

Office of Chief Counsel
Internal Revenue Service
Memorandum

Number: **200441028**

Release Date: 10/8/04

CC:PA:APJP:B02:BETombul
POSTN-139884-04

UILC: 7453.00-00

date: August 30, 2004

to: Joseph Teti
Revenue Officer
(SB/SE Area 3)

from: Richard S. Goldstein
Special Counsel to the Associate Chief Counsel
(Procedure & Administration)

subject: Pennsylvania Public Accountant

This memorandum responds to your inquiry regarding a licensed and registered public accountant in Pennsylvania who has represented himself as "duly qualified to practice as a certified public accountant" (i.e., category (b)) on Form 2848, Power of Attorney and Declaration of Representative, authority to represent taxpayers before the IRS.

ISSUE

Whether an individual who is a registered and licensed public accountant in Pennsylvania, but is not a CPA, is eligible to practice before the IRS by virtue of their public accountant's license?

CONCLUSION

Yes. The statute and regulations provide that an individual who is duly qualified to practice as a CPA in any State, territory, or possession of the United States or the District of Columbia may represent a person before the IRS. Under Pennsylvania law, a registered and licensed public accountant has the same rights and privileges as a certified public accountant. Thus, for purposes of Circular 230, a public accountant

registered and licensed in Pennsylvania is eligible to practice before the IRS by virtue of their public accountant's license.

FACTS

Two categories of individuals may practice public accountancy in Pennsylvania: CPAs and public accountants. Under Pennsylvania law, a CPA generally must be of good moral character, must satisfy certain educational requirements, must pass the CPA exam administered by the Pennsylvania Board of Accountancy¹, and must satisfy certain experience requirements. A public accountant is an individual qualified and accepted for registration under prior law. Pennsylvania law further provides that public accountants have the same rights and privileges as CPAs.

LAW AND ANALYSIS

Section 500(c) of Title 5 of the United States Code sets forth the general rules for practicing before United States administrative agencies. This section provides that an individual who is duly qualified to practice as a CPA in a State may represent a person before the IRS by filing with the agency a written declaration that he is currently qualified as provided by this subsection and is authorized to represent the particular person in whose behalf he acts. The regulations governing practice before the IRS (Circular 230) mirror 5 U.S.C. § 500(c). Section 10.2(b) of Circular 230 defines a CPA, in relevant part, as any person who is duly qualified to practice as a CPA in any State. Section 10.3(b) further provides that any CPA who is not currently under suspension or disbarment from practice before the IRS may practice before the IRS by filing with the IRS a written declaration that he or she is currently qualified as a CPA and is authorized to represent the party or parties on whose behalf he or she acts.

The decision to include CPAs within the class of professionals entitled to practice before the IRS by virtue of their State professional status is discussed in H.R. Rep. No. 1141, 89 Cong. Cong., 1st Sess. (October 25, 1965). In explaining why CPAs are not subject to the Service's admission procedures, the House noted:

[T]here is a presumption that members in good standing of the profession[] of . . . certified public accountancy are of good moral character, and that surveillance by . . . State associations of certified public accounts [sic] will sufficiently insure the integrity of practice by such persons before the Internal Revenue Service. The cumbersome admission procedures of the Internal Revenue Service seem unwarranted in their impact on duly qualified . . . certified public accountants.

¹ Individuals who are CPAs in other states can practice as CPAs in Pennsylvania under the reciprocity provisions of section 5 of the PA CPA law. In addition, CPAs in foreign countries may be able to practice as CPAs in Pennsylvania under the reciprocity provisions of section 5.1 of the PA CPA law.

Id. at 4.

Section 2 of the Pennsylvania CPA Law, P.L. 851, No. 140, defines a CPA as “an individual to whom a certificate of certified public accountant has been issued under the laws of this Commonwealth or another state.”² That same section defines a public accountant as “an individual who was qualified and accepted for registration in accordance with former section 8.7 of this act.” Section 8.7 of the Pennsylvania CPA law was removed in 1996.³

Section 7 of the Pennsylvania CPA Law provides that “any person legally authorized to practice public accounting in this Commonwealth at the time this act or any amendment of this act takes effect shall thereafter possess the same rights and privileges as persons to whom certificates of certified public accountant shall be issued under this act. . . .” Under section 8.2 of the same Act, public accountants and CPAs must complete 80 hours of continuing education biannually to renew their licenses to practice public accounting. Furthermore, CPAs and public accountants may be disciplined and potentially lose their certificate/registration, and license to practice for any violation of the conduct provisions contained in sections 9 through 12 of the Pennsylvania CPA law.

Thus, while the Commonwealth of Pennsylvania no longer licenses public accountants, it permits those individuals previously licensed and registered as public accountants to practice accountancy within the Commonwealth, provided that these individuals meet the same ethical and continuing education requirements imposed on CPAs. The Commonwealth also provides these individuals with the same rights and privileges as CPAs. A public accountant who is licensed and registered in Pennsylvania, therefore, is, for practical purposes, a CPA. Accordingly, these individuals are eligible to practice before the IRS by virtue of their public accountant’s license.

If you have any questions, please contact this office at 202-622-3400.

cc: Associate Chief Counsel (General Legal Services)
Attn: Kirsten Witter
Director, Office of Professional Responsibility

² To be issued a CPA certificate under Pennsylvania law, an individual generally must be of good moral character (see section 3.1(a)(3)), must satisfy the educational requirement of section 4, must pass the CPA exam administered by the Board, as described in section 3.1(b), and must satisfy the experience requirements of section 4.1.

³ Pennsylvania stopped issuing public accountant licenses in the 1970s, but those individuals who were registered and licensed public accountants previously are permitted to continue to practice public accountancy by renewing their license biannually and complying with the rules and regulations to which CPAs are subject.