

Chapter 673

1983 REPLACEMENT PART

Accountants; Tax Consultants

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ACCOUNTANTS (Generally)

673.010 Definitions for ORS 673.010 to 673.455. As used in ORS 673.010 to 673.455:

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

(2) "Public accountant" means a person licensed in this state as a public accountant.

(3) "State" means any state, territory or insular possession of the United States, and the District of Columbia. [Amended by 1981 c.89 §2]

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 §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 a public accountant 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 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 "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 §4; 1981 c.89 §3]

(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 comply with any one of the following:

(1) Present satisfactory evidence of graduation from a college or university recognized by the board, and shall have completed 30 or more semester hours or 45 or more quarter hours or the equivalent thereof in the study of accounting, business law, economics and finance, of which no less than 20 semester hours or 30 quarter hours or the equivalent thereof shall be in the study of accounting; or

(2) Be a public accountant; or

(3) 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 satisfactory to the board. [Amended by 1973 c.827 §66, 1979 c.84 §1; 1981 c.89 §4]

673.060 Qualifications for C.P.A. certificate; scope and conduct of examination; 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 determines 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) An applicant for a certificate of certified public accountant must make application on a form provided by the board. The board shall charge each applicant a fee for application not to exceed \$100, as determined by the board and approved by the Executive Department.

(3) 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 semi-annually. 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. Any failed candidate, upon written request to the board, shall have access to the candidate's papers. The board may prescribe a fee not to exceed \$35 for the inspection of examination papers.

(4) The board by rule may 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 reexamined in the remaining subjects only, at subsequent examinations held by the board. If the candidate passes in the remaining subjects within a period of time speci-

fied in the rules of the board, the candidate shall be considered to have passed the examination.

(5) 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 673.455, which shall be payable by the applicant at the time of making application. When 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 §1; 1971 c.217 §2; 1975 c.440 §6; 1983 c.255 §1]

673.070 [Repealed by 1979 c.84 §5]

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 ORS 673.060 (1) 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 §§3, 4; 1975 c.440 §7]

673.080 Reciprocity; 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 person who:

(a) Possesses the other qualifications mentioned in ORS 673.050 or the equivalent as established by the board;

(b) Holds a comparable certificate of certified public accountant issued under the laws of any state entitling the person to practice as a certified public accountant in the state, or who holds a comparable certificate or degree issued in a foreign country entitling the person to practice as a certified public accountant in the 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 the application for a certificate is granted or

rejected. [Amended by 1971 c.217 §3; 1975 c.440 §8; 1981 c.89 §5; 1983 c.247 §1]

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 §9]

673.100 Requisites for obtaining public accountant's license; application; fee. (1) The board shall issue a license as a public accountant to a person who applies for the license and who:

(a) Passes a written examination on the code of professional ethics adopted by the board;

(b) Meets the requirements of ORS 673.050 for admission to the examination for the certificate of certified public accountant;

(c) Takes the examination for the certificate of certified public accountant pursuant to ORS 673.060 and receives passing grades in both accounting practice and auditing; and

(d) Has one year of public accounting experience, including auditing, or the equivalent satisfactory to the board.

(2) An applicant for a license as a public accountant must make application on a form provided by the board. The board shall charge each applicant a fee for application in an amount not to exceed \$100, as determined by the board and approved by the Executive Department.

[Amended by 1975 c.440 §10; 1981 c.89 §6; 1983 c.255 §2]

673.110 [Repealed by 1981 c.89 §21]

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 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 of compliance with the requirements thereof, may apply for a license as a public accountant with the board within six months after termination of employment with the Federal Government or the state. However, the person must intend, in good faith, to engage in the practice of public accounting in this state as the person's 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 shall be filed before July 1 of each succeeding year, accompanied by a renewal fee of \$5. [Amended by 1981 c.89 §6a]

673.130 Registration as partnership of public accountants; requirements; fee.

(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 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 §11, 1981 c.89 §7]

673.140 Persons designated as "public accountants." Any individual who is a public accountant and who holds a permit issued under ORS 673.150 shall be styled and known as a "public accountant." [Amended by 1981 c.89 §8]

673.150 Permits to engage in practice of public accounting; fee. (1) Permits to engage in the practice of public accounting in this state shall be issued by the board biennially to holders of the certificate of certified public accountant issued under ORS 673.040 to 673.080, to public accountants, to partnerships registered under ORS 673.090 or 673.130 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 biennially. When a permit is issued for the first time, the board shall require the permit holder to renew the permit only when a full permit period has elapsed.

(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 a fee of not to exceed \$100 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 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 only upon demonstration satisfactory to the board that the applicant is qualified to engage in the practice of public accounting.

(6) Notwithstanding subsection (3) of this section, the board may prescribe a reduced fee for renewal of permits of those certified public accountants and public accountants who have reached the age of 65 years. [Amended by 1971 c.217 §4; 1973 c.782 §1; 1975 c.438 §3a; 1975 c.440 §12; 1977 c.873 §6; 1981 c.89 §9]

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 673.455. [Amended by 1975 c.440 §13]

673.165 Continuing education; types of programs; hours; waiver. (1) Every holder of a permit issued under ORS 673.150 actively engaged in the practice of public ac-

counting 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 professional 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 its rules.

(3) The board shall determine the hourly value to be assigned to each education program.

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

(5) 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 §2; 1981 c.89 §10]

673.170 Disciplinary actions; grounds.

(1) The board may take any of the following disciplinary actions:

(a) Revoke, suspend or refuse to issue any certificate described in ORS 673.040 to 673.080.

(b) Revoke, suspend or refuse to issue any public accountant's license or any registration described in ORS 58.345, 673.090 or 673.130.

(c) Revoke, suspend, refuse to renew or refuse to issue any permit described in ORS 673.150.

(d) Censure the holder of any permit described in ORS 673.150.

(2) The board may take any of the actions described in subsection (1) of this section for any one or any combination of the following causes:

(a) Fraud or deceit in obtaining or applying for:

(A) A certificate under ORS 673.040 to 673.080;

(B) A public accountant's license;

(C) A registration under ORS 58.345, 673.090 or 673.130; or

(D) A permit under ORS 673.150.

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

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

(d) Violation of any provision of the Code of Professional Conduct adopted by the board under the authority granted by ORS 673.010 to 673.455, or rules adopted by the board under ORS 670.310 after written warning by the board that such a violation would constitute grounds for proceedings under this section.

(e) Conduct resulting in a conviction of a felony under the laws of any state or of the United States. However, such conduct may be considered only to the extent permissible under the provisions of ORS 670.280.

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

(g) 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.

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

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

(j) 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 §112; 1975 c.438 §4a; 1975 c.440 §14; 1979 c.84 §2; 1981 c.89 §11; 1983 c.255 §3]

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 673.455 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 183.310 to 183.550 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 183.310 to 183.550 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 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 §21; repealed by 1971 c.734 §21]

673.200 [Repealed by 1971 c.734 §21]

673.210 Reissuance of certificates, licenses and permits. (1) 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.

(2) The power of the board to suspend any license, registration, certificate or permit includes the power to reissue:

(a) At a time certain; or

(b) When the person subject to suspension fulfills conditions for reissuance set by the board. [Amended by 1979 c.84 §3]

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, employee, 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 §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 §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 673.455 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 673.455 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 §19]

673.360 Injunctions. 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 purports to be 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 673.455 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.

673.390 Solicitation permitted. The board shall adopt no rule prohibiting a certified public accountant, public accountant, partnership registered under ORS 673.090 or 673.130 or professional corporation registered under ORS 58.345 from soliciting, by direct personal communication, an engagement to perform professional services. [1981 c.89 §16]

(Civil Penalties)

673.400 Civil penalties. (1) Any person who violates any provision of ORS 673.010 to 673.455 or any rule adopted thereunder shall forfeit and pay into the General Fund to be credited to the State Board of Accountancy for its use in carrying out the provisions of this section a civil penalty in an amount determined by the board of not more than \$1,000 for each offense.

(2) Such civil penalty may be recovered by the Attorney General in an action brought in the name of the State of Oregon in any court of appropriate jurisdiction.

(3) The provisions of this section are in addition to and not in lieu of any other penalty provided by law. [1981 c 89 §15]

(State Board)

673.410 State Board of Accountancy; qualifications; confirmation. (1) There is created in the Department of Commerce a State Board of Accountancy consisting of seven members.

(2) Members of the board shall be appointed by the Governor subject to confirmation by the Senate pursuant to section 4, Article III of the Oregon Constitution.

(3) The board members shall be as follows:

(a) Five 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.

(b) One shall be a member of the general public.

(c) One shall be a public accountant licensed under the laws of this state for at least five years and be actively engaged in public accounting practice. [Amended by 1963 c.580 §35; 1971 c.753 §30; 1981 c.89 §12]

673.420 [Repealed by 1971 c.753 §74]

673.430 [Repealed by 1971 c.753 §74]

673.440 Register of licensees; laws and rules. 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 673.455 and the current law and regulations. Copies of the registers shall be mailed to each licensee holding a permit under ORS 673.010 to 673.455. [Amended by 1975 c.440 §20]

673.445 Code of professional conduct. The board may adopt a code of professional conduct for certified public accountants and public accountants. [1981 c.89 §18]

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

673.455 Standards Enforcement Committee; members; duties; confidentiality of committee records. (1) The board shall appoint a Standards Enforcement Committee.

(2) The members of the committee serve at the pleasure of the board.

(3) A member of the committee appointed under this section is entitled to compensation and expenses as provided in ORS 292.495.

(4) The committee may review:

(a) Any financial statement or report filed with the state or any political subdivision and prepared by a certified public accountant or public accountant; and

(b) Any procedure, working paper or supporting document relating to such financial statement or report.

(5) If the client grants permission or if all information identifying the client has been removed, the committee also may review any audited financial statement not described in subsection (4) of this section and prepared by a certified public accountant or public accountant, or any procedure, working paper or supporting document relating to such audited financial statement.

(6) The failure or refusal by any licensee to comply with a request for review or explanation, or both, of such financial statement as set forth in this section constitutes a violation of ORS 673.170 (2)(b).

(7) Information, recommendations, findings and reports prepared by or for the Standards Enforcement Committee or members of the board shall be confidential and not subject to public disclosure until the board makes a final administrative determination whether it shall take any of the actions set forth in ORS 673.170 (1). However, nothing in this subsection prohibits access by a licensee or the licensee's attorney to the information, recommendations, findings and reports described in this subsection and relating to the licensee. [1981 c.89 §17; 1983 c.254 §1]

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

673.470 [Repealed by 1971 c.753 §74]

673.480 [Amended by 1975 c.440 §21; repealed by 1981 c.89 §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 §1; 1975 c.464 §2; 1977 c.100 §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 673.455.

(5) Any person employed by a local, state or federal governmental agency but only in performance of his official duties. [1973 c.387 §3; 1977 c.100 §1]

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 ORS 673.610 (2) or (4), and subject to such conditions and limitations as the board by rule may impose. [1973 c.387 §2; 1975 c.464 §6; 1977 c.100 §4]

(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 ORS 673.610 (2) or (4) 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 §4; 1975 c.464 §7; 1977 c.100 §5]

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 ORS 673.625 (1) and (3)(a). Each application shall be accompanied by the examination fee as provided in ORS 673.685. [1973 c.387 §5; 1975 c.464 §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 ORS

673.625 (1). The application shall be accompanied by the examination fee as provided in ORS 673.685. [1973 c.387 §6]

673.637 Licensing of person licensed in another state or enrolled to practice before Internal Revenue Service; requirements. (1) The board may issue a license to an applicant for a license as a tax consultant or as a tax preparer who:

(a) Presents evidence satisfactory to the board that the applicant 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; and

(b) Has passed to the satisfaction of the board an examination covering Oregon personal income tax law, theory and practice; the provisions of ORS 673.605 to 673.735 and the code of professional conduct prescribed by the board.

(2) Notwithstanding ORS 673.625 (1) and (3), but as otherwise provided in ORS 673.605 to 673.735, the board shall license as a tax consultant any person who is, on the date of the application for a tax consultant's license, enrolled to practice before the Internal Revenue Service pursuant to Title 31, part 10, Code of Federal Regulations if the person has passed to the satisfaction of the board an examination covering Oregon personal income tax law, theory and practice; the provisions of ORS 673.605 to 673.735 and the code of professional conduct prescribed by the board.

(3) Except as otherwise provided in this section, no examination shall be required for licensing under this section.

(4) Any person desiring to be licensed under this section shall make written application to the board and shall pay to the board at the time required by the board the examination and license fees provided under ORS 673.685. [1975 c.464 §16; subsection (2) enacted as 1977 c.100 §3; 1983 c.110 §5]

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 §7; 1975 c.464 §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 §10]

673.645 Renewal of licenses; restoration of lapsed license. (1) Any licensed tax consultant and tax preparer, on or before the anniversary of the issuance of his license, 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) At least 30 days before the anniversary of the issuance of the license, the board shall notify the licensee that the annual renewal application and fee are due on or before the anniversary of the issuance of his license.

(3) Any license that is not renewed within 15 days after the renewal date 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; 1975 c.464 §12; 1977 c.873 §7]

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

673.651 [1975 c.464 §14; repealed by 1977 c.842 §21 and 1977 c.873 §26]

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 requirement 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 §10, 1975 c.464 §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 §11, 1975 c.464 §18]

673.665 [1973 c.387 §12; repealed by 1975 c.464 §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 §25]

673.670 [1973 c.387 §13; repealed by 1975 c.464 §26]

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

673.680 [1973 c.387 §15; repealed by 1975 c.464 §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 §16, 1975 c.464 §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 §17; 1975 c.464 §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 §18]

673.700 Disciplinary action; grounds.

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 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.

(8) Failure to pay any civil penalty incurred under ORS 673.735 within the time determined by the board. [1973 c.387 §20; 1975 c.464 §21; 1983 c.110 §6]

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 the person is licensed as a tax consultant or a tax preparer if the person is not so licensed.

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

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

(6) Falsely impersonate a licensee under ORS 673.605 to 673.735. [1973 c.387 §19, 1975 c.464 §22, 1983 c 110 §7]

673.710 Names of tax preparers furnished by Department of Revenue; use of information. 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, its members, officers and employees, shall use the names and addresses furnished under this section solely in the enforcement of ORS 673.605 to 673.735 and shall not otherwise divulge or make known such information. Any person who violates this prohibition against disclosure, upon conviction, is punishable as provided in ORS 314.991 (2). [1975 c.425 §2; 1979 c.690 §15]

(State Board)

673.725 State Board of Tax Service Examiners; term; qualification. (1) There is created in the Department of Commerce a State Board of Tax Service Examiners. The board shall consist of seven members who shall be appointed by the Governor.

(2) The term of office for each member is as provided in ORS 670.340, but a member serves at the pleasure of the Governor. Before the expiration of the term of a member, the Governor shall appoint a successor or reappoint the incumbent member if the incumbent member is eligible for reappointment. The Governor shall fill vacancies on the board as they may occur and a member appointed to fill a vacancy shall serve the unexpired term of the predecessor.

(3)(a) Of the members of the board six shall be licensed as tax consultants under ORS 673.605 to 673.735. Each of the six 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.

(b) One member of the board shall be a member of the general public.

(4) All appointments of members of the board by the Governor are subject to confirmation by the Senate pursuant to section 4, Article III, Oregon Constitution. [1973 c.387 §21; 1983 c.110 §2]

Note: Section 3, chapter 110, Oregon Laws 1983, provides:

Sec. 3. Nothing in this Act affects the term of any member of the State Board of Tax Service Examiners appointed prior to and serving on the effective date of this Act. However, as vacancies occur appointments shall be made to conform to ORS 673.725, as amended by section 2 of this Act.

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, including but not limited to, a license suspended or revoked under ORS 673.700.

(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; 1975 c.464 §23; 1983 c.110 §8]

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, that the amount of penalty is due not later than 20 days after the date the notice was mailed and of the consequences should the person fail to pay the penalty. 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 183.310 to 183.550.

(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 recorded 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 County Clerk Lien Record. The penalty provided in the order so recorded 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.

subsection it may certify the facts to the Attorney General, who may, in his discretion, cause appropriate proceedings to be brought.

(5) All penalties recovered under this section shall be paid into the General Fund to be credited to the board for use in carrying out the provisions of this section. [1973 c.387 §24; 1983 c.110 §9; 1983 c.696 §26]

(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; 1975 c.440 §22]

PENALTIES

673.990 Penalties. (1) Violation of any of the provisions of ORS 673.020, 673.030 or 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

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[Reserved for expansion]