

Chapter 673

1973 REPLACEMENT PART

Accountants; Tax Consultants

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ACCOUNTANTS**(Generally)**

673.010 Definitions for ORS 673.010 to 673.480. As used in ORS 673.010 to 673.480:

(1) "Board" means the State Board of Accountancy created by ORS 673.410.

(2) "State" means any state, territory or insular possession of the United States, and the District of Columbia.

673.020 Certified public accountants; necessity of certificate and permit; application to partnerships. (1) No person shall assume or use the title or designation "certified public accountant" or the abbreviation "C. P. A." or any other title, designation, words, letters, abbreviation, sign, card or device tending to indicate that such person is a certified public accountant, unless such person has received a certificate as a certified public accountant under ORS 673.040 to 673.080 and holds a permit issued under ORS 673.150 and not revoked or suspended.

(2) No partnership shall assume or use the title or designation "certified public accountants" or the abbreviation "C. P. A.'s" or any other title, designation, words, letters, abbreviation, sign, card or device tending to indicate that such partnership is composed of certified public accountants, unless such partnership is registered as a partnership of certified public accountants under ORS 673.090 and holds a permit issued under ORS 673.150 and not revoked or suspended.

673.030 Public accountants; necessity of license and permit; application to partnerships. (1) No person shall assume or use the title or designation "public accountant" or the abbreviation "P. A." or any other title, designation, words, letters, abbreviation, sign, card or device tending to indicate that such person is a public accountant, unless such person is licensed as a public accountant under ORS 673.100, 673.110, 673.120, 673.140 or section 16 or 20, chapter 381, Oregon Laws 1951, and holds a permit issued under ORS 673.150 and not revoked or suspended, or unless such person has received a certificate as a certified public accountant under ORS 673.040 and 673.080 and holds a permit issued under ORS 673.150 and not revoked or suspended.

(2) No partnership shall assume or use the title or designation "public accountants"

or the abbreviation "P. A.'s" or any other title, designation, words, letters, abbreviation, sign, card or device tending to indicate that such partnership is composed of public accountants, unless such partnership is registered as a partnership of public accountants under ORS 673.130 or as a partnership of certified public accountants under ORS 673.090 and holds a permit issued under ORS 673.150 and not revoked or suspended.

(Licensing)

673.040 Who may obtain certificate of certified public accountant; list to be kept by board; certified public accountants as public accountants. (1) The certificate of certified public accountant shall be granted by the board to any person who meets the requirements of ORS 673.050 and 673.060.

(2) Any person who has received from the board a certificate of "certified public accountant" and who holds a permit issued under ORS 673.150 shall be styled and known as a "certified public accountant" and may also use the abbreviation of "C.P.A." The board shall keep a list of certified public accountants. Any certified public accountant may also be known as a "public accountant."

673.050 General qualifications for applicants for C. P. A. examination. An applicant for admission to the examination for a certified public accountant certificate shall be a citizen of the United States or have duly declared his intention of becoming a citizen, be a resident of this state, have attained the age of 18 years, be of good moral character, and shall comply with any one of the following:

(1) He shall present satisfactory evidence of graduation from a college or university recognized by the board, and shall have completed 30 or more semester hours or the equivalent thereof in the study of accounting, commercial law, economics and finance, of which at least 20 semester hours or the equivalent thereof shall be in the study of accounting; or

(2) He shall be licensed as a public accountant under ORS 673.010 to 673.480; or

(3) He shall present satisfactory evidence of graduation from a high school with a four-year course or of having acquired an equivalent education, and shall have had two years of public accounting experience or the equivalent thereof satisfactory to the board.

[Amended by 1973 c.827 §66]

673.060 Qualifications for C. P. A. certificate; scope and conduct of examination; candidate's right to re-examination; fees.

(1) An applicant for a certificate of certified public accountant shall have successfully passed written examinations in theory of accounts, accounting practice, auditing, commercial law as affecting accountancy, and such other related subjects as the board may deem advisable, and shall have had two years' public accounting experience or the equivalent thereof satisfactory to the board.

(2) Examinations provided for in this section shall be held by the board and shall take place as often as may be necessary in the opinion of the board, but not less frequently than semiannually. The board may contract with any organization, governmental or private, for examination material and services. The board may also enter an agreement with the licensing authority of any other state for examination services such as monitoring examinations of applicants temporarily absent from this state. All examination papers shall be preserved for a period of at least six months after the notification of grading, and any failed candidate shall upon written request to the board have access to his papers. The board may prescribe a fee not to exceed \$10 for the inspection of examination papers.

(3) A candidate who passes a satisfactory examination in at least two subjects or in accounting practice shall have the right to be reexamined in the remaining subjects only, at subsequent examinations held by the board; and if he passes in the remaining subjects within a period of time specified in the rules of the board, he shall be considered to have passed the examination. The board shall recognize the passing in subjects at examinations held prior to August 2, 1951, under the laws of this state as provided for in its rules. The board shall charge each candidate a fee not to exceed \$50, as determined by the board and approved by the Executive Department, for each examination provided for in ORS 673.010 to 673.480, which shall be payable by the applicant at the time of making application. Where an applicant has passed in two or more subjects, reexamination of the remaining subjects shall be given the same applicant for a fee of \$15 for each subject, accounting practice being considered as two subjects for computation of fees.

[Amended by 1967 c.62 §1; 1971 c.217 §2]

673.070 Persons holding C. P. A. certi-

ficates under prior laws not required to secure additional certificate. Persons who on August 2, 1951, held certified public accountant certificates theretofore issued under the laws of this state shall not be required to secure additional certificates under ORS 673.010 to 673.480, but shall otherwise be subject to ORS 673.010 to 673.480; and such certificates theretofore issued shall, for all purposes, be considered certificates issued under ORS 673.010 to 673.480 and subject to its provisions.

673.075 Credit for examination taken in other states. (1) The board may, in accordance with regulations adopted by the board, grant credit to an applicant for his satisfactory completion of a written examination in any one or more of the subjects specified in subsection (1) of ORS 673.060 given by the licensing authority in any other state. Credit may be granted if the applicant when he took the examination in the other state:

(a) Was not a resident of this state.

(b) Had no place of business in this state.

(c) As an employe, was not regularly employed in this state.

(2) Regulations providing for granting credit shall include requirements the board considers appropriate in order that an examination approved as a basis for credit shall, in the judgment of the board, be at least as thorough as that included in the most recent examination given by the board at the time of the granting of the credit.

(3) Notwithstanding paragraphs (a), (b) and (c) of subsection (1) of this section, an applicant may be given credit for satisfactory completion of an examination in one or more subjects specified in subsection (1) of ORS 673.060 by the licensing authority of another state prior to March 14, 1967. [1967 c.62 §§3, 4]

673.080 Reciprocity among states and foreign countries as to C. P. A. certificate; practicing while application is pending; fees.

(1) The board may in its discretion waive the examination requirements and issue a certificate as "certified public accountant" to any resident of this state who:

(a) Possesses the other qualifications mentioned in ORS 673.050;

(b) Holds a certificate as certified public accountant issued under the laws of any state, or who holds a comparable certificate or degree issued in a foreign country; and

(c) Pays a certificate fee not to exceed \$50, as determined by the board and approved by the Executive Department.

(2) Any person who has filed an application under the provisions of this section for a certificate as certified public accountant may, with the knowledge and approval of the board, engage in the practice of public accounting in this state as a certified public accountant until such time as his application for a certificate is granted or rejected.
[Amended by 1971 c.217 §3]

673.090 Partnership may register as partnership of certified public accountants; requirements. (1) A partnership engaged in this state in the practice of public accounting may register with the board as a partnership of certified public accountants provided it meets the following requirements:

(a) At least one general partner thereof must be a resident and a certified public accountant in good standing of this state.

(b) Each partner thereof personally engaged within this state in the practice of public accounting as a member thereof must be a certified public accountant of this state in good standing.

(c) Each partner thereof must be a certified public accountant of some state in good standing.

(d) Each principal and manager of an office of the firm in this state must be a certified public accountant in good standing of this state.

(2) Application for such registration must be made upon the affidavit of a general partner of such partnership who is a certified public accountant of this state in good standing, or has applied for a certificate as a certified public accountant under ORS 673.080. The board shall in each case determine whether the applicant is eligible for registration. A partnership which is so registered and which holds a permit issued under ORS 673.150 may use the words "certified public accountants" or the abbreviation "C.P.A.'s" in connection with its partnership name. Notification shall be given the board, within one month, after the admission to or withdrawal of a partner from any partnership so registered, or of any change of principal or manager in charge of an office of the firm in this state.

(3) Any registration of a partnership under this section granted in reliance upon the provisions of ORS 673.080 shall termi-

nate forthwith if the board rejects the application under said section of the general partner who signed the application for registration as a partnership, or of any partner personally engaged in the practice of public accounting in the state, or of any principal or manager of such partnership in charge of an office in this state.

673.100 Requisites for obtaining public accountant's license. (1) Any person who meets the requirements of ORS 673.050 regarding applicants for admission to the examination, including the provisions of subsection (1) of that section, and has successfully passed the written examination provided for in ORS 673.060, or the examination provided for by prior law, shall be issued a license under ORS 673.010 to 673.480 as a public accountant.

(2) Any person who applies for admission to and takes the examination for a certificate of certified public accountant pursuant to ORS 673.060 and who receives a passing grade in accounting practice shall be issued a license as a public accountant.

673.110 Certain persons serving in Armed Forces on August 2, 1951, may be licensed or may apply for a license as a public accountant after their discharge. (1) Any person serving in the Armed Forces of the United States on August 2, 1951, who immediately prior to entering such service was a resident of this state and held himself out to the public as a public accountant and who was engaged in the practice of public accounting as his principal occupation, or was employed as a staff accountant by a certified public accountant or by a public accountant and regularly assigned to accounting engagements, may be licensed as a public accountant by the board upon filing an application within a period of 12 months from the date of his release or discharge from such service under honorable conditions.

(2) A person serving in the Armed Forces of the United States on August 2, 1951, who would have been entitled to file a declaration pursuant to subsection (1) of section 24, chapter 381, Oregon Laws 1951, if August 2, 1951, had immediately preceded the date on which the person left his civilian occupation by reason of his entry into the Armed Forces of the United States, may file a declaration of intent to apply for a license

as a public accountant, as provided in subsection (1) of section 24, chapter 381, Oregon Laws 1951, within one year from the date of his release or discharge from such service under honorable conditions.

673.120 Certain state or federal employees may apply for licenses as public accountants within six months after termination of employment. (1) Any person who has filed a declaration of intent, as provided in either subsection (2) of ORS 673.110 or in subsection (1) of section 24, chapter 381, Oregon Laws 1951, and subsection (2) of this section, and who has submitted evidence satisfactory to the board that he has complied with the requirements thereof, may apply for a license as a public accountant with the board within six months after termination of his employment with the Federal Government or the state, provided he intends, in good faith, to engage in the practice of public accounting in this state as his principal occupation, either as an individual practitioner or as a member of a partnership or as a staff accountant employed within the state by certified public accountants or public accountants.

(2) During the continuation of employment with the Federal Government or the state, application for annual renewal of a declaration of intent filed under subsection (1) of section 24, chapter 381, Oregon Laws 1951, or subsection (2) of ORS 673.110, shall be filed before July 1 of each succeeding year, accompanied by a renewal fee of \$5.

673.130 Partnership may register as partnership of public accountants; requirements. (1) A partnership engaged in this state in the practice of public accounting may register with the board as a partnership of public accountants, provided it meets the following requirements:

(a) At least one general partner thereof must be a certified public accountant or a public accountant of this state in good standing.

(b) Each partner personally engaged within this state in the practice of public accounting as a member thereof must be a certified public accountant or a public accountant of this state in good standing.

(c) Each principal and manager of an office of the firm in this state must be a certified public accountant or a public accountant of this state in good standing.

(2) Application for such registration must be made upon the affidavit of a general

partner of such partnership who holds a license to practice in this state as a certified public accountant or as a public accountant. The board shall in each case determine whether the applicant is eligible for registration. A partnership which is so registered and which holds a partnership permit issued under ORS 673.150 may use the words "public accountants" in connection with its partnership name. Notification shall be given the board, within one month, after the admission to or withdrawal of a partner from any partnership so registered, or of any change of principal or manager in charge of an office of the firm in this state.

673.140 Persons designated as "public accountants." Any individual who is licensed and who holds a permit issued under ORS 673.150 shall be styled and known as a "public accountant."

673.150 Permits to engage in practice of public accounting issued; license year defined. (1) Permits to engage in the practice of public accounting, using the title, designation or indications authorized in ORS 673.010 to 673.480, shall be issued by the board to holders of the certificate of "certified public accountant" issued under ORS 673.040 to 673.080 and to persons licensed and partnerships registered under ORS 673.090 to 673.140, or section 16 or 20, chapter 381, Oregon Laws 1951.

(2) The permits shall be for a 12-month period from July 1 of each calendar year, herein called the "license year."

(3) Applications for permits or for renewals of permits may be submitted to the board on a form prescribed by the board at any time prior to the commencement of the license year. Applications for permits or for renewals of permits shall be accompanied by a fee of not to exceed \$25 as determined by the board and approved by the Executive Department.

(4) Any permit that is not renewed within 60 days after the close of the license year for which it was issued or renewed shall lapse. The board may restore a lapsed permit upon payment to it of all past unpaid renewal fees. However, the board may not restore a permit issued or renewed for a license year that ended more than five years prior to the date of the application for restoration. [Amended by 1971 c.217 §4; 1973 c.782 §1]

673.160 Corporations may not register or be issued a permit; Not applicable to

attorneys. (1) Corporations may not register with the board or be issued a permit under ORS 673.010 to 673.480.

(2) Nothing contained in ORS 673.010 to 673.480 shall prevent any corporation which, on August 2, 1951, has been legally organized in the State of Oregon and engaged in the practice of public bookkeeping and accounting from continuing such practice under its corporate form and arrangement.

(3) Nothing in ORS 673.010 to 673.480 shall be deemed to be applicable to an attorney at law in connection with his practice.

673.170 Grounds for revocation or suspension of any certificate, registration, license or permit. The board may revoke or suspend any certificate issued under ORS 673.040 to 673.080, or any registration or license granted under ORS 673.090 to 673.140 or section 16 or 20, chapter 381, Oregon Laws 1951, or may revoke, suspend or refuse to renew any permit issued under ORS 673.150, or may censure the holder of any such permit, for any one or any combination of the following causes:

(1) Fraud or deceit in obtaining a certificate as certified public accountant, or in obtaining registration or license under ORS 673.010 to 673.480, or in obtaining a permit under ORS 673.010 to 673.480.

(2) Dishonesty, fraud or gross negligence in the practice of public accounting.

(3) Violation of any of the provisions of ORS 673.020, 673.030, or 673.310 to 673.350.

(4) Repeated violation of a rule of professional conduct promulgated by the board under the authority granted by ORS 673.010 to 673.480, after warning by the board that such continued violation will constitute grounds for proceedings under this section.

(5) Conviction of a felony under the laws of any state or of the United States.

(6) Conviction of any crime, an essential element of which is dishonesty or fraud, under the laws of any state or of the United States.

(7) Cancellation, revocation, suspension or refusal to renew, authority to practice as a certified public accountant or a public accountant in any state.

(8) Suspension or revocation of the right to practice before any state or federal agency.

(9) Failure to become a citizen of the United States within six years by any person not a citizen of the United States when he received a certificate as certified public

accountant under ORS 673.010 to 673.480, or received a license to practice public accounting under ORS 673.010 to 673.480.

[Amended by 1971 c.734 §112]

673.180 Grounds for revocation or suspension of partnership registration and permit. (1) The board shall revoke the registration and permit of a partnership if at any time it does not have all the qualifications prescribed by the section of ORS 673.010 to 673.480 under which it qualified for registration.

(2) The board may revoke or suspend the registration or may revoke, suspend or refuse to renew the permit of a partnership or may censure the holder of any such permit for any of the causes enumerated in ORS 673.170 and for the following additional causes:

(a) The revocation or suspension of the certificate or license, or the revocation or suspension or refusal to renew the permit, of any partner.

(b) The cancellation, revocation, suspension or refusal to renew the authority of the partnership or any partner thereof to practice public accounting in any other state.

[Amended by 1971 c.734 §113]

673.185 Procedure for denial of certificate, registration, license or permit; review proceedings. (1) Where the board proposes to refuse to issue or renew a certificate, registration, license or permit or proposes to revoke or suspend a certificate, registration, license or permit, opportunity for hearing shall be accorded as provided in ORS chapter 183 and chapter 734, Oregon Laws 1971.

(2) Promulgation of rules, conduct of hearings, issuance of orders and judicial review of rules and orders shall be in accordance with ORS chapter 183 and chapter 734, Oregon Laws 1971.

(3) The decision of the board under subsection (1) of this section shall be by majority vote.

[1971 c.734 §115]

Note: The Legislative Counsel has not, pursuant to ORS 173.160, undertaken to substitute specific ORS references for the words "this Act" in subsections (1) and (2) of ORS 673.185. Chapter 734, Oregon Laws 1971, enacted into law and amended ORS sections which may be found by referring to the 1971 Comparative Section Table located following the Index in volume 6 of Oregon Revised Statutes (1971 Replacement Parts).

673.190 [Amended by 1971 c.418 §21; repealed by 1971 c.734 §21]

673.200 [Repealed by 1971 c.734 §21]

673.210 Reissuance of certificates, licenses and permits. The board may reissue the certificate of any certified public accountant whose certificate has been revoked, or may renew the license of any person whose license has been revoked, or may reissue or modify the suspension of any permit which has been revoked or suspended.

673.310 Words or abbreviations of similar import to certified public accountant, public accountant, C.P.A., or P.A. prohibited. No person, partnership or corporation shall assume or use the title or designation "certified accountant," "chartered accountant," "enrolled accountant," "licensed accountant," "registered accountant" or any other title or designation likely to be confused with "certified public accountant" and "public accountant," or any of the abbreviations "CA," "EA," "RA," or "LA," or similar abbreviations likely to be confused with "CPA" or "PA."

(Practice of Accounting)

673.320 Affixing signature as an accountant, without having permit, prohibited; exceptions. No person shall affix his signature, with any wording indicating that he is an accountant or auditor, to any accounting or financial statement, or to any opinion on, report on or certificate to any accounting or financial statement, unless he holds a permit issued under ORS 673.150 and not revoked or suspended; provided, however, that the provisions of this section shall not prohibit any officer, employe, partner or principal of any organization from affixing his signature to any statement or report in reference to the financial affairs of said organization with any wording designating the position, title or office which he holds in said organization, nor shall the provisions of this section prohibit any act of a public official or public employe in the performance of his duties as such.

673.330 Affixing partnership name as an accounting firm without permit prohibited. No person shall sign or affix a partnership name, with any wording indicating that it is a partnership composed of accountants or auditors or persons having expert knowledge in accounting or auditing, to any accounting or financial statement, or to any report on or certificate to any accounting or financial statement, unless the partnership holds a permit issued under ORS 673.150 and not revoked or suspended.

673.340 Affixing corporate name as an accounting firm prohibited. No person shall sign or affix a corporate name, with any wording indicating that it is a corporation performing services as accountants or auditors or composed of accountants or auditors or persons having expert knowledge in accounting or auditing, to any accounting or financial statement, or to any report on or certificate to any accounting or financial statement.

673.350 Application to employes of certified and public accountants, to corporations, to persons licensed in another state. (1) Nothing contained in ORS 673.010 to 673.480 shall prohibit any person not a certified public accountant or public accountant from serving as an employe of, or an assistant to, a certified public accountant or public accountant or partnership composed of certified public accountants or public accountants holding a permit to practice under ORS 673.150 or a corporation permitted under ORS 673.010 to 673.480 to continue its practice under its corporate form and arrangement; provided that such employe or assistant shall not issue any accounting or financial statement over his name.

(2) Nothing contained in ORS 673.010 to 673.480 shall prohibit a certified public accountant or a public accountant of another state from temporarily practicing in this state on professional business incident to his regular practice.

673.360 Board may seek injunctions to restrain violations. Whenever in the judgment of the board any person has engaged, or is about to engage, in any acts or practices which constitute or will constitute a violation of any of the provisions of ORS 673.020, 673.030 or 673.310 to 673.350, the board may make application to the appropriate court for an order enjoining such acts or practices, and upon a showing by the board that such person has engaged, or is about to engage, in any such acts or practices, an injunction, restraining order, or such other order as may be granted by the court without bond.

673.370 Acts constituting prima facie evidence that person holds himself out to be a C. P. A. or P. A. The display or uttering by a person of a card, sign, advertisement or other printed, engraved or written instrument or device, bearing a person's name in conjunction with the words "certified public

accountant" or "public accountant" or any abbreviation thereof, shall be prima facie evidence in any action brought under ORS 673.360 or 673.990 that the person whose name is so displayed caused or procured the display or uttering of such card, sign, advertisement or other printed, engraved or written instrument or device, and that such person is holding himself out to be a certified public accountant or a public accountant holding a permit under ORS 673.150. In any such action evidence of the commission of a single act prohibited by ORS 673.010 to 673.480 shall be sufficient to justify an injunction or a conviction without evidence of a general course of conduct.

673.380 Statements and records remain the property of licensed accountants; express agreement with client excepted. All statements, records, schedules, working papers and memoranda made by a certified public accountant or public accountant incident to or in the course of professional service to clients, except reports submitted to a client, shall be and remain the property of such certified public accountant or public accountant, in the absence of an express agreement between the certified public accountant or public accountant and the client to the contrary.

(State Board)

673.410 State Board of Accountancy; qualifications. There is created in the Department of Commerce a State Board of Accountancy consisting of five members, to be appointed by the Director of Commerce, with the approval of the Governor. Members of the board must have held certified public accountant certificates issued under the laws of this state for at least five years, and be actively engaged in public accounting practice.

[Amended by 1963 c.530 §35; 1971 c.753 §30]

673.420 [Repealed by 1971 c.753 §74]

673.430 [Repealed by 1971 c.753 §74]

673.440 Printing and publication of annual register. The board shall have printed and published for public distribution, in September of each year, an annual register which shall contain the names, arranged alphabetically by classifications, of all practitioners holding a permit under ORS 673.010 to 673.480; the names of the members of the

board; and such other matters as may be deemed proper by the board. Copies of the registers shall be mailed to each practitioner holding a permit under ORS 673.010 to 673.480.

673.450 [Amended by 1969 c.314 §76; repealed by 1971 c.753 §74]

673.460 [Amended by 1967 c.637 §27; repealed by 1971 c.753 §74]

673.470 [Repealed by 1971 c.753 §74]

673.480 Administrative committees; purposes and powers. (1) The board shall appoint administrative committees of not less than three nor more than five members who shall be public accountants in active practice in this state, to be selected from a panel, of at least twice the number to be appointed, submitted by the representative organization of public accountants, to perform any of the following duties, and such committees shall be vested with the full powers of the board for such purposes:

(a) To receive and investigate complaints and to initiate and conduct investigations or hearings, with or without the filing of any complaint, and to obtain information and evidence relating to any matter involving the conduct of public accountants, and any violation or alleged violation of any of the provisions of ORS 673.010 to 673.480 by public accountants.

(b) To pass upon the qualifications of any applicant for a license as a public accountant. This committee may appoint representatives and designate the areas or localities in which they may act to review and report to the committee on the qualifications of any applicants.

(c) To advise the board in any and all matters affecting public accountants. This committee shall serve as a liaison between the board and the public accountants, shall be kept informed on contemplated actions of the board primarily affecting public accountants, and shall have access to the files of the board for the purpose of carrying out its advisory duties.

(2) The members of administrative committees shall hold office for one year.

(3) Any public accountant or any applicant for a license as a public accountant who is aggrieved by any action taken by an administrative committee may appeal to the board in accordance with rules or regulations prescribed by the board.

TAX CONSULTANTS**(Generally)**

673.605 Definitions for 673.605 to 673.735. As used in ORS 673.605 to 673.735 unless the context requires otherwise:

(1) "Associate tax consultant" means a person who has qualified as a tax consultant and who works with a designated tax consultant and whose license states that he is associated with a designated tax consultant.

(2) "Inactive license" means a license that has been returned to the board and is being held by the board in inactive status.

(3) "Board" means the State Board of Tax Service Examiners created by ORS 673.725.

(4) "Tax consultant" means a person, corporation, firm or partnership who, for another and for valuable consideration, prepares or advises or assists in preparation of personal income tax returns.

(5) "Tax preparer" means any person who, for valuable consideration, is employed or engaged by a licensed tax consultant to prepare, or to advise or assist in preparation of personal income tax returns.

(6) "Tax season" means the period commencing January 15 and ending April 15.
[1973 c.387 §1]

673.610 Application of ORS 673.605 to 673.735. ORS 673.605 to 673.735 do not apply to:

(1) Any full or part-time employe hired to fill a permanent position, who in connection with his duties as an employe has the incidental duty of preparing income tax returns for the business of the employer only.

(2) Any attorney at law rendering services in the performance of his duties as an attorney at law.

(3) While acting as such, any fiduciary, or the regular employes thereof, acting on behalf of the fiduciary estate, the testator, trustor, grantor, or beneficiaries thereof.

(4) Any certified public accountant or public accountant holding a valid permit under ORS 673.010 to 673.480.

(5) Any person employed by a local, state or federal governmental agency but only in performance of his official duties.

(6) Any person enrolled to practice before the Internal Revenue Service pursuant to Title 31, part 10, Code of Federal Regulations.

[1973 c.387 §3]

673.615 License required for tax consultant and tax preparer. Except a person, corporation, firm or partnership listed in ORS 673.610 to which ORS 673.605 to 673.735 do not apply:

(1) A person shall not engage in the business of, or represent that he is a tax consultant unless he is licensed as provided in ORS 673.605 to 673.735.

(2) A corporation, firm or partnership shall not act as, or represent that it is, a tax consultant unless it is licensed as provided in ORS 673.605 to 673.735.

(3) A person shall not engage in the business of, or represent that he is a tax preparer unless he is licensed as provided in ORS 673.605 to 673.735.

[1973 c.387 §2]

(Licensing)

673.625 Qualifications for tax consultant, examination. (1) Every applicant for a license as a tax consultant on his own behalf, every applicant for licensing as a tax consultant on behalf of a corporation, firm or partnership, and every applicant for licensing as a tax preparer must:

(a) Be not less than 18 years of age;

(b) Possess a high school diploma or have passed an equivalency examination; and

(c) Present evidence satisfactory to the board that he has successfully completed not less than 60 hours in basic personal income tax law, theory and practice at a school training session or educational institution approved by the board.

(2) In addition to the requirements of subsection (1) of this section, every applicant for licensing as a tax preparer must pass to the satisfaction of the board an examination. The examination shall be constructed in a manner that in the judgment of the board measures the applicant's knowledge of Oregon and federal personal income tax law, theory and practice.

(3) In addition to the requirements of subsection (1) of this section, every applicant for licensing as a tax consultant on his own behalf and every applicant for licensing as a tax consultant on behalf of a corporation, firm or partnership must:

(a) Present evidence satisfactory to the board that he was actively licensed and employed as a tax preparer for not less than two tax seasons.

(b) Pass to the satisfaction of the board

an examination that is constructed in a manner that in the judgment of the board measures the applicant's knowledge of Oregon and federal personal income tax law, theory and practice. The examination for a tax consultant's license shall differ from the examination for a tax preparer's license in that it shall be of a more exacting nature and require higher standards of knowledge of personal income tax law, theory and practice.

[1973 c.387 §4]

673.630 Tax consultant's application; licensing procedure for corporate applicant.

(1) Every person desiring to be licensed as a tax consultant shall apply in writing to the board. The application forms shall be approved by the board. Each application shall include or be accompanied by evidence, under oath or affirmation and satisfactory to the board, that the applicant meets the qualifications prescribed in subsection (1) and in paragraph (a) of subsection (3) of ORS 673.625. Each application shall be accompanied by the examination fee as provided in ORS 673.685.

(2) (a) If the applicant for licensing as a tax consultant is a corporation, firm or partnership, the applicant shall designate or appoint the member or officer who is to submit an application for a tax consultant's license. The application of the corporation, firm or partnership, and the application of the member or officer so designated shall be filed with the board together. The application of the member or officer on behalf of the corporation shall be accompanied by the examination fee provided in ORS 673.685.

(b) A license shall not be issued to any corporation, firm or partnership until the member or officer designated to apply for a license satisfactorily passes the examination for licensing as a tax consultant required by paragraph (b) of subsection (3) of ORS 673.625 on behalf of the corporation, firm or partnership. If the designated member or officer satisfactorily completes the examination and upon compliance by the corporation, firm or partnership and the designated member or officer with all other requirements of law, the board shall issue a license as a tax consultant to the corporation, firm or partnership.

(c) The license shall bear the name of the member or officer designated to be licensed as a tax consultant on behalf of the corporation, firm or partnership. Thereafter, the designated member or officer shall act

as a tax consultant only as an officer or agent of the corporation, firm or partnership and not on his own behalf.

(d) If the member or officer designated to be licensed as a tax consultant on behalf of a corporation, firm or partnership is refused a license, or after being licensed ceases to be connected with the corporation, firm or partnership, the corporation, firm or partnership shall have the right to designate another member or officer who shall make application and qualify as in the first instance.

(e) Except the member or officer designated to be licensed as a tax consultant on behalf of the corporation, firm or partnership, every member or officer who will engage in the preparation, or advise or assist in the preparation of personal income tax returns shall be licensed as a tax consultant in his own name individually. However, the license shall entitle the member or officer to act as tax consultant only as an officer or agent of the corporation, firm or partnership and not on his own behalf.

[1973 c.387 §5]

673.635 Licensing of tax preparer. Every person desiring to be licensed as a tax preparer shall apply in writing to the board. The application forms shall be approved by the board. Each application shall include or be accompanied by evidence, under oath or affirmation and satisfactory to the board, that the applicant meets the qualifications prescribed in subsection (1) of ORS 673.625. The application shall be accompanied by the examination fee as provided in ORS 673.685.

[1973 c.387 §6]

673.640 Issuance of licenses. (1) The board shall license as a tax consultant or a tax preparer each applicant who:

(a) Demonstrates to the satisfaction of the board fitness for a license; and

(b) Pays to the board the initial license fee as provided in ORS 673.685.

(2) The board shall issue evidence of licensing to each person, corporation, firm or partnership licensed. If the license is a tax preparer's license, the license shall show the name of the tax consultant by whom the tax preparer is employed. The license of each tax preparer shall be delivered or mailed to the tax consultant by whom the tax preparer is employed and shall be kept in the custody and control of the tax consultant.

[1973 c.387 §7]

673.645 Renewal of licenses; restoration of lapsed license. (1) On or before January 1 of each year, every licensed tax consultant and tax preparer shall apply to the board and pay the fee for a renewal of his license. The application shall be accompanied by evidence satisfactory to the board that the person applying for renewal of his license has completed the continuing education required by ORS 673.655.

(2) On or before December 1 of each year the board shall notify each licensed tax consultant and tax preparer that the annual renewal application and fee are due on or before the January 1 following.

(3) Any license that is not renewed before January 15 of any year shall lapse.

(4) The board may restore any lapsed license upon payment to it of all past unpaid renewal fees and the fee for restoration of a lapsed license as provided in ORS 673.685. [1973 c.387 §8]

673.650 Associate tax consultant's license. (1) A tax consultant may act as a tax preparer for another tax consultant if he obtains an associate tax consultant's license. An associate consultant's license may be obtained by a consultant without examination by subscribing to an agreement that he will not engage in any act in the capacity of a consultant other than as an employe of the employing consultant, while associated with the employing consultant. The form of the agreement shall be approved by the board. Signed copies of the agreement shall be filed with the employing consultant and the board.

(2) Before an associate consultant's license may be issued, the applicant must surrender to the board his tax consultant's license. His tax consultant's license shall remain inactive as long as his associate tax consultant's license is outstanding and effective. Upon inactivation of his associate tax consultant's license, his tax consultant's license shall be reissued upon compliance with ORS 673.605 to 673.735 relating to tax consultants.

(3) Upon approval of an agreement mentioned in subsection (1) of this section, the tender of the tax consultant's license to the board and payment of the fee provided in ORS 673.685, the board shall issue an associate tax consultant's license. The license shall be delivered by the board to the employing tax consultant in accordance with subsection (2) of ORS 673.640. The li-

cense shall designate the applicant as an associate tax consultant. The provisions of ORS 673.605 to 673.735 that relate to and govern tax preparers shall also apply to and govern associate tax consultants. [1973 c.387 §9]

673.655 Continuing education requirement; waiver. (1) Except as provided in subsection (3) of this section, each person licensed as a tax consultant or tax preparer under ORS 673.605 to 673.735 shall submit evidence satisfactory to the board that he has completed at least 80 classroom hours of instruction in advanced personal income tax subjects during the three-year period immediately preceding the date on which the evidence is submitted. Evidence that the continuing education required by this section has been completed shall be submitted at the time the consultant's or preparer's license renewal fee is submitted. If the board does not receive evidence that the continuing education requirement has been completed by the applicant for renewal of his license, the board shall not renew his active or inactive license.

(2) The board shall approve and make known to tax consultants and tax preparers those classroom hours that fulfill the continuing education required by subsection (1) of this section. Approval granted any course of study shall be reviewed periodically. Any classroom hours or course of study that fails to meet the requirements of the board shall be withdrawn from approval.

(3) The board may exempt a tax consultant or tax preparer from the continuing education required by this section upon his application showing evidence satisfactory to the board that he is unable to comply because of unusual or extenuating circumstances.

[1973 c.387 §10]

673.660 Licenses to be displayed. Each tax consultant shall display prominently in his principal place of business his own license as well as the licenses of all tax preparers employed by him.

[1973 c.387 §11]

673.665 Effect of returning license of tax preparer to board. (1) A tax consultant at any time may, and at the request of the tax preparer shall without delay, return the license of a tax preparer to the board. When, and only when, the license of a tax preparer is returned to the board, the relationship of the consultant returning the

license and the tax preparer whose license is returned, is terminated for the purposes of ORS 673.605 to 673.735. Before the tax consultant returns the license of a tax preparer to the board, he shall make a reasonable attempt to give the tax preparer notice of his intent to do so.

(2) After the license of a tax preparer has been returned by the tax consultant to the board under subsection (1) of this section it may:

(a) Become an inactive license.

(b) Be reissued to the same tax consultant.

(c) Be reissued to a different tax consultant.

[1973 c.387 §12]

673.670 When tax preparer's license becomes inactive; reissuance of license. (1) The license of a tax preparer becomes an inactive license if it is not reissued, revoked or suspended within 10 days after his employment with a tax consultant is terminated.

(2) The license of a tax preparer shall be reissued to the same or a different tax consultant when, within 10 days after termination of his employment with a tax consultant:

(a) Notice of his employment by, and the name of, the employing tax consultant is given to the board by the tax preparer; and

(b) The fee provided by ORS 673.685 for the transfer of licenses has been paid to the board.

[1973 c.387 §13]

673.675 When tax consultant required to surrender license; effect. (1) When a tax consultant ceases to engage in business he shall surrender his license to the board, who shall keep the license on record as an inactive license. The license of a tax preparer becomes inactive as provided in ORS 673.670.

(2) While his license is being held by the board as an inactive license, the licensee tax consultant or tax preparer shall not engage in the business of, or represent that he is a tax consultant or tax preparer licensed by this state.

(3) Inactive licenses may be:

(a) Renewed upon the payment of the renewal fee provided in ORS 673.685.

(b) Reactivated upon application to the board and the payment of the reactivation fee provided in ORS 673.685.

(c) Revoked or suspended by the board

when conditions exist under which the board would have been authorized to revoke or suspend the license if it were active.

[1973 c.387 §14]

673.680 When associate tax consultant required to surrender license; effect. (1) When an associate tax consultant ceases to act as tax preparer for another consultant he shall surrender his associate tax consultant's license to the board who shall keep the license on record as an inactive license.

(2) Unless his tax consultant's license is restored, while his associate tax consultant's license is being held by the board as an inactive license, the licensee shall not engage in or represent that he is a tax consultant or a tax preparer for another consultant.

(3) Inactive licenses may be:

(a) Renewed upon the payment of the renewal fee provided in ORS 673.685.

(b) Reactivated upon application to the board and the payment of the reactivation fee provided in ORS 673.685.

(c) Revoked or suspended by the board when conditions exist under which the board would have been authorized to revoke or suspend the license if it were active.

[1973 c.387 §15]

673.685 Fees. The fees for licenses issued, renewed, reactivated or otherwise, and for examinations under ORS 673.605 to 673.735 shall be prescribed by the board and approved by the Director of Commerce but shall not exceed the following:

(1) For examination for tax consultant's license, \$20.

(2) For examination for tax preparer's license, \$20.

(3) For initial or renewal of tax consultant's license, \$30.

(4) For initial or renewal of tax preparer's license, \$20.

(5) For initial or renewal of associate tax consultant's license, \$30.

(6) For each initial or renewal license as a tax consultant issued to a member or officer of a corporation, firm or partnership other than the member or officer named in the license issued to the corporation, firm or partnership, \$30.

(7) For each transfer of a tax preparer's license, \$5.

(8) For the renewal of a tax consultant's inactive license, \$15.

(9) For the renewal of a tax preparer's inactive license, \$10.

(10) For the renewal of an associate tax consultant's inactive license, \$15.

(11) For the reactivation of a consultant's inactive license, \$30; for the reactivation of an associate consultant's inactive license, \$30; for the reactivation of a tax preparer's inactive license, \$20.

(12) For restoration of lapsed license, \$10.

[1973 c.387 §16]

673.690 Tax consultant's records. Every person licensed as a tax consultant shall keep records of all personal income tax returns prepared by him, or in the preparation of which his advice or assistance has been given. The records of the returns shall be kept for a period of not less than seven years after the date of the preparation, advice or assistance.

[1973 c.387 §17]

673.695 Director of Commerce as agent for service of process against nonresident; effect of service on director; fee. (1) The acceptance by a nonresident of a license as tax consultant or a tax preparer shall be considered equivalent to the appointment by the nonresident of the Director of Commerce as his attorney upon whom may be served any summons, process or pleading in any action or suit against him in any court of this state, arising out of any business done by him as a tax consultant or tax preparer in this state.

(2) The acceptance of a license shall be considered equivalent to any agreement by the nonresident that any summons, process or pleading in the action or suit may be made by leaving a copy thereof, with a fee of \$2, in the hands of the Director of Commerce or his office. Such service shall be sufficient and valid personal service upon the defendant if notice of such service and a copy of the summons, process or pleading is sent forthwith by registered mail by the plaintiff or his attorney to the defendant at the most recent address furnished to the board by the nonresident tax consultant or tax preparer or to his last-known address. An affidavit of the plaintiff or his attorney of the mailing shall be appended to the summons, process or pleading and entered as a part of the return thereof. However, personal service outside of the state in accordance with the statute relating to personal service of summons outside of the state shall relieve the plaintiff from such mailing requirement.

(3) Any summons received or provided in this section shall require the defendant to appear and answer the complaint within four weeks after receipt thereof by the Director of Commerce. The court in which the action or suit is brought may order such continuance as may be necessary to afford the defendant reasonable opportunity to defend the action. The fee of \$2 paid by the plaintiff to the director shall be taxed as costs in favor of the plaintiff if he prevails in the action. The director shall keep a record of each summons, process or pleading served upon him under this section, showing the day and hour of service.

[1973 c.387 §18]

673.700 Disciplinary powers of board; grounds for discipline. The board may refuse to issue or renew, or may suspend or revoke a license, or may reprimand any person licensed as a tax consultant, associate tax consultant or tax preparer for:

(1) Violation of ORS 673.705;

(2) Failure to keep the records required by ORS 673.690;

(3) Gross negligence or incompetence in his tax consultant or tax preparer practice;

(4) Conviction of a felony, or of a misdemeanor involving moral turpitude;

(5) Conviction of wilful failure to pay any tax or estimated tax, file any tax return, keep records or supply information required under the tax laws of any state or of the United States, or conviction of the wilful making, rendering, delivery, disclosure, signing or verifying of any false or fraudulent list, return, account, statement or other document, or of supplying any false or fraudulent information, required under the tax laws of any state or of the United States.

(6) Failure to comply with continuing education requirements under ORS 673.655 unless such requirements have been waived by the board.

(7) Violation of the code of professional conduct prescribed by the board.

[1973 c.387 §20]

673.705 Prohibited acts. It shall be unlawful for any person to:

(1) Obtain or attempt to obtain a license as a tax consultant, an associate tax consultant or a tax preparer by any fraudulent representation.

(2) Wilfully make a false oath or affirmation under ORS 673.630 or 673.635.

(3) Represent that he is licensed as a tax consultant, an associate tax consultant or a tax preparer if he is not so licensed.

(4) Present or attempt to use the license of another.

(5) Attempt to use a lapsed or revoked license.

(6) Falsely impersonate a licensee under ORS 673.605 to 673.735.

[1973 c.387 §19]

(State Board)

673.725 State Board of Tax Service Examiners; qualification of members. (1) There is created in the Department of Commerce a State Board of Tax Service Examiners.

(2) All members of the board shall have been engaged in the preparation of personal income tax returns for another and for a valuable consideration for no less than five years. All members shall be licensed as tax consultants under ORS 673.605 to 673.735. [1973 c.387 §21]

673.730 Powers of board. The board shall have the following powers, in addition to the powers otherwise granted by ORS 673.605 to 673.735, and shall have all powers necessary or proper to carry the granted powers into effect:

(1) To determine qualifications of applicants for licensing as a tax consultant, an associate tax consultant or a tax preparer in this state; to cause examinations to be prepared, conducted and graded; and to issue licenses to qualified applicants upon their compliance with ORS 673.605 to 673.735 and the rules of the board.

(2) To restore any licenses suspended or revoked.

(3) To prescribe fees, within the maximum limits provided by ORS 673.685, and to collect fees.

(4) To investigate alleged violations of ORS 673.605 to 673.735.

(5) To enforce the provisions of ORS 673.605 to 673.735 and to exercise general supervision over tax consultant and tax preparer practice.

(6) To formulate a code of professional conduct for tax consultants and tax preparers.

[1973 c.387 §22]

673.735 Civil penalty procedure. (1) Any person who violates any provision of ORS 673.605 to 673.735 or any rule adopted

thereunder shall incur, in addition to any other penalty provided by law, a civil penalty in an amount of not more than \$1,000 for each violation. The amount of penalty shall be determined by the board after taking into consideration the gravity of the violation, the previous record of the violator in complying, or in failing to comply, with the provisions of ORS 673.605 to 673.735 or the rules adopted thereunder, and other considerations as the board considers appropriate.

(2) Any penalty provided in subsection (1) of this section becomes due and payable upon notice by the board to the person incurring the penalty. The notice shall be in writing, shall describe the violation with reasonable particularity, and shall advise the person of the amount of penalty, and that the amount of penalty is due not later than 20 days after the date the notice was mailed. Mailing the notice by certified mail, return receipt requested, to the person incurring the penalty accomplishes service of the notice. Refusal of the letter containing the notice by the person is prima facie evidence of receipt of the notice.

(3) The person incurring the penalty has 20 days after the date the notice is mailed in which to make written application for a hearing before the board. The penalty may be remitted or mitigated upon the terms and conditions the board in its discretion considers proper. All hearings under this section shall be conducted pursuant to the applicable provisions of ORS chapter 183.

(4) Unless the amount of the penalty is paid within 60 days after the date the order is entered after hearing or if the hearing is waived or unless an appeal is filed, the order of the board under this section shall constitute a judgment and may be filed with the county clerk in any county of this state. The clerk shall thereupon record the name of the person incurring the penalty and the amount of the penalty in the judgment docket. The penalty provided in the order so docketed becomes a lien upon the title to any interest in real property in the county owned by the person against whom the order is entered, and execution may issue upon the order in the same manner as execution upon a judgment of a court of record.

(5) All penalties recovered under this section shall be paid into the State Treasury and credited to the General Fund to be available for general governmental expenses.

[1973 c.387 §24]

PENALTIES

673.990 Penalties. (1) Any violation of any of the provisions of ORS 673.020, 673.030 or 673.310 to 673.350 is punishable, upon conviction, by a fine of not more than \$500 or by imprisonment in the county jail for not more than one year, or both. Whenever the board has reason to believe that any

person is liable to punishment under this subsection it may certify the facts to the Attorney General, who may, in his discretion, cause appropriate proceedings to be brought.

(2) Violation of any provision of ORS 673.605 to 673.735, or any rule adopted thereunder, is a misdemeanor.

[Subsection (2) enacted as 1973 c.387 §25]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Thomas G. Clifford, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.
Done at Salem, Oregon,
on November 1, 1973.

Thomas G. Clifford
Legislative Counsel

CHAPTER 674

[Reserved for expansion]