

Chapter 673

1991 EDITION

Accountants; Tax Consultants and Preparers

ACCOUNTANTS

(Generally)

- 673.010 Definitions for ORS 673.010 to 673.455
- 673.020 Certified public accountants; necessity of certificate and permit; application to partnerships and professional corporations
- 673.030 Public accountants; necessity of license and permit; application to partnerships and professional corporations

(Licensing)

- 673.040 Who may obtain certificate of certified public accountant; list to be kept by board; certified public accountants as public accountants
- 673.050 General qualifications for applicants for C.P.A. examination
- 673.060 Qualifications for C.P.A. certificate; scope and conduct of examination; reexamination; fees
- 673.075 Credit for examination taken in other states
- 673.080 Reciprocity; practicing while application is pending; fees
- 673.090 Registration as partnership of certified public accountants; requirements
- 673.095 Renewal of partnership registration; requirements; fees
- 673.100 Requisites for obtaining public accountant's license; application; fee
- 673.130 Registration as partnership of public accountants; requirements; fee
- 673.140 Persons designated as "public accountants"
- 673.150 Permits to engage in practice of public accounting; fees
- 673.160 Corporations may not register; exception
- 673.165 Continuing education; types of programs; hours; waiver
- 673.170 Disciplinary actions; grounds
- 673.175 Review of statement or report prepared by accountant required by consent agreement; liability of accountant performing review
- 673.180 Grounds for revocation or suspension of partnership registration and permit
- 673.185 Procedure for denial of certificate, registration, license or permit; review proceedings
- 673.210 Reissuance of certificates, licenses and permits
- 673.220 Inactive status; conditions; roster
- 673.310 Words or abbreviations of similar import to certified public accountant, public accountant, C.P.A. or P.A. prohibited

(Practice of Accounting)

- 673.320 Affixing signature as an accountant, without having permit, prohibited; exceptions

- 673.330 Affixing partnership or corporation name as an accounting firm unless registered prohibited
- 673.340 Affixing corporate name as an accounting firm prohibited; exception
- 673.345 Paying or accepting commission to obtain client prohibited
- 673.350 Application to employees of certified and public accountants, partnerships or corporations, and to persons licensed in another state
- 673.360 Injunctions
- 673.370 Acts constituting prima facie evidence that person purports to be C.P.A. or P.A.
- 673.380 Statements and records remain the property of licensed accountants; express agreement with client excepted
- 673.390 Solicitation permitted

(Civil Penalties)

- 673.400 Civil penalties

(State Board)

- 673.410 State Board of Accountancy; qualifications; confirmation; enforcement authority
- 673.415 Names of persons preparing tax returns or other reports furnished by Department of Revenue; use of information; unlawful disclosure
- 673.440 Register of licensees; laws and rules
- 673.445 Code of professional conduct
- 673.455 Practice Review Committee; members; duties; confidentiality of committee records

TAX CONSULTANTS AND TAX PREPARERS

(Generally)

- 673.605 Definitions for ORS 673.605 to 673.735
- 673.610 Application of ORS 673.605 to 673.735
- 673.615 Prohibited acts

(Licensing)

- 673.625 Qualifications for tax consultant and tax preparer; examination
- 673.630 Tax consultant's application
- 673.635 Licensing of tax preparer
- 673.637 Licensing of person licensed in another state or enrolled to practice before Internal Revenue Service; requirements
- 673.640 Issuance of licenses
- 673.643 Preparation of tax returns by corporation, firm, or partnership; requirements; liability; prohibitions
- 673.645 Renewal of licenses; restoration of lapsed license
- 673.655 Continuing education requirement; waiver
- 673.660 Licenses to be displayed
- 673.663 Use of title "tax consultant"

OCCUPATIONS AND PROFESSIONS

- 673.667** Inactive status; application; renewal; re-activation; revocation or suspension; prohibition
- 673.685** Fees
- 673.690** Tax consultant's records
- 673.695** Secretary of State as agent for service of process against nonresident; fee
- 673.700** Disciplinary action; grounds
- 673.705** Prohibited acts
- 673.710** Names of tax preparers furnished by Department of Revenue; use of information
- (State Board)
- 673.725** State Board of Tax Service Examiners; term; qualification
- 673.730** Powers of board
- 673.735** Civil penalty procedure
- PENALTIES**
- 673.990** Penalties
- Extension of licensing or certification period, 670.410
- Legislative review of need for agency, 182.635
- Licensing of occupations and professions by agencies, 670.300 to 670.350
- Licensing period, authority to change, 670.410
- Personnel of tax court not to act as accountants in Oregon tax cases, 305.480
- Professional corporations, generally, Ch. 58
- Provisions governing accountants authorized to conduct municipal audits, 297.670 to 297.740
- State agencies generally, Ch. 182
- Waiver of educational requirement for admission to examination, 670.010
- 673.150**
- Fees for licenses as applied to Armed Forces personnel, 408.450

CROSS REFERENCES

- Accountant authorized to represent taxpayer before small claims division of Oregon Tax Court, 305.545
- Administrative procedures and rules of state agencies, 183.310 to 183.550
- 673.170**
- Denial, suspension or revocation of license prohibited solely because of criminal conviction, 670.280

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) A person may not 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 the person is a certified public accountant, unless the person has received a certificate as a certified public accountant under ORS 673.040 to 673.080 and holds a permit that is issued under ORS 673.150 and is not revoked, suspended or lapsed.

(2) A partnership or professional corporation may not 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:

(a) The partnership holds a current and valid registration as a partnership of certified public accountants under ORS 673.090; or

(b) The corporation is registered as a corporation of certified public accountants under ORS 58.345. [Amended by 1975 c.440 §3; 1985 c.605 §1]

673.030 Public accountants; necessity of license and permit; application to partnerships and professional corporations. (1) A person may not 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 the person is a public accountant, unless the person is a public accountant and holds a permit that is issued under ORS 673.150 and is not revoked, suspended or lapsed, or unless the person has received a certificate as a certified public accountant under ORS 673.040 to 673.080 and holds a permit that is issued under ORS 673.150 and is not revoked, suspended or lapsed.

(2) A partnership or professional corporation may not 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:

(a) The partnership holds a current and valid registration as a partnership of public accountants under ORS 673.130 or as a partnership of certified public accountants under ORS 673.090; or

(b) The corporation is registered as a corporation of certified public accountants or a corporation of public accountants under ORS 58.345. [Amended by 1975 c.440 §4; 1981 c.89 §3; 1985 c.605 §2]

(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.

(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 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. 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 specified 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 \$150, as determined by the board for each examination provided for in ORS 673.010 to 673.455, which shall be payable by the applicant at the time of mak-

ing 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 \$40 as determined by the board 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; 1989 c.771 §1; 1991 c.187 §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.

(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; 1991 c.187 §2]

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 hold a certificate of certified public account-

ant issued under ORS 673.040 to 673.080 and a permit that is issued under ORS 673.150 and is not revoked, suspended or lapsed.

(b) Each partner personally engaged within this state in the practice of public accounting as a member in the partnership must hold a certificate of certified public accountant issued under ORS 673.040 to 673.080 and a permit that is issued under ORS 673.150 and is not revoked, suspended or lapsed.

(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 hold a certificate of certified public accountant issued under ORS 673.040 to 673.080 and a permit that is issued under ORS 673.150 and is not revoked, suspended or lapsed.

(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. 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, 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.

(3) ORS 673.095 governs renewal of a registration under this section.

(4) A partnership that holds a current and valid registration may use the words "certified public accountants" or the abbreviation "C.P.A.'s" in connection with its partnership name.

(5) A partnership shall notify the board not later than the 30th day after the happening of either of the following events:

(a) When a partner who holds a certificate of certified public accountant issued under ORS 673.040 to 673.080 and a permit that is issued under ORS 673.150 and is not revoked, suspended or lapsed, is admitted to or withdraws from the partnership.

(b) When there is any change of manager in charge of an office of the firm in this state.

(6) 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 of the general partner who signed the appli-

cation 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 the partnership in charge of an office in this state. [Amended by 1975 c.440 §9; 1985 c.605 §3; 1991 c.187 §3]

673.095 Renewal of partnership registration; requirements; fees. (1) The board by rule shall require each partnership registered under ORS 673.090 or 673.130 to renew its registration biennially. To obtain renewal of a registration, a partnership must satisfy the requirements under this section. In addition:

(a) A partnership registered under ORS 673.090 must meet the requirements of ORS 673.090 (1).

(b) A partnership registered under ORS 673.130 must meet the requirements of ORS 673.130 (1).

(2) When a partnership is registered for the first time, the board shall require the partnership to renew its registration only when a full registration period has elapsed. Application for renewal may be made at any time before commencement of the renewal period and must be made on a form provided by the board. The board may require that an applicant for renewal must file with the renewal application any information that the board requires by rule.

(3) The board shall charge a fee to renew a partnership registration under this section in an amount not to exceed \$100 as determined by the board.

(4) A partnership that has not renewed its registration by the close of the registration period may restore its registration by paying to the board a delinquent renewal fee, not to exceed \$50, as determined by the board. Any registration that is not renewed within 60 days after the close of the period for which it was issued or renewed shall lapse. The board may restore a lapsed registration when a partnership pays the board all unpaid renewal fees and the delinquent renewal fee. However, the board may restore a registration issued or renewed for a registration period that ended more than four years before the date of the application for restoration only if the partnership satisfactorily shows the board that the partnership is qualified to engage in the practice of public accounting. [1985 c.605 §6; 1991 c.187 §4]

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. [Amended by 1975 c.440 §10; 1981 c.89 §6; 1983 c.255 §2; 1991 c.187 §5]

673.110 [Repealed by 1981 c.89 §21]

673.120 [Amended by 1981 c.89 §6a; repealed by 1985 c.605 §21]

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 hold either a certificate of certified public accountant issued under ORS 673.040 to 673.080 or a license as public accountant issued under ORS 673.100, and a permit that is issued under ORS 673.150 and is not revoked, suspended or lapsed.

(b) Each partner in the partnership must hold either a certificate of certified public accountant issued under ORS 673.040 to 673.080 or a license as public accountant issued under ORS 673.100, and a permit that is issued under ORS 673.150 and is not revoked, suspended or lapsed.

(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. An application must be made upon the affidavit of a general partner of the partnership who holds a certificate to practice in this state as a certified public accountant or a license to practice in this state 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.

(3) ORS 673.095 governs renewal of a registration under this section.

(4) A partnership that holds a current and valid registration may use the words

"public accountants" in connection with its partnership name.

(5) A partnership shall notify the board not later than the 30th day after the happening of either of the following events:

(a) When a partner is admitted to or withdraws from the partnership.

(b) When there is 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; 1985 c.605 §4; 1991 c.187 §6]

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; fees. (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 and to public accountants.

(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 more than \$100 as determined by the board.

(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 permit period may be restored upon payment to the board of a delinquent renewal fee, not to exceed \$50, as determined by the board. Any permit that is not renewed within 60 days after the close of the permit 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 permit 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; 1985 c.605 §7; 1991 c.187 §7]

673.160 Corporations may not register; exception. Except as provided in ORS chapter 58, corporations may not register with the board. [Amended by 1975 c.440 §13; 1985 c.605 §8]

673.165 Continuing education; types of programs; hours; waiver. (1) Each holder of a permit issued under ORS 673.150, under rules adopted by the board, shall participate in a continuing education program that directly contributes to professional competency.

(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, or for accountants granted inactive status by the board. The board may, among other things, take into account the accessibility by applicants to continuing education programs and any impediments to interstate practice of public accountancy that may result from differences in continuing education requirements in other states. [1975 c.438 §2; 1981 c.89 §10; 1985 c.461 §3; 1985 c.605 §9]

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;

(D) A permit under ORS 673.150; or

(E) Admission to the roster of authorized accountants referred to in ORS 297.670.

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

(c) Incompetence in the practice of public accounting. A licensee, certificate holder or permit holder is incompetent in the practice of public accounting if the person:

(A) Engages or has engaged in conduct that evidences a lack of ability or fitness to discharge the duty owed by the person to a client or the general public; or

(B) Engages or has engaged in conduct that evidences a lack of knowledge or ability to apply principles or skills of the practice of public accounting, as adopted by the board.

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

(e) Violation of any of the provisions of ORS 297.405 to 297.555.

(f) 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.

(g) 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.

(h) Conviction of any crime, an essential element of which is dishonesty or fraud, un-

der the laws of any state or of the United States.

(i) Conviction of willful 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 willful 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.

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

(k) Cancellation, suspension, revocation or refusal to renew by any state or any federal agency of the right to practice law, to practice as an enrolled agent before the Internal Revenue Service pursuant to Title 31, part 10, Code of Federal Regulations, or to practice under other regulatory law if the cancellation, suspension, revocation or refusal to renew was related to the practice of public accounting or if dishonesty, fraud or deception was involved.

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

(m) Failure to pay a civil penalty imposed by the board after the period for requesting a hearing on the civil penalty terminates if the person against whom the penalty is imposed has not requested a hearing, or after the period for seeking judicial review of the order assessing the civil penalty has passed.

(n) Failure to comply with the terms of a consent agreement described in subsection (3) of this section.

(3) In lieu of disciplinary actions under subsection (1) of this section, the board may enter into a consent agreement with the holder of any certificate described in ORS 673.040 to 673.080, the holder of any public accountant's license, the holder of any registration described in ORS 58.345, 673.090 or 673.130, or the holder of any permit described in ORS 673.150, under which the holder of any certificate, license, registration or permit agrees to comply with conditions prescribed by the board.

(4) In addition to the causes in subsection (2) of this section, the board may take any of the actions described in subsection (1) of this section for dishonesty, fraud or misrepresentation not in the practice of public accounting. [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; 1985 c.605 §10; 1987 c.455 §3]

673.175 Review of statement or report prepared by accountant required by consent agreement; liability of accountant performing review. If the board, as part of a consent agreement entered into under ORS 673.170, requires a certified public accountant or public accountant to obtain review of any financial statement or report prepared by the certified public accountant or public accountant before the statement or report is issued, the review of the statement or report shall be performed by a certified public accountant or public accountant approved by the board to conduct the review. The liability of any certified public accountant or public accountant conducting the review shall be limited to any fees paid to the reviewer for conducting the review. This section shall not affect the liability of the certified public accountant or public accountant subject to the review. [1989 c.362 §2]

673.180 Grounds for revocation or suspension of partnership registration and permit. (1) The board shall revoke the registration of a partnership if at any time it does not have all the qualifications prescribed by the provision of ORS 673.010 to 673.455 under which it qualified for registration.

(2) The board may revoke, suspend or refuse to renew the registration of a partnership or may censure a partnership 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; 1985 c.605 §11]

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 "chapter 734, Oregon Laws 1971" 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 Comparative Section Table located in volume 15 of Oregon Revised Statutes (1989 Edition).

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]

673.220 Inactive status; conditions; roster. (1) The board may grant inactive status to any public accountant or holder of a certificate of certified public accountant who is not engaged in the practice of public accounting and who:

(a) Holds a valid permit issued under ORS 673.150; or

(b) Holds a permit issued under ORS 673.150 that has lapsed.

(2) A person granted inactive status by the board:

(a) Is not required to hold a permit or pay the permit fee during the period the person is on inactive status.

(b) May not engage in the practice of public accounting until the person is restored to active status.

(3) The board by rule shall adopt procedures and requirements for granting and renewing inactive status and for restoring to active status any person on inactive status. The board by rule may impose a fee for inactive status applications and for renewal of inactive status.

(4) The board may restore a lapsed permit to inactive status upon payment to it of all past unpaid renewal fees and the delinquent renewal fee as provided in ORS 673.150 (5).

(5) The board shall maintain a current roster of all persons granted inactive status. [1985 c.461 §2; 1987 c.455 §4]

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 "C.A.," "R.A.," or "L.A.," or similar abbreviations likely to be confused with "C.P.A." or "P.A." [Amended by 1991 c.372 §1]

(Practice of Accounting)

673.320 Affixing signature as an accountant, without having permit, prohibited; exceptions. No person shall affix a signature, with any wording indicating that the person 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 the person 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 a 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 the officer, employee, partner or principal holds in said organization, nor shall the provisions of this section prohibit any act of a public official or public employee in the performance of the duties as such.

673.330 Affixing partnership or corporation name as an accounting firm unless registered prohibited. A person may not 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 current and valid registration under ORS 673.090 or 673.130. [Amended by 1975 c.440 §17; 1985 c.605 §12]

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 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]

673.345 Paying or accepting commission to obtain client prohibited. (1) A certified public accountant or public accountant shall not pay a commission to obtain a client or accept a commission for a referral to a client of products or services of others. This section shall not prohibit payments for the purchase of all or any part of an accounting practice or retirement payments to individuals presently or formerly engaged in the practice of public accounting or payments to their heirs or estates.

(2) As used in this section:

(a) "Client" means any person for whom a certified public accountant or public accountant performs accounting services or to whom financial products, financial services or securities are sold or provided at the accounting practice of the certified public accountant or public accountant or through referral to any other location or business in which the certified public accountant or public accountant has a material interest.

(b) "Commission" means any money, property or other valuable consideration received, or paid directly or indirectly, by a certified public accountant or public accountant because of the purchase by a client of property, products or services of others or to obtain a client. [1989 c.524 §2]

673.350 Application to employees of certified and public accountants, partnerships or corporations, and 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 employee of a certified public accountant or public accountant holding a permit to practice under ORS 673.150, a partnership holding a current and valid registration under ORS 673.090 or 673.130 or a corporation registered with the board under ORS 58.345. However, such an employee shall not issue any accounting or financial statement over that employee's 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 that person's regular practice. [Amended by 1975 c.440 §19; 1985 c.605 §13]

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. (1) 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 and that the person:

(a) If an individual, purports to be a certified public accountant or a public accountant holding a permit under ORS 673.150.

(b) If a partnership, purports to be a partnership holding a current and valid registration under ORS 673.090 or 673.130.

(c) If a corporation, purports to be a professional corporation registered by the board under ORS 58.345.

(2) In any action referred to in subsection (1) of this section, 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. [Amended by 1985 c.605 §14]

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) The 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 or may be imposed as provided in ORS 183.090.

(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; 1985 c.605 §15; 1991 c.734 §69]

(State Board)

673.410 State Board of Accountancy; qualifications; confirmation; enforcement authority. (1) There is created in the Office of the Secretary of State a State Board of Accountancy consisting of seven members.

(2) Members of the board shall be appointed by the Governor for terms of three years, 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.

(4) No person shall be eligible for reappointment after the person's third consecutive term until a period at least equal to the appointed term has elapsed.

(5) The authority of the board to enforce the provisions of ORS 673.010 to 673.455 includes the authority to regulate the practice of public accounting by persons holding permits issued under ORS 673.150. The practice of public accounting for purposes of ORS 673.010 to 673.455 is the performance of, or any offering to perform, one or more kinds of services for a client or potential client involving the use of auditing or accounting skills and including:

(a) Issuance of reports on financial statements.

(b) Performance of management, advisory or consulting services.

(c) Preparation of tax returns or the furnishing of advice on tax matters.

(6) The Secretary of State, or a designated representative, shall serve as an ex officio member of the board but without the right to vote. [Amended by 1963 c.580 §35; 1971 c.753 §30; 1981 c.89 §12; 1985 c.460 §1; 1987 c.414 §66; 1991 c.372 §2]

673.415 Names of persons preparing tax returns or other reports furnished by Department of Revenue; use of information; unlawful disclosure. (1) The Department of Revenue may furnish to the board the names and addresses, if known, of any person who prepares an income tax return for another and may also furnish to the board the name and address of the taxpayer in instances in which the department or the board has reasonable grounds to believe the person preparing the return prepared it in violation of any provision of ORS 673.010 to 673.455. The board, and its members, officers and employees, shall use the names and addresses furnished under this section solely in the enforcement of ORS 673.010 to 673.455 and shall not otherwise divulge or make known such information. A violation of this prohibition against disclosure is punishable as provided in ORS 314.991 (2).

(2) The Department of Revenue may furnish to the board the name and address, if known, of any person who prepares a return or report permitted or required to be filed with the department 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 or report prepared it in violation of any provision of ORS 673.010 to 673.455, or any rule adopted thereunder. The board, its members, officers and employees, shall use the names and addresses furnished under this section solely in the enforcement of ORS 673.010 to 673.455 and shall not 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). [1985 c.602 §12; 1985 c.605 §19]

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 that contains the current law and rules of the board, and the names of all persons holding a permit under

ORS 673.150, or a registration under ORS 58.345, 673.090 or 673.130. Copies of the registers shall be mailed to each such person. [Amended by 1975 c.440 §20; 1985 c.605 §17]

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 Practice Review Committee; members; duties; confidentiality of committee records. (1) The board shall appoint a Practice Review 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 the 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 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 the financial statement.

(6) The failure or refusal by any person who is a licensee, certificate holder, permit holder or registrant 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 Practice Review 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 person who is a licensee, certificate holder, permit holder or registrant, or the person's attorney to the information, recommendations, findings and reports described in this subsection and relating to the person. [1981 c.89 §17; 1983 c.254 §1; 1985 c.605 §18; 1989 c.771 §2]

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. [1973 c.387 §1; 1975 c.464 §2; 1977 c.100 §1; 1985 c.559 §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 employee hired to fill a permanent position, who in connection with the duties as an employee 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 the duties of an attorney at law.

(3) While acting as such, any fiduciary, or the regular employees 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 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 the person is so engaged unless the person 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 the applicant has successfully completed not less than 80 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 of active employment, as described in ORS 673.615 (2), as a tax preparer or employment 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 a cumulative total of 780 hours during at least two of the last five years. 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 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. If an applicant has worked less than a cumulative total of 780 hours in at least two of the last five years, the board may consider the number of hours employed, the number of years employed, the number of tax returns prepared and whether the work involved contributed directly to the professional competence of the individual in determining if a tax preparer or tax consultant has met the work experience requirement.

(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.

(4) If, in the judgment of the board, an applicant has, in combination, the education and experience to qualify for a tax consultant's or preparer's license, but does not meet or cannot present evidence of strict compliance with the requirements of paragraph (c) of subsection (1) or paragraph (a) of subsection (3) of this section, the board may allow some of the applicant's education or experience to substitute one for the other. However, nothing in this subsection shall be construed to allow a waiver of, or substitution for, any qualifications needed for a tax consultant's or preparer's license other than those described in paragraph (c) of subsection (1) or paragraph (a) of subsection (3) of this section. [1973 c.387 §4; 1975 c.464 §7; 1977 c.100 §5; 1985 c.559 §2; 1989 c.352 1]

Note: Section 2, chapter 352, Oregon Laws 1989, provides:

Sec. 2. The amendments to ORS 673.625 by section 1 of this Act apply to tax preparer applications submitted under ORS 673.635 on or after January 31, 1990, and to tax consultant applications submitted under ORS 673.630 on or after January 31, 1992. [1989 c.352 §2]

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. Each application shall be accompanied by the examination fee as provided under ORS 673.685. [1973 c.387 §5; 1975 c.464 §8; 1985 c.559 §3]

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. The application shall be accompanied by the examination fee as provided under ORS 673.685. [1973 c.387 §6; 1985 c.559 §4]

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 sim-

ilar 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 an initial license fee as provided under ORS 673.685.

(2) The board shall issue evidence of licensing to each person licensed. [1973 c.387 §7; 1975 c.464 §11; 1985 c.559 §5]

673.643 Preparation of tax returns by corporation, firm, or partnership; requirements; liability; prohibitions. (1) A sole proprietorship, partnership, corporation or other legal entity, 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 entity:

(a) Registers annually with the board in the manner prescribed by the board;

(b) Designates and reports in the manner prescribed by the board the authorized individual or individuals who are responsible for the tax return preparation activities and decisions of the entity; and

(c) Complies with ORS 673.605 to 673.735 and the rules adopted by the board.

(2) A sole proprietorship, partnership, corporation or other legal entity 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 employment by or relationship with such sole proprietorship, partnership, corporation or other legal entity.

(3) A sole proprietorship, partnership, corporation or other legal entity shall not engage in tax return preparation activities under subsection (1) of this section if the tax consultant, or the proprietor, a partner, a principal, an officer, director or manager, or a shareholder of the entity, is:

(a) An individual whose license as a tax consultant or tax preparer under ORS 673.605 to 673.735 is permanently revoked.

(b) An individual to whom the board has refused to issue or renew a license on the basis of dishonest conduct or conduct involving tax preparation.

(c) An individual whose occupational license, permit or registration has been revoked or refused by another state regulatory agency or the Internal Revenue Service for dishonest conduct or conduct involving tax preparation.

(d) A sole proprietorship, partnership, corporation or other legal entity prohibited from engaging in tax return preparation activities under subsection (1) of this section by reason of this subsection.

(4) The shareholders referred to in subsection (3) of this section are:

(a) If the corporation is publicly traded, a shareholder that owns more than 10 percent in value of the outstanding stock of the corporation.

(b) If the corporation is not publicly traded, any shareholder.

(5) For purposes of subsections (3) and (4) of this section, "publicly traded" means traded on an established securities market.

(6) If a sole proprietorship, partnership, corporation or other legal entity must sever a relationship in order that it may engage or may continue to engage in tax preparation activities in compliance with this section, the entity shall be allowed a reasonable time to sever the relationship. Except as provided under subsection (7) of this section, the time allowed to sever a relationship shall not exceed 180 days after the board gives notice that the severance is required. The notice shall include a statement affording an oppor-

tunity for hearing on the issue of severance. The notice and all proceedings conducted under this section shall be in accordance with ORS 183.310 to 183.550.

(7) If a hearing is requested under subsection (6) of this section, or if an appeal is taken of the board's order following hearing, the board or court may allow additional time for the affected parties to comply with any order requiring severance. [1975 c.464 §10; 1989 c.351 §1; 1991 c.138 §1]

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 the license of the tax consultant or tax preparer, shall apply to the board and pay the fee for a renewal of the license. The application shall be accompanied by evidence satisfactory to the board that the person applying for renewal of the 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 the license of the licensee.

(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 a fee for restoration of a lapsed license that shall be provided under ORS 673.685. [1973 c.387 §8; 1975 c.464 §12; 1977 c.873 §7; 1985 c.559 §6]

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 (2) of this section, upon annual renewal of a tax preparer's or tax consultant's license, 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 the person has completed at least 30 hours of instruction or seminar in subjects related to income tax preparation since the preceding license renewal date. If the board does not receive evidence that the continuing education requirement has been completed by the applicant, the board shall not renew the applicant's active license.

(2) The board may exempt a tax consultant or tax preparer from the continuing education required by this section upon application showing evidence satisfactory to the board of inability to comply because of

unusual or extenuating circumstances. [1973 c.387 §10; 1975 c.464 §17; 1985 c.559 §7]

673.660 Licenses to be displayed. Each tax consultant and preparer shall display the evidence of licensing issued to the tax consultant and preparer in accordance with rules adopted by the board. [1973 c.387 §11; 1975 c.464 §18]

673.663 Use of title "tax consultant." (1) An individual may not assume or use the title or designation "tax consultant" unless the person is licensed as a tax consultant under ORS 673.605 to 673.735.

(2) A sole proprietorship, partnership, corporation or other legal entity may not assume or use the title or designation "tax consultant" unless the entity is in compliance with ORS 673.643. [1991 c.297 §2]

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, the consultant or preparer 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 under 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 a reactivation fee, that shall be provided under 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; 1985 c.559 §8]

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 and registrations issued, renewed, reactivated or otherwise, and for examinations under ORS 673.605 to 673.735 shall be prescribed by the board but shall not exceed the following:

(1) For application for examination for a tax consultant's license, \$60.

(2) For application for examination for a tax preparer's license, \$40.

(3) For issuance or renewal of a tax consultant's license, \$60.

(4) For issuance or renewal of a tax preparer's license, \$45.

(5) For issuance or renewal of a tax consultant's inactive license, \$40.

(6) For issuance or renewal of a tax preparer's inactive license, \$25.

(7) For reactivation of a tax consultant's inactive license, \$60; for reactivation of a tax preparer's inactive license, \$45.

(8) For restoration of lapsed license, \$25.

(9) For issuance or replacement of a duplicate license, \$10.

(10) For issuance of a replacement or duplicate tax consultant certificate, \$15.

(11) For registration or registration renewal for a sole proprietorship, partnership, corporation or other legal entity, \$50.

(12) For issuance or renewal of a combined tax consultant's or tax preparer's license and registration for a sole proprietorship, partnership, corporation or other legal entity, \$75. Eligibility for a combined license shall be determined under rules adopted by the board.

(13) For annual registration of a branch office of a sole proprietorship, partnership, corporation or other legal entity, \$5. [1973 c.387 §16; 1975 c.464 §19; 1985 c.377 §2; 1987 c.59 §3; 1991 c.138 §2; 1991 c.187 §8]

673.690 Tax consultant's records. Every person licensed as a tax consultant shall keep records of all personal income tax returns prepared by the person, or in the preparation of which advice or assistance of the person 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 Secretary of State as agent for service of process against nonresident; 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 Secretary of State as attorney upon whom may be served any summons, process or pleading in any action or suit against the nonresident in any court of this state, arising out of any business done by the nonresident 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, with the Office of Secretary of State. 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 or by certified mail with return receipt by the plaintiff or the attorney of the plaintiff to the defendant at the most recent address furnished to the board by the nonresident tax consultant or tax preparer or to the last-known address. An affidavit of the plaintiff or the attorney of the plaintiff 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 Secretary of State. 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 Secretary of State shall be taxed as costs in favor of the plaintiff if the plaintiff prevails in the action. The Secretary of State shall keep a record of each summons, process or pleading served upon the Secretary of State under this section, showing the day and hour of service. [1973 c.387 §18; 1987 c.414 §67; 1991 c.249 §61]

673.700 Disciplinary action; grounds. The board may refuse to issue or renew a tax consultant or preparer's license, or may suspend or revoke a tax consultant or preparer's 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 or when acting in the capacity of a tax preparer or tax consultant in another state, or under an exempt status or in preparation of the personal income tax return for another state or the Federal Government.

(4)(a) 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; or

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

(5) Conviction of willful 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 willful 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.

(9) Cancellation, revocation or refusal to renew by any state of the person's authority to practice law, to practice as a certified public accountant or a public accountant or to practice under other regulatory law in any state, or to practice as an enrolled agent, if the grounds for the cancellation, revocation or refusal to renew were related to income tax preparation or if dishonesty, fraud or deception was involved. [1973 c.387 §20; 1975 c.464 §21; 1983 c.110 §6; 1985 c.559 §9]

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) Willfully 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 Office of the Secretary of State 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 456.762, 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.

(5) The Secretary of State, or a designated representative, shall serve as an ex officio member of the board but without the right to vote. [1973 c.387 §21; 1983 c.110 §2; 1987 c.414 §68]

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)(a) To restore the license of any tax consultant or preparer whose license has been suspended or revoked.

(b) The power of the board to suspend any license under ORS 673.700 includes the power to restore:

(A) At a time certain; or

(B) When the person subject to suspension fulfills conditions for reissuance set by the board.

(c) The power of the board to restore a license under paragraph (a) of this subsection specifically includes the power to restore a license suspended or revoked for the reason that the person has been convicted of a crime. In making a determination to restore a license, the board shall consider the relationship of the facts which supported the conviction to the code of professional conduct and all intervening circumstances in determining the fitness of the person to receive or hold a tax consultant's or tax preparer's license.

(3) To prescribe fees, subject to 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; 1985 c.559 §10]

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) Civil penalties under this section shall be imposed as provided in ORS 183.090.

(3) 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; 1991 c.734 §70]

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

(2) Violation of any provision of ORS 673.605 to 673.735, or any rule adopted thereunder, is a misdemeanor. [Subsection (2) enacted as 1973 c.387 §25; 1975 c.440 §22]