



American Institute of CPAs
1455 Pennsylvania Avenue, NW
Washington, DC 20004-1081

July 7, 2011

The Honorable Douglas Shulman
Commissioner
Internal Revenue Service
Attn: CC:PA:LPD:PR (Notice 2011-48)
Room 5205
P.O. Box 7604
Ben Franklin Station
Washington, DC 20224

RE: Notice 2011-48, Registered Tax Return Preparer Examination Program

Dear Commissioner Shulman:

The American Institute of Certified Public Accountants is pleased to provide comments on Notice 2011-48, Registered Tax Return Preparer Competency Examination. In general, the IRS is seeking public comments on the content and the administration of a competency examination for persons interested in becoming registered tax return preparers (RTRPs), information that will be used to assist the Service in developing the examination.

As the national professional organization of certified public accountants comprised of approximately 370,000 members, the AICPA is well situated to provide input to the IRS on the technical issues related to developing and administering competency examinations. AICPA members provide services to individuals, not-for-profit organizations, and small and medium-sized businesses, as well as America's largest businesses.

The AICPA offers to assist the IRS build on the Service's already significant experience with the Special Enrollment Examination. Our own experience with the Uniform CPA examination has shown us that there are a number of critical steps in the test development process, including: (1) defining the material to be tested; (2) developing the test questions; (3) pre-testing or trying out test questions; (4) constructing and reviewing test forms which require that the final test be fair to all candidates regardless of which test form they take; (5) reviewing candidate comments on test questions; (6) protecting the security of the examination (including the examination questions and candidate data); and (7) conducting an annual review of the quality of the examination.¹

We are providing comments on Notice 2011-48 to help the IRS craft an examination that measures the requisite level of knowledge and skills required of an entry level tax return preparer. The AICPA's comments on the questions raised by the notice are found below.

¹ For background on "The Uniform CPA Examination: Purpose and Structure," see the URL at: <http://www.aicpa.org/BecomeACPA/CPAExam/ExamOverview/PurposeandStructure/Pages/default.aspx> Further, for an explanation of "The Development of Examination Content – In Brief," see the following URL: http://www.aicpa.org/BecomeACPA/CPAExam/ExaminationContent/ContentDevelopment/Pages/content_development.aspx Moreover, see "Content and Skill Specifications for the Uniform CPA Examination," at: <http://www.aicpa.org/BecomeACPA/CPAExam/ExaminationContent/ContentAndSkills/DownloadableDocuments/CSOs-SSOs-Effective.7-1-11.pdf>

1. Areas of Tax law to Be Covered by the Examination

For purposes of defining the areas of the tax law to be covered by the competency examination, and as stated in the preceding paragraph, the AICPA believes the examination should test the basic knowledge and skills that are required of tax return preparers assisting individuals with their tax filing obligations. The content of the examination should be based on an analysis of the most frequently performed activities and the most common errors by preparers. We believe the examination should address problems faced by tax return preparers that might arise in the preparation of basic Form 1040 returns, including coverage of basic self-employment income. In general, we believe the competency examination should include questions which address the breadth of Publication 17, Your Federal Income Tax for Individuals. This publication addresses such topics (among others) as filing status, personal exemptions and dependents, income, gains and losses, adjustments to income, the standard deduction and itemized deductions, and the major tax credits for individuals.

The examination should include questions on Circular 230 and the ethical responsibilities of tax return preparers, as well as basic compliance issues. For example, the examination should address incidences of tax return preparer fraud and negligence, such as the filing of false income tax returns based on inflated personal deductions or business expenses, the high error rates associated with the Earned Income Tax Credit (EITC) and certain other tax credits, and preparer penalties and taxpayer penalties. Moreover, we recommend that the examination include questions to remind prospective tax return preparers about the problems associated with making unethical advertising claims, such as: (1) their ability (as preparers) to obtain larger refunds for clients than other preparers; or (2) determining their tax return preparation fee on a percentage of the refund received by clients.

2. The Approximate Percentage of the Examination that Should be Dedicated to Various Areas of the Tax Law

As highlighted in item 1 above, the content of the examination should be based on an analysis of the most frequently performed activities and the most common errors by preparers. Current IRS studies should enable the Service to easily identify these types of preparer activities and errors, thereby yielding the appropriate areas of the tax law for emphasis on the examination.

3. Format of the Examination

We recommend that the examination be organized in two parts and be made available to RTRP candidates in one sitting. The first section should involve objective questions, such as multiple choice and short-answer questions, and cover basic technical tax and Circular 230 topics. With respect to the second section of the examination, it should be based on a “problem-solving” format in which the candidate is provided with a fact pattern requiring the preparation of a simple tax return.

4. General Difficulty and Approximate Length of the Examination

The AICPA recognizes there is a large body of knowledge to test for on the competency examination. Thus, we believe the IRS might consider establishing the examination’s length at four or more hours, with 50 percent of that time allocated to the objective section and the remaining time devoted to the

problem/practical application section. Moreover, based on our experience with the CPA examination, we note that developing a test often includes producing and making many different test forms available with questions of varying levels of difficulty, a situation that results in us establishing a scale for the examination and the setting of the “passing” score for the examination based on the scale.

5. The Detail of the Examination Result Information Reported to the Applicant

We believe applicants should receive one total score for completion of both parts of the examination.

6. The Appropriate Time of Year to Update the Examination

The AICPA recommends that the examination be updated once a year in the fall to reflect the most current state of the tax law just prior to the filing season. As stated in item 1 above, we suggest that the examination cover the content of Publication 17, Your Federal Income Tax for Individuals. Thus, we believe the best time to update the examination is when Publication 17 is updated annually.

In order to protect taxpayers, we believe it is important to ensure that the examination is secure; that is, so that it is difficult for applicants or others to share questions with one another.

7. The Frequency that the Examination is Administered

The examination should be administered on a year-round basis by appointment. More specifically, the examination should be made available monthly or as frequently as possible.

8. Period of Time That Applicants Should Wait to Retake the Examination

The applicant should be permitted to retake the examination thirty days after notification of the results of a prior sitting.

9. The Administration of the Examination in Other Languages

The AICPA recognizes the diversity of the American public; therefore, we generally support offering the competency examination in as many languages as the Form 1040 is publicly available. However, we recognize that it is very important to ensure that translations (from English) don’t change the test in unintended ways.

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If you would like to discuss this matter in more depth or have any questions, please contact me at (401) 831-0200, or patt@pgco.com; Lawrence Carlton, Chair of the Regulation of Tax Returns Preparer Working Group, at (781) 275-7520, or lhc@carltonduran.com; Danny Snow, Chair of the IRS Practice and Procedures Committee at (901) 685-5575, or dsnow@tdplc.com; or Benson S. Goldstein, AICPA Senior Technical Manager, at (202) 434-9279, or bgoldstein@aicpa.org.

Sincerely,

A handwritten signature in black ink, reading "Patricia A. Thompson". The signature is written in a cursive style and is enclosed within a thin black rectangular border.

Patricia A. Thompson, CPA
Chair, Tax Executive Committee