.

(4) Renewal licenses shall be issued upon receipt of a signed renewal application

notice, proof of required continuing education, and the appropriate fee.

(5) If a tax preparer's or tax consultant's license is suspended or revoked, the individual's license and pocket identification card become the property of the Board and shall, on demand, be delivered by the holder to the Board of Tax Practitioners.

Stat. Auth.:ORS 673.730

Hist.: TSE 8, f. & ef. 5-19-76; TSE 1-1979, f. 6-14-79, ef. 6-15-79; TSE 2-1982, f. & ef. 5-10-82; TSE 1-1985, f. & ef. 1-15-85; TSE 2-1986, f. & ef. 7-14-86; TSE 2-1993, f. & cert. ef. 2-23-93

800-020-0031

Certificates

(1) A tax consultant's certificate issued by the Board may be displayed by the licensee so long as the licensee holds a current valid license as a Tax Consultant. If a Tax Consultant's license becomes inactive or lapses, the holder shall no longer display the certificate.

(2) If a Tax Consultant's license is suspended or revoked, the certificate becomes the property of the Board and shall on demand be delivered by the holder to the Board of Tax Practitioners.

Stat. Auth.:ORS 673.730

Hist.: TSE 13, f. & ef. 9-20-77; TSE 1-1985, f. & ef. 1-15-85; TSE 2-1993, f. & cert. ef. 2-23-93

800-020-0035

Inactive and Lapsed Licenses

(1) Except as provided in section (3) of this rule, an inactive license may be reactivated upon payment of the fee for an active license and proof of compliance with all past continuing education requirements the same as if the licensee had held an active license.

(2) Except as provided in section (3) of this rule, a lapsed license may be restored upon payment of all past unpaid fees and proof of compliance with all past continuing education requirements the same as if the licensee had held an active license. A license in lapsed status shall not be placed in inactive status.

(3) A license shall not be reactivated or restored that has been inactive or lapsed, or a combination thereof, for three consecutive years.

(4) The Board may refuse to restore a lapsed license for the same reasons it may refuse to issue, renew, suspend, or revoke a license.

Stat. Auth.:ORS 673.645, ORS 673.667 & ORS 673.730

Hist.: TSE 8, f. & ef. 5-19-76; TSE 3-1985, f. & ef. 12-5-85; TSE 2-1991, f. & cert. ef. 1-30-91; TSE 6-1992, f. 8-13-92, cert. ef. 8-1-93; TSE 2-1993, f. & cert. ef. 2-23-93; BTSE 1-2001, f. & cert. ef. 4-19-01

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800-020-0065

Displaying of Licenses

Tax consultants and tax preparers shall display their licenses in a conspicuous place in their place of business.

Stat. Auth.: ORS 673

Hist.: TSE 8, f. & ef. 5-19-76; TSE 2-1982, f. & ef. 5-10-82; TSE 1-1985, f. & ef. 1-15-85

DIVISION 25

TAX PREPARATION BUSINESSES

800-025-0010

Firm Names

(1) The name under which a tax preparation business offers and/or performs services must be in compliance with the laws and rules of the Oregon Corporation Division.

(2) The designation Licensed Tax Preparer or reference to the title Licensed Tax Preparer in any manner, including initials or acronyms shall not be included as part of a firm name.

Stat. Auth.: ORS 673.730(5)

Stats. Implemented: Hist.: TSE 1-1985, f. & ef. 1-15-85; TSE 4-1992, f. & cert. ef. 5-15-92; BTSE 1-2001, f. & cert. ef. 4-19-01

800-025-0020

Tax Preparation Business Registration

(1) A tax preparation business shall not offer services to the public until the business has:

(a) Complied with applicable laws and rules of the Oregon Corporation Division;

(b) Registered with the Board, on a Board-approved **application** form, the business name, address and telephone number; the name(s) of the owner(s) of the business; and the name of the individual(s) responsible under OAR 800-025-0040 for the tax activities of the business; and

(c) Paid the tax business registration fee required under OAR 800-025-0025.

(2) Within ten days of a change of name or ownership, a tax preparation business must file a new registration with the Board and pay a new registration fee.

(3) A person who offers tax preparation services under more than one name must register each such name as a separate business.

Stat. Auth.: ORS 673.730(5)

Stats. Implemented: Hist.: TSE 1-1985, f. & ef. 1-15-85; TSE 13-1991(Temp), f. & cert. ef. 11-25-91; TSE 14-1991, f. 11-25-91, cert. ef. 1-1-92; TSE 4-1992, f. & cert. ef. 5-15-92

800-025-0023

Reporting Closing of Business; Address and Phone Changes

A tax preparation business shall notify the Board within ten days of:

(1) Termination of the tax preparation business;

(2) A change in the address or telephone number of the business.

Stat. Auth.: ORS 673.730(5)

Stats. Implemented:

Hist.: TSE 7-1991, f. & cert. ef. 10-28-91

800-025-0025

Renewal of Tax Preparation Business Registration

(1) Tax preparation business registrations shall expire annually on June 15, except that combination business registration/tax preparer licenses shall expire annually on October 15.

(2) At least 30 days before the registration expiration date each year, the Board shall mail a renewal notice to each registered tax preparation business.

(3) Renewal registrations shall be issued to qualifying businesses upon receipt of a completed registration renewal application and the fee for registering a tax preparation business specified in OAR 800-020-0025(14) or the fee for a combined tax consultant's or preparer's license and business registration specified in OAR 800-020-0025(15).

(4) A business whose registration has expired shall not perform tax preparation services for the public, for a fee, or offer such services, until the re-application process has been completed.

Stat. Auth.:

Stats. Implemented:

Hist.: TSE 8-1991, f. & cert. ef. 10-28-91; BTP 1-2004, f. 1-28-04, cert. ef. 2-1-04

800-025-0027

Eligibility for Combined Business Registration and Tax Consultant/Preparer License

(1) A tax preparation business is not eligible for a combined license and registration under OAR 800-020-0025(15) unless at least one of the owners of the business is a licensed tax consultant

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or licensed tax preparer. As used in this section, "owner" means an individual who owns at least ten percent of the business.

(2) A tax preparation business, including a business that must file a new registration due to a change of name or ownership, is not eligible for a combined license and registration under OAR 800-020-0025(15) unless the registration is submitted:

- (a) If a new registration, at the time of application for the owner's tax consultant's or tax preparer's license;
- (b) If a renewal registration, before the expiration date of the current registration.

(3) A licensee who owns more than one tax preparation business is eligible for a combined license and business registration under OAR 800-020-0025(15) for only one of the businesses and must pay the business registration fee specified in OAR 800-020-0025(14) for the second and additional businesses.

Stat. Auth.:

Stats. Implemented:

Hist.: TSE 9-1991, f. & cert. ef. 10-28-91

800-025-0029

Displaying Business Registration

Tax preparation businesses shall post their current registration in a conspicuous location at their place of business.

Stat. Auth.:ORS 673.643 & ORS 673.730(5)

Stats. Implemented: Hist.: TSE 4-1992, f. & cert. ef. 5-15-92

800-025-0030

Branch Offices

(1) "Branch Office" means an office or other place of business where clients would normally or usually contact a licensee.

(2) A tax preparation business shall not operate any branch office until:

- (a) The business has complied with all laws and rules of the Board concerning tax business registration;
- (b) The address and phone number of the branch office and the name and license number of the resident consultant for the branch office have been submitted to the Board; and
- (c) The business has paid an annual branch office registration fee for that

location as required under OAR 800-020-0025(16).

(3) Branch office registrations shall expire [each year] annually on the expiration date of the associated tax business registration.

(4) At least 30 days before the expiration of a branch office registration, the Board shall mail a renewal notice to the tax preparation business that operates the branch office.

(5) Renewal branch office registrations shall be issued to qualifying businesses upon receipt of the required annual registration fee.

(6) A tax preparation business operating branch offices shall notify the Board within 10 days of:

- (a) Change of address or phone number of the branch office.
- (b) Change in resident consultant of the branch office.
- (c) Closing the branch office.

(7) Branch offices must be conducted under the same name as the principal office. This name shall be posted conspicuously in [or on] each branch office.

(8) The name of the Designated Consultant and the name of the Resident Consultant must be posted conspicuously in or on each branch office.

(9) The current registration issued by the Board for a branch office must be posted conspicuously in the branch office.

Stat. Auth.: ORS 673.730(5)

Stats. Implemented: ORS 673.730(5)

Hist.: TSE 1-1985, f. & ef. 1-15-85; TSE 10-1991, f. & cert. ef. 10-28-91; TSE 5-1992, f. 5-15-92, cert. ef. 7-1-92; TSE 2-1996, f. & cert. ef. 12-30-96

800-025-0040

Designated Consultants

(1) A tax preparation business shall not engage in the preparation of personal income tax returns for the public, or offer such services, until the business has designated a tax consultant or other authorized person ("Designated Consultant") as the responsible individual. A form prescribed by the Board shall be signed by the designated consultant and signed by the owner or authorized representative of the tax preparation business.

(2) The license number of the Designated Consultant shall be placed on all tax returns prepared by the tax preparation business.

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(3) The Designated Consultant shall be responsible for all tax preparation activities of the business, and the Designated Consultant and the designating business shall each be responsible for the business's compliance with laws and rules of the Board.

(4) A Designated Consultant will cease to be responsible for a business's tax preparation services upon receipt by the Board of written notice from the consultant or business.

(5) A tax consultant may act as the Designated Consultant for only one tax preparation business except by application of the tax consultant and approval by the Board's Business Practices Committee. Disapproval of an application by the Business Practices Committee may be appealed to **the [full] Board**.

(6) An application to serve as a Designated Consultant for more than one tax preparation business shall set forth the following:

- (a) The name and address of the tax preparation business for which the tax consultant is presently serving as the Designated Consultant;
- (b) The name and address of the additional tax preparation business for which the tax consultant is requesting approval to serve as **the Designated Consultant**;
- (c) A detailed plan how each tax preparation business will be supervised in carrying out the duties as a Designated Consultant;
- (d) The financial relationship of the proposed Designated Consultant and the tax preparation businesses;
- (e) Unusual or extenuating circumstances why approval should be granted.

(7) In determining whether a tax consultant will be approved to act as a Designated Consultant for more than one tax preparation business, the Board:

- (a) May approve an application only wherein the tax consultant has an ownership interest in the tax preparation businesses, or unusual or extenuating circumstances exist, such as the death of a Designated Consultant, resulting in undue hardship. The Board may limit the tax consultant designation period; and

(b) Shall consider the tax consultant's past record of compliance with ORS 673.605 to 673.735, rules of the Board, statutes of the State of Oregon together with information set forth in the application, particularly the feasibility of the plan in supervising the corporation, firm or partnership.

(8) A tax preparation business shall notify the Board within ten days of any change in status of its Designated Consultant.

Stat. Auth.:ORS 673.730(5)

Stats. Implemented: Hist.: TSE 8, f. & ef. 5-19-76; TSE 3-1980, f. & ef. 8-22-80; TSE 2-1982, f. & ef. 5-10-82; TSE 3-1982, f. & ef. 11-19-82; TSE 1-1985, f. & ef. 1-15-85; Renumbered from 800-020-0050; TSE 4-1989, f. & cert. ef. 12-20-89; TSE 11-1991, f. & cert. ef. 10-28-91; TSE 10-1992, f. & cert. ef. 12-22-92

800-025-0050

Management and Supervision of Tax Preparation Business

(1) Each principal and branch office must be under the management and supervision of a tax consultant. Supervision means:

- (a) The direct and immediate control of the tax preparer by the tax consultant in such manner that the consultant is aware of the line of questioning and the reasoning applied by the preparer in the preparation of each return, and that the consultant has adequate opportunity to correct or add to the reasoning applied by the preparer; and
- (b) A system of selecting, training and controlling the preparer, including a set of procedures by which the consultant is assured that the preparer is providing competent workmanship and abiding by the statutes and Board rules. Such procedures shall include:
 - (A) An examination and review of all tax returns for errors under the direct supervision of the consultant or a licensee chosen based on experience and reviewing ability; and
 - (B) Giving notice to the preparer of any adjustments after examination and review; and
 - (C) Maintaining in principal and branch offices current federal

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and state personal income tax reference material; and

- (D) Providing access to the consultant (including telephone or electronic media access from branch offices) so that the preparer is encouraged to seek tax law consultation and advice; and
- (E) Exercising control by the consultant over the tax preparation practices and all other matters governed by the statutes and Board rules in each principal and branch office.

(2) Tax preparers who have not had at least one year's tax return preparation experience during the previous five year period must be under the immediate, onsite supervision of more experienced personnel when preparing, advising, or assisting in the preparation of tax returns.

(3) Tax consultants who employ any person described in subsection (4) of ORS 673.610 to act in the capacity of a tax preparer or tax consultant under their supervision shall report to the Board the names of these persons and the basis for their exemption.

(4) If a tax preparer is found by the Board to be in violation of the statutes or Board rules, the tax consultant responsible for supervision of that preparer shall be deemed to be in violation in the same manner and to the same extent, and may be disciplined by the Board regardless of any discipline imposed on the preparer, unless the consultant demonstrates to the satisfaction of the Board that the circumstances that led to the violation occurred without the permission or knowledge of the consultant and that the violation occurred regardless of an adequate system of supervision that would generally prevent such violation. In the case of a corporation, firm, or partnership, both the designated consultant and the corporation, firm, or partnership may be disciplined.

Stat. Auth.:ORS 673.730(5)

Stats. Implemented:ORS 673.615(2)

Hist.: TSE 1-1985, f. & ef. 1-15-85; TSE 2-1996, f. & cert. ef. 12-30-96

800-025-0060

Consultant in Residence

(1) A licensed tax consultant shall be in residence at each principal and branch office. "Tax consultant in residence" means that a tax consultant is physically present to conduct and carry out his/her duties in the principal or branch office for at least fifty (50) percent of the time an office is open to the public for tax preparation, assistance & advice during each week from January 15 to April 15 or during each month for the remainder of the year.

(2) The Board may waive the licensed tax consultant in residence requirement of subsection (1) upon written application which details how the management and supervision of principal and branch offices will effectively be accomplished. The Board shall grant a waiver only where at least one of the following circumstances exist:

- (a) Sickness or death of a tax consultant.
- (b) Unforeseen or unusual circumstances.

(3) In granting or denying a written application for waiver, the Board shall evaluate each case on an individual basis, considering the following factors:

- (a) Distance between offices supervised by a tax consultant.
- (b) Past compliance of waiver applicants with ORS 673.605 to 673.735 and rules of the Board.
- (c) Whether the policies and procedures described in the application will result in effective management and supervision of preparers in the absence of a resident consultant.

(4) Applicants shall apply annually for waiver of the resident consultant rule. The application shall provide all of the information described in guidelines established by the Board for applying for waivers. Except in emergency circumstances, such as incapacitation, death or resignation of a resident tax consultant, waiver applications will not be accepted after January 31 for branch offices intended to operate at any time during the period January 1 to April 15 of the same calendar year. Approved waivers shall expire on the expiration date of the associated tax business registration or a date established by the Board.

(5) All applications must be acted upon by a Business Practices Committee consisting of three Board members appointed by the Board chair.

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Disapproval of an application by the Business Practices Committee may be appealed to **the [full] Board.**

(6) The supervising tax consultant of an office for which a waiver has been approved shall meet in person with preparers in the office at least twice weekly to review the work of each preparer and respond to questions.

Stat. Auth.:ORS 673.730(5)

Stats. Implemented:ORS 673.615(2)4

Hist.: TSE 1-1985, f. & ef. 1-15-85; TSE 5-1986, f. & ef. 10-6-86; TSE 6-1987, f. & ef. 10-2-87; TSE 3-1988, f. & cert. ef. 8-26-88; TSE 5-1995, f. & cert. ef. 5-5-95; TSE 2-1996, f. & cert. ef. 12-30-96; BTSE 1-2001, f. & cert. ef. 4-19-01

800-025-0070

Keeping of Records

(1) If a tax consultant is employed by another tax consultant, the records shall be kept by the employing tax consultant.

(2) If the tax consultant who has been designated as responsible for the tax return preparation activities and decisions of the corporation, firm or partnership, ceases to be connected with the corporation, firm or partnership the records shall be retained by the corporation, firm or partnership.

Stat. Auth.: ORS 673

Stats. Implemented:

Hist.: TSE 8, f. & ef. 5-19-76; TSE 1-1985, f. & ef. 1-15-85; Renumbered from 800-020-0070 T

800-030-0025

Civil Penalties.

(1) **Civil Penalty Ranges.** Pursuant to ORS 673.735, a civil penalty in the following range shall be assessed for each violation of the following statutes and rules:¹

Statute/Rule Violated	Civil Penalty Range Per Violation	
	Minimum	Maximum
ORS 673.615 ORS 673.663 ORS 673.705 OAR 800-010-0020(1) OAR 800-010-0020(2) OAR 800-010-0025(1) OAR 800-010-0025(7) OAR 800-010-0035	\$100	\$5,000
ORS 673.700(3) OAR 800-010-0025(3) OAR 800-010-0025(6) OAR 800-010-0030 OAR 800-010-0045 OAR 800-025-0040	\$50	\$3,000
OAR 800-010-0042 OAR 800-010-0050 OAR 800-010-0040 OAR 800-020-0031 OAR 800-025-0020(1) [OAR 800-025-0025(5)] OAR 800-025-0025(4)	\$50	\$2,000
ORS 673.700(8) ORS 673.690 OAR 800-010-0025(4) OAR 800-010-0025(5) OAR 800-010-0041 OAR 800-020-0065 OAR 800-025-0010 OAR 800-025-0020(2) OAR 800-025-0020(3) OAR 800-025-0023 OAR 800-025-0030 OAR 800-025-0060	\$50	\$1,000

Civil Penalty Factors. Pursuant to ORS 673.735, the following factors shall be considered in determining the amount of civil penalty to assess for each violation above the minimum established under paragraph (1) of this rule or for violations not specified in paragraph (1):

¹The Board has determined that the gravity of the following types of violations warrant at least the following minimum civil penalties for each violation committed.

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- (a) The previous record of the person in complying, or failing to comply, with ORS 673.605 to 673.740, or any rule or order adopted there under.
- (b) The harm to the consumer as a result of the violation.
- (c) The person's knowledge of the statute, rule, or order violated. An intentional, reckless, or willful violation warrants a high civil penalty per violation.
- (d) The person's lack of cooperation with the Board.
- (e) The seriousness of the violations committed.

(3) **Daily Civil Penalty.** Pursuant to ORS 673.735, the Board may impose civil penalties of not more than \$5,000 for each violation of ORS 673.605 to 673.740, or any rule adopted there under. In the case of violations of ORS 673.615, 673.643, or 673.705(5), or OAR 800-010-0025(7) or 800-010-0042, the Board may consider each business day a person continues in violation following Board notification to be a separate violation.

(4) **Civil Penalty Adjustment.** The civil penalty amount to be imposed under this rule shall be lowered to an appropriate amount when the Board determines that the total civil penalties to be assessed against a person are grossly disproportionate to the seriousness of the violations committed.

(5) **Payment of Civil Penalties.** Unless otherwise ordered by the Board, payment of any civil penalty imposed by the Board must be made within 60 days of the date a final order assessing the penalty is issued. If the civil penalty is not paid within that time, in addition to any other action allowed by law or Board rules, proceedings may be instituted to suspend, revoke or refuse to renew the tax consultant's or tax preparer's license of the person against whom the penalty is assessed.

Stat. Auth.: ORS 673.730

Stats. Implemented: ORS 673.735

Hist.: TSE 1-1985, f. & ef. 1-15-85; BTSE 1-1998, f. & cert ef 9-3-98; BTSE 1-2002(Temp), f. & cert. ef. 8-6-02 thru 1-1-03; Administrative correction 4-16-03; BTP 1-2003, f. & cert. ef. 9-23-03; BTP 1-2004, f. 1-28-04, cert. ef. 2-1-04; BTP 3-2004, f. 10-11-04 cert. ef. 11-1-04

800-030-0035

Board Meeting -- Rules of Procedure

(1) Board procedure shall be governed by **Sturgis Standard Code of Parliamentary Procedure** and rules adopted by the Board.

(2) There shall be an annual election of **Chair[man] and Vice-chair[man by secret ballot].**

Stat. Auth.: ORS 673

Stats. Implemented: Hist.: TSE 8, f. & ef. 5-19-76; TSE 1-1985, f. & ef. 1-15-85; Renumbered from 800-020-0085

800-030-0045

Board Meeting Minutes

Minutes of all Board meetings shall be recorded and maintained in the Board Office.

Copies may be purchased at cost.

Stat. Auth.: ORS 673

Stats. Implemented: Hist.: TSE 8, f. & ef. 5-19-76; TSE 1-1985, f. & ef. 1-15-85; Renumbered from 800-020-0080

800-030-0050

Obtaining Information and Purchasing Board-Provided Materials and Services

Materials and services available to the public and licensees through the Tax Board may be obtained or purchased as follows:

(1) In response to telephone requests, the board office may provide the tax practitioner name, license number, whether the license is active or expired, business location, business telephone number and whether a discipline record exists.

(2) A copy of the Oregon Revised Statutes Chapter 673 and Oregon Administrative Rules Chapter 800 may be provided upon request at no charge for the first request. A charge will be assessed for additional/multiple copies.

(3) All requests for any information other than that listed in sub-section (1) and (2) of this rule must be submitted in writing to the board office.

(4) The Board may charge for copies of its records. The types of records that the Board can charge for copies includes, but is not limited to, such material as copies of certificate(s), license(s), registration(s), board meeting materials that are available to the public, general information, duplicating requests requiring multiple records search or the compiling and creation of official documents.

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(5) Fees shall not exceed the Board's actual costs for copying the record(s) requested including, but not limited to, the Board's cost for locating, compiling, making available for inspection, obtaining legal or other professional advice related to the request, reviewing the records in order to delete exempt material, supervising a person's inspection of original records, preparing the copy in paper, audio, or electronic format, certifying documents as true copies, and delivery of such record(s).

(6) All fees assessed must be paid before public records are made available. Estimates/fees for processing requests for public records may be given when requested. Person(s) making the public records request is responsible for the actual costs regardless of the estimate.

(7) Persons who want to obtain copies of the following records may learn the charge for them by contacting the board office:

- (a) A list of name's, addresses and places of business for all licensed tax practitioners currently on file with the Agency;
- (b) A list of records, regardless of whether status is active, inactive, expired or archived;
- (c) One or more photocopies of any Board document or portion thereof;
- (d) Copies of board meeting minutes or committee meeting minutes/reports.

(8) Advertising services provided by the Board for a fee which can be obtained by contacting the board office:

- (a) Advertising for help-wanted, sale of business and tax related services or products in the Board newsletter;
- (b) Advertising of Tax Consultant or Tax Business on the Board Web site. Licensees and businesses must be in good standing with the Board to obtain and maintain this service.
- (c) All advertising is subject to the review and approval of the Board.

(9) Charges for records may be waived or substantially reduced if the request is in the public interest, pursuant to ORS 192.440(4)&(5).

(10) The following fees apply to requests for the following types of public records, information, and services provided by the Board:

- (a) Fee for a list of current licensees, which includes; license number, name, mailing address is \$25.
- (b) Fee for a monthly subscription to a list of current licensees is \$120 per year. Lists provided between the 1st – 10th of each month.
- (c) Fee for duplicates of tape recordings of board meetings, disciplinary hearings, etc. that are available to the public are \$5 each, plus labor at an hourly rate of \$25, mailing costs and any Department of Justice costs that may need to be incurred.
- (d) Fee for a one year subscription of board meeting minutes, available to the public, is \$24.
- (e) Fees for advertising for help-wanted and tax related services or products in board newsletter:
 - (A) \$10 per 3 3/8 inch line or part line.
 - (B) \$350 for a full page ad.
 - (C) \$180 for a half page ad.
 - (D) \$100 for a quarter page ad.
 - (E) \$50 for a business card size ad.
- (f) Fee for advertising of tax consultant or tax business on the boards website:
 - (A) Name, address (physical & e-mail), and phone is \$5 per year per county.
 - (B) An additional \$5 per county annual fee may be charged for a link to a licensee's tax preparation related website.
- (g) Fee for multiple records search including duplicating of documents is labor at an hourly rate of \$30, per page duplicating .05 cents, mailing costs and any Department of Justice costs that may need to be incurred.
- (h) Fee for making general photocopies is labor at an hourly rate of \$25, per page duplicating .05 cents, mailing costs and any Department of Justice costs that may need to be incurred.

Stat. Auth.: ORS 192, ORS 670 & ORS 673

Stats. Implemented: N/A

Hist.: TSE 5-1986, f. & ef. 10-6-86; TSE 6-1990, f. & cert. ef. 5-3-90; BTSE 1-1999, f. & cert. ef. 11-23-99 BTSE 1-2001, f. & cert. ef. 4-19-01; BTP 1-2003, f. & cert. ef. 9-23-03; BTP 3-2004, f. 10-11-04 cert. ef. 11-1-04