

Chapter 673

1975 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 and professional corporations. (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 which is not revoked, suspended or lapsed.

(2) No partnership or professional corporation 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 the partnership or corporation is composed of certified public accountants, unless the partnership is registered as a partnership of certified public accountants under ORS 673.090 or unless the corporation is registered as a corporation of certified public accountants under ORS 58.345 and unless the partnership or corporation holds a permit issued under ORS 673.150 which is not revoked, suspended or lapsed.

[Amended by 1975 c 440 s.3]

673.030 Public accountants; necessity of license and permit; application to partnerships and professional corporations. (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 which is not revoked, suspended or lapsed, or unless such person has received a certificate as a certi-

fied public accountant under ORS 673.040 to 673.080 and holds a permit issued under ORS 673.150 which is not revoked, suspended or lapsed.

(2) No partnership or professional corporation 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 the partnership or corporation is composed of public accountants, unless the 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, or unless the corporation is registered as a corporation of certified public accountants or a corporation of public accountants under ORS 58.345 and unless the partnership or corporation holds a permit issued under ORS 673.150 which is not revoked, suspended or lapsed.

[Amended by 1975 c.440 s.4]

(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 account-

ing, 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 s 66]

673.060 Qualifications for C. P. A. certificate; scope and conduct of examination; candidate's right to reexamination; fees. (1) An applicant for a certificate of certified public accountant shall have successfully passed written examinations in theory of accounts, accounting practice, auditing, business law as affecting public accounting, and such other related subjects as the board shall determine to be appropriate, and an applicant shall either:

(a) Have had two years' public accounting experience or the equivalent thereof satisfactory to the board under its rules; or

(b) Have had one year of public accounting experience or the equivalent thereof satisfactory to the board under its rules and have completed one year of college or university courses in accounting or related subjects beyond the baccalaureate degree or the equivalent thereof satisfactory to the board under its rules.

(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) The board may by rule prescribe the terms and conditions under which a candidate who successfully completes an examination in at least two subjects or in accounting practice shall have the right to be reexam-

ined 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.

(4) The board shall charge each candidate a fee not to exceed \$100, 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 not to exceed \$25 for each subject, accounting practice being considered as two subjects for computation of fees.

[Amended by 1967 c 62 s 1, 1971 c.217 s 2; 1975 c.440 s 6]

673.070 Persons holding C. P. A. certificates 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 its rules, grant credit to an applicant who has successfully completed a written examination in any two or more of the subjects specified in subsection (1) of ORS 673.060 given by the licensing authority in any other state.

(2) Any examination for which credit is granted an applicant under subsection (1) of this section shall be equivalent, in the judgment of the board, to the most recent examination given by the board at the time of the granting of the credit.

[1967 c.62 ss 3, 4, 1975 c.440 s 7]

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 of 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 \$100, 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 s.3, 1975 c.440 s.8]

673.090 Registration as partnership of certified public accountants; requirements. (1) Two or more certified public accountants may apply to the board for registration as a partnership of certified public accountants if the following requirements are met:

(a) At least one general partner must be a resident of this state and be a holder of the certificate of certified public accountant issued under ORS 673.040 to 673.080.

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

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

(d) Each 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 registration as a partnership of certified public accountants must be made on a form provided by the board. The board shall charge a fee to register as a partnership of certified public accountants in an amount not to exceed \$50 as determined by the board and approved by the Executive Department. An application must be made upon the affidavit of a general partner of the partnership who is a holder of the certificate of certified public accountant issued under ORS 673.040 to 673.080 and a resident of this state, 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. The board shall register a partnership that satisfies the requirements of this section. A partnership

registered under this section holding 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 resident partner from any partnership so registered, or of any change of 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 terminate 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 this state, or of any manager of such partnership in charge of an office in this state.

[Amended by 1975 c.440 s.9]

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 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 the 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.

[Amended by 1975 c 440 s 10]

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 employes 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 Registration as partnership of public accountants; requirements. (1) Two or more public accountants may apply to the board for registration as a partnership of public accountants if the following requirements are met:

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

(b) Each partner personally engaged within this state in the practice of public accounting as a member in the partnership must be a certified public accountant or a public accountant licensed under ORS 673.090 to 673.140 and be a resident of this state.

(c) Each partner in the partnership must be a certified public accountant or a public accountant in good standing in this state.

(2) Application for registration as a partnership of public accountants must be made on a form provided by the board. The board shall charge a fee to register as a partnership of public accountants in an amount not to exceed \$50 as determined by the board and approved by the Executive Department. An application must be made upon the affidavit of a general partner of the 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. The board shall register a partnership that satisfies the requirements of this section. A partnership registered under this section holding 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 resident partner from any partnership so registered, or of any change of manager in charge of an office of the firm in this state.

[Amended by 1975 c 440 s.11]

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. (1) Permits to engage in the practice of public accounting in this state shall be issued by the board at least biennially to holders of the certificate of certified public accountant issued under ORS 673.040 to 673.080 to persons licensed as public accountants, and partnerships registered under ORS 673.090 to 673.140, or section 16 or 20, chapter 381, Oregon Laws 1951 and to professional corporations registered by the board under ORS 58.345.

(2) The board by rule shall cause all permits issued under this section to be renewed at least biennially. Permits shall

expire on the last day of June of the renewal year prescribed by rule of the board.

(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 period. Applications for permits or for renewals of permits shall be accompanied by an annual fee of not to exceed \$50 as determined by the board and approved by the Executive Department.

(4) Applications for renewals of permits shall be accompanied by evidence satisfactory to the board that the applicant has complied with continuing education requirements under ORS 673.165 unless those requirements have been waived.

(5) A permit that is not renewed by the close of the license period may be restored upon payment to the board of a delinquent renewal fee, not to exceed \$50, as determined by the board and approved by the Executive Department. Any permit that is not renewed within 60 days after the close of the license period 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 and the delinquent renewal fee. However, the board may not restore a permit issued or renewed for a license period that ended more than five years prior to the date of the application for restoration.

[Amended by 1971 c.217 s.4, 1973 c.782 s.1; 1975 c.438 s.3a; 1975 c.440 s.12]

673.160 Corporations may not register or be issued a permit; exception. Except as provided in ORS chapter 58, corporations may not register with the board or be issued a permit under ORS 673.010 to 673.480.

[Amended by 1975 c.440 s.13]

673.165 Participation of public accountants in continuing education program; types of education programs; hours required; waiver. (1) Every holder of a permit issued under ORS 673.150 actively engaged in the practice of public accounting shall participate, pursuant to rules adopted by the board, in a continuing education program which directly contributes to professional competency. If the holder of the permit is a partnership, each partner personally engaged in the practice of public accounting in this state shall participate in the continuing education program. Every shareholder of a corporation permitted to practice under subsection (2) of ORS 673.160 or of a profes-

sional corporation registered by the board under ORS 58.345 who is personally engaged in the practice of public accounting in this state shall participate in the continuing education program.

(2) The education programs shall include any of the following:

(a) Professional development programs and technical meetings of professional associations of public accountants and certified public accountants.

(b) University and college courses.

(c) Such professional staff training programs provided by accounting firms and other education programs as have been approved by the board under rules and regulations which it adopts.

(d) As to persons holding a public accounting license, such other education programs as are approved by the administrative committees, which shall also determine the hourly value to be given to each such program.

Except as provided in paragraph (d) of this subsection, the board shall determine the hourly value to be assigned to each education program.

(3) The number of hours of continuing education required shall be determined by the board, but shall not exceed 40 hours per year for certified public accountants or 24 hours per year for public accountants.

(4) The board by rule may adopt conditions under which continuing education requirements may be waived. However, continuing education requirements may not be waived by the board for more than three consecutive years except for military service, retirement, disability, absence from the state or for other instances of individual hardship as determined by the board. The board in its discretion may, among other things, take into account the accessibility by applicants to continuing education programs and any impediments to interstate practice of public accountancy which may result from differences in continuing education requirements in other states.

[1975 c.438 s.2]

Note: Section 2a, chapter 438, Oregon Laws 1975, provides

Sec. 2a. Notwithstanding section 2 of this 1975 Act [673.165], the continuing education requirements determined by the board for certified public accountants or public accountants shall not exceed 16 hours for the year beginning July 1, 1975

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 58.345 or 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 or in obtaining registration or license under ORS 58.345 or 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 the Code of Professional Ethics adopted 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) Conduct resulting in a conviction of a felony under the laws of any state or of the United States or of a crime involving moral turpitude. However, such conduct may be considered only to the extent permissible under the provisions of ORS 670.280.

(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) Conviction of wilful failure to pay any tax, file any tax return, keep records or supply information required under the tax laws of any state or 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.

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

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

(10) Failure to comply with the continuing education requirements under ORS 673.165 unless such requirements have been waived by the board.

[Amended by 1971 c 734 s 112, 1975 c 438 s 4a, 1975 c 440 s 14]

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 s.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 s 115]

Note: The Legislative Counsel has not, pursuant to 173 160, undertaken to substitute specific ORS references for the words "this Act" in subsections (1) and (2) of 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 s.21, repealed by 1971 c 734 s 21]

673.200[Repealed by 1971 c 734 s 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 per-

son 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 or corporation name as an accounting firm without permit prohibited. No person shall sign or affix a partnership or corporation name, with any wording indicating that it is a partnership or corporation 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 or corporation holds a permit issued under ORS 673.150 which is not revoked, suspended or lapsed.

[Amended by 1975 c 440 s 17]

673.340 Affixing corporate name as an accounting firm prohibited; exception. Unless the corporation is registered with the board pursuant to ORS chapter 58, 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.

[Amended by 1975 c.440 s.18]

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 registered with the board under ORS 58.345; 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.

[Amended by 1975 c 440 s.19]

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 instru-

ment 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 580 s 35, 1971 c 753 s 30]

673.420[Repealed by 1971 c 753 s 74]

673.430[Repealed by 1971 c 753 s 74]

673.440 Printing and publication of register. The board shall have printed and published for public distribution, at least biennially, a register which shall contain the names of all licensees holding a permit under ORS 673.010 to 673.480 and the current law and regulations. Copies of the registers

shall be mailed to each licensee holding a permit under ORS 673.010 to 673.480.

[Amended by 1975 c.440 s.20]

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

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

673.470[Repealed by 1971 c 753 s.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) A member of an administrative committee appointed by the board under this section is entitled to compensation and expenses as provided in ORS 292.495.

(4) 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.

[Amended by 1975 c 440 s 21]

**TAX CONSULTANTS AND TAX
PREPARERS
(Generally)**

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

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

(2) "Tax consultant" means a person who is licensed under ORS 673.605 to 673.735 to prepare or advise or assist in the preparation of personal income tax returns for another and for valuable consideration.

(3) "Tax preparer" means any person who is licensed under ORS 673.605 to 673.735 as a tax preparer.

(4) "Tax season" means the period commencing January 15 and ending April 15.

[1973 c.387 s.1; 1975 c.464 s.2]

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 s 3]

673.615 Prohibited acts. Except as otherwise provided in ORS 673.605 to 673.735:

(1) A person shall not prepare or advise or assist in the preparation of personal income tax returns for another and for valuable consideration or represent that he

is so engaged unless he is licensed as a tax consultant under ORS 673.605 to 673.735.

(2) A tax preparer may prepare or advise or assist in the preparation of tax returns only under the supervision of a tax consultant, or a person described in subsections (2) to (4) or (6) of ORS 673.610, and subject to such conditions and limitations as the board by rule may impose.

[1973 c.387 s.2; 1975 c.464 s.6]

(Licensing)

673.625 Qualifications for tax consultant and tax preparer; examination.

(1) Every applicant for a license as a tax consultant 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 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 or that he was engaged or employed in this or another state in a capacity that is, in the judgment of the board equivalent to that of a tax preparer or tax consultant, for not less than two tax seasons. Certification by a tax consultant or person described in subsections (2) to (4) or (6) of ORS 673.610 that the applicant was employed as a tax preparer under his supervision for the period indicated in the certificate shall be considered evidence satisfactory to the board of the applicant's employment as a tax preparer for the period indicated.

(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 s.4; 1975 c.464 s.7]

673.630 Tax consultant's application.

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.

[1973 c.387 s.5, 1975 c.464 s.8]

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 s.6]

673.637 License without examination; requirements. The board may issue a license, without examination, to an applicant for a license as a tax consultant or as a tax preparer who presents evidence satisfactory to the board that he is licensed as a tax consultant or preparer in a state that has requirements for licensing substantially similar to the requirements for licensing of this state.

[1975 c.464 s.16]

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 licensed.

[1973 c.387 s.7, 1975 c.464 s.11]

673.643 Preparation of tax returns by corporation, firm, or partnership; requirements; liability. (1) A corporation, firm or partnership, through individuals who are authorized within this state to render those services, may engage in the preparation, or in advising or assisting in the preparation of personal income tax returns for another and for valuable consideration and represent that it is so engaged if the corporation, firm or partnership designates and annually reports to the board the authorized individuals responsible for the tax return preparation activities and decisions of the corporation, firm or partnership.

(2) A corporation, firm or partnership shall not be relieved of responsibility for the conduct or acts of its agents, employees or officers by reason of its compliance with subsection (1) of this section, nor shall a licensed tax consultant be relieved of responsibility for professional services performed by reason of his employment by or relationship with such corporation, firm or partnership.

[1975 c.464 s.10]

673.645 Renewal of licenses; restoration of lapsed license. (1) Unless governed by a rule adopted under ORS 673.651, 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 s.8, 1975 c.464 s.12]

673.650 [1973 c.387 s.9; repealed by 1975 c.464 s.26]

673.651 License renewal periods; commencement date; notice to licensee; application; fee; lapse; restoration; adjusting renewal fee. (1) Notwithstanding ORS 673.645, the board may adopt by rule annual license renewal periods that com-

mence on the first day of a month other than January.

(2) Any licensed tax consultant or preparer governed by a rule adopted under this section shall be notified on or before the first day of the month immediately prior to the month in which his annual renewal period is to commence that his annual renewal application and fee are due on or before the first day of the month in which his annual renewal period is to commence.

(3) On or before the first day of the month in which an annual license renewal period governed by rule adopted under this section is to commence, the licensed tax consultant or preparer shall apply to the board and pay the fee for renewal of his license. The application shall be accompanied by evidence satisfactory to the board that the person applying for renewal has completed the continuing education requirements of ORS 673.655.

(4) Any license governed by the rule adopted under this section that is not renewed before the 15th day of the month in which the annual license renewal period commences shall lapse. 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.

(5) Any rule adopted under this section shall include a method for adjusting the first annual renewal fee paid under the rule in order that no overpayment or underpayment results for the renewal periods immediately prior and immediately following the changed date for commencement of the annual renewal period.

[1975 c.464 s 14]

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 60 classroom hours of instruction in personal income tax subjects during the three-year period immediately preceding the date on which the evidence is submitted. The board may prescribe by rule a minimum number of classroom hours that must be completed during any one year. 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 re-

quirement has been completed by the applicant for renewal of his license, the board shall not renew his active 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 s 10, 1975 c 464 s 17]

673.660 Licenses to be displayed.

Each tax consultant and preparer shall display the evidence of his licensing issued to him in accordance with rules adopted by the board.

[1973 c 387 s 11, 1975 c 464 s 18]

673.665[1973 c 387 s 12, repealed by 1975 c 464 s.26]

673.667 Inactive status; application; renewal; reactivation; revocation or suspension; prohibition. (1) Whenever a tax consultant or tax preparer ceases to engage in the preparation or in advising or assisting in the preparation of personal income tax returns, he may apply to the board for inactive status. A license that is granted inactive status may be renewed upon payment of the license fee as provided in ORS 673.685. No proof that the continuing education required by ORS 673.655 has been fulfilled need be presented to the board for renewal of an inactive license.

(2) A license in inactive status may be reactivated upon payment of the reactivation fee provided in ORS 673.685 and upon proof of compliance with such continuing education requirements as may be adopted by the board by rule.

(3) A license in inactive status may be 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.

(4) No person whose license is inactive shall act as a tax consultant or as a tax preparer.

[1975 c 464 s 25]

673.670[1973 c.387 s.13, repealed by 1975 c.464 s.26]

673.675[1973 c.387 s.14; repealed by 1975 c.464 s.26]

673.680[1973 c.387 s.15, repealed by 1975 c.464 s.26]

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 Executive Department but shall not exceed the following:

(1) For examination for tax consultant's license, \$25.

(2) For examination for tax preparer's license, \$25.

(3) For initial or renewal of tax consultant's license, \$35.

(4) For initial or renewal of tax preparer's license, \$25.

(5) For the renewal of a tax consultant's inactive license, \$20.

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

(7) For the reactivation of a consultant's inactive license, \$35; for the reactivation of a tax preparer's inactive license, \$25.

(8) For restoration of lapsed license, \$15.

(9) For reissuance of a lost or mutilated license, \$3.

[1973 c.387 s.16; 1975 c.464 s.19]

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 four years after the date of the preparation, advice or assistance.

[1973 c.387 s.17; 1975 c.464 s.20]

673.695 Director of Commerce as agent for service of process against non-resident; 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 s.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 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 or under ORS 673.667 unless such requirements have been waived by the board.

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

[1973 c 387 s.20; 1975 c.464 s 21]

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

(1) Obtain or attempt to obtain a license as a 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 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 s.19; 1975 c 464 s.22]

673.710 Names of tax preparers furnished by Department of Revenue; use of information. Notwithstanding ORS 314.835, the Department of Revenue may furnish to the board the names and addresses, if known, of any person preparing a personal income tax return for another and may also furnish to the board the name and address of the taxpayer in instances where the department or the board has reasonable grounds to believe the person preparing the return prepared it in violation of ORS 673.605 to 673.735. The board shall use the names and addresses furnished under this section in enforcement of ORS 673.605 to 673.735 and shall not otherwise divulge or make known such information.

[1975 c 425 s.2]

(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 s.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 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 s 22; 1975 c 464 s.23]

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 s.24]

PENALTIES

673.990 Penalties. (1) Violation of any of the provisions of ORS 673.020, 673.030, 673.310 to 673.350 is a Class A misdemeanor. 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 s.25; 1975 c.440 s.22]

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,
October 1, 1975

Thomas G. Clifford
Legislative Counsel

CHAPTER 674

[Reserved for expansion]