



“Service to the Tax Profession”

Internal Revenue Service
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NSTP COMMENTS ON THE RETURN PREPARER COMPETENCY EXAM

Introduction

The National Society of Tax Professionals (NSTP) is a nonprofit organization composed of approximately 5,000 certified public accountants, attorneys, enrolled agents, financial planners, and other tax professionals. About half of our members are unenrolled preparers who will be required to take the preparer competency exam. Thus, we believe we are uniquely qualified to offer our membership's views on the content and administration of the Form 1040 series preparer competency examination.

Summary of Recommendations

Our comments appear below addressing each bullet point included in IRS Notice 2011-48, Registered Tax Return Preparer Competency Examination.

Areas of Tax Law to Be Covered and Percentage of Each

Overall, the areas of the tax law that should be covered by the exam include the following:

- Basic Individual Reporting —55%
- Schedule C —20%
- K-1s, partnership/employment issues—10%
- Circular 230 rules, practice rights and taxpayer and preparer penalties—15%

Within the above categories, the test should focus on:

- Reportable income, including income reported by third parties and income not reported by 3rd parties
- Allowable deductions
- Schedules A, B, C, D, E (rental and simple flow through K-1's)

- Ethics – Circular 230 and Code rules
 - Registered Preparer practice rights and obligations
 - Taxpayer and preparer penalties for noncompliance
 - Tax preparer reliance on taxpayer information

There also should be questions for every line of the Form 1040 tax return whether it is an input line or a precalculated line. The preparer should know where the precalculated figures come from, such as the tax tables, Schedule D, etc. In short, the preparer should have a basic understanding of every line of the tax form.

Format of the Examination

We recommend that the format of the exam be multiple choice and include a limited number of tax computation problems which involve applying the proper criteria for a tax position. For example, the test could include a few case scenarios of facts, and the applicant should be able to compile a return based on this information. The multiple-choice questions could then relate to the correct completion of the return based on the taxpayer's information. The questions should be criteria-driven rather than mathematical computations.

General Difficulty and Approximate Length

The exam should be of medium difficulty and should be 2-4 hours in length. The difficulty level should mirror the end-of-course exams offered by the large tax preparation firms.

Detail of Result Reported to the Applicant

Applicants should receive a numeric score that indicates how well they did on the

exam and how close they came to passing. Reporting information on an applicant's numeric score versus the required passing score gives the applicants an indication of how much they need to do to prepare for retaking the test.

Current Law Update Schedule

The update schedule for revising the exam to reflect tax law changes is somewhat dependent on how frequently the test is offered. Also, Congress often passes laws late in the year that are effective shortly thereafter for the next filing season. Therefore, the exam should be updated annually and that update should take place in late December or early January/February, after Congress has adjourned and the year's tax law changes are finalized. Prometric, the IRS, education providers, and test takers will need time to incorporate the tax law changes into their materials. Thus, the next test should be available beginning in May.

Frequency of Administration

Given that the examination is key to a tax preparer's livelihood, the exam should be administered as often as possible, especially at first when experienced tax professionals with an existing client base need to get their credentials. As time progresses and the backlog of existing tax preparers taking the exam is reduced, the test could be administered less frequently.

Our recommendation is that for the first 12 months the exam is available, it should be offered weekly. This offers greater flexibility to the experienced preparer who needs to take the exam to continue in practice. After that time, the exam could be offered monthly.

In determining frequency of exam administration, the IRS will need to consider that candidates are located throughout

the country and testing centers will likely be inconvenient for many applicants. We understand that there are many miles between our borders and that cost is a factor. Therefore, when setting the exam schedule, the IRS may consider an approach that offers the exam frequently in more populated areas to achieve a higher percentage of successful candidates sooner. That being said, the IRS also should recognize that it is important to achieve a certain level of registered preparers in remote areas to assist underserved populations. Thus, as many testing centers as possible should be available and, even in less populated areas, the exam should be offered at least on a monthly basis at first.

Finally, as the backlog of existing tax preparers is reduced and provisional PTIN holders receive their credentials, the IRS can track how many new applicants are applying for the exam and can adjust the examination schedule accordingly.

Waiting Period for Retaking the Exam

The waiting period to retake the exam in the event of a failure is dependent on how frequently the exam is offered. Assuming that the exam is offered weekly or monthly as recommended above, an applicant should be required to wait two weeks after the first failure to retake the test. For a second retake, the applicant should be required to wait a month to retake the test. If the applicant must take the test a third time, the applicant should be required to wait one quarter, or three months, to retake the examination.

The staggered waiting periods accomplish the competing goals of making the system work by achieving a sufficient number of credentialed preparers as soon as possible and making the tax preparer competent by providing sufficient time for the failed applicant to study and learn in deficient areas.

If the applicant's failure is due to extenuating circumstances which can be proven, the applicant should be able to retake the test more frequently than the set time frames given above. Perhaps this flexibility could be accomplished by a special application procedure to the IRS Return Preparer Office.

Language of the Exam

All tax preparers are required to prepare Forms 1040 and associated Schedules in English; therefore, we believe that the competency exam should be in English. However, recognizing that the number of Spanish speakers in the United States is significant, the exam

could be offered alternatively in the Spanish language. If the exam is offered in Spanish, representations of the Form 1040 associated with the exam questions should be in English only, because in actual practice the tax preparer will have to prepare such forms in English.

Elements of the Special Enrollment Examination to be Included

It is important for registered tax return preparers to understand their limited practice rights before the IRS under the rules of Circular 230. The elements of limited representation and actions they can take for clients should be emphasized on the exam. Therefore, the exam should include several questions regarding what a registered preparer can and cannot do for a client such as representing a client at the appeals level. Questions also should be directed toward the applicant's understanding of their ethical and legal responsibilities toward their clients and the IRS.

Additional Recommendations

Cost: The fee for the preparer competency exam should be no more than \$125.

Test Theory: The competency exam for Form 1040 tax preparation should contain straightforward, clear questions rather than overly theoretical or academic-type questions, which use conventions such as "all of the above" or "none of the above." The questions should target an applicant's basic knowledge of proper completion of an average individual tax return. Given the ambiguities in the tax laws, the test questions should not focus on subtle differences or attempt to present an intellectual challenge to the test taker beyond that needed for basic tax preparation.

Feedback Process: A process should be developed by Prometric to promptly review and evaluate problem questions and objections to exam question wording and other test elements. Prometric should build a methodology into its programming to identify questions with high error rates which may be confusing or ambiguous. Questions that are answered incorrectly by a pre-determined high percentage of test takers should be eliminated from the scoring. Also, the review process could include having an exit survey completed by applicants. A committee made up of test takers, IRS staff members, and Prometric representatives could periodically review this feedback and make recommendations on how to rework the exam.

CONCLUSION

The IRS's December 2009 Return Preparer Review identifies the twin goals of return preparer regulation as "increasing taxpayer compliance and ensuring uniform and high ethical standards of conduct for tax return preparers." The tax preparation community's goals are to provide affordable tax preparation services to taxpayers while supporting a reasonable livelihood for themselves. To achieve the goals for all involved, the Registered Tax Return Preparer competency exam should be crafted to reduce the tax gap by requiring a minimum competency level for preparers without creating a barrier to entry into the profession. By focusing the exam on the most common tax filing errors and on major areas of noncompliance, the IRS will achieve its compliance goals and the profession will raise its level of expertise to improve the overall U.S. tax system.

Moreover, with competency testing, the IRS should not try to match the knowledge level of registered return preparers to other credentialed tax professionals, such as CPAs, Enrolled Agents, and Attorneys. Instead, the IRS should recognize the unique role registered preparers play in the tax profession.

To further improve the "quality" of return preparers, the IRS should place more emphasis on continuing education than on the test itself. Exams can test basic knowledge but also are a reflection of the test-taking ability of the applicant. Experience and continuing education build the real knowledge needed to comply with the tax laws and to best serve taxpayers.

NSTP appreciates your consideration of our views. As with all projects in the initial stages, we understand that results in the first implementation are not always seen as optimum for either party. However, we are committed to working with our members and with the IRS over time to refine the testing process to be more effective for all involved.

Should you have any questions or need additional information, please contact me at (770) 475-4444, Ext. 204.

Respectfully submitted,
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