

July 1, 2011

Internal Revenue Service
Attn: CC:PA:LPD:PR (Notice 2011-48)
Room 5205
P.O. Box 7604
Ben Franklin Station
Washington, D.C. 20044

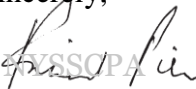
Via email: Notice.Comments@irsconsult.treas.gov

Re: IRS Notice 2011-48, Registered Tax Return Preparer Competency Examination

The New York State Society of Certified Public Accountants, representing more than 28,000 CPAs in public practice, industry, government and education, welcomes the opportunity to comment on the above captioned notice.

The NYSSCPA's Taxation of Individuals Committee deliberated the possibilities for content and administration of the proposed competency examination and prepared the attached comments. If you would like additional discussion with us, please contact Jonathan M. Horn, Chair of the Taxation of Individuals Committee at (212) 744-1447, or Ernest J. Markezin, NYSSCPA staff, at (212) 719-8303.

Sincerely,


Richard E. Piluso
President

Attachment

**NEW YORK STATE SOCIETY OF
CERTIFIED PUBLIC ACCOUNTANTS**

**COMMENTS ON IRS NOTICE 2011-48, REGISTERED TAX RETURN
PREPARER COMPETENCY EXAMINATION**

July 1, 2011

Principal Drafters

**Jonathan M. Horn
Vincent J. Cosenza**

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New York State Society of Certified Public Accountants

Comments on IRS Notice 2011-48, Registered Tax Return Preparer Competency Examination

The New York State Society of Certified Public Accountants wishes to provide the following comments on the content and administration of the Form 1040 series competency examination as requested by the IRS in the above captioned notice.

The areas of tax law that should be covered by the examination:

The examination should, at the minimum, cover those areas of tax law required to properly complete Form 1040, *U.S. Individual Income Tax Return*, and the main schedules and forms associated with it (such as Schedules A, B, C, D and E, Forms 2106, 4562 and 8283*). We suggest using the areas of tax law covered by the instructions to Form 1040, *Treasury Department Circular No. 230* and Publication 17, *Your Federal Income Tax*, to determine the examination's contents.

(*Schedules and Forms referenced are Schedule A, *Itemized Deductions*, Schedule B, *Interest and Ordinary Dividends*, Schedule C, *Profit or Loss From Business*, Schedule D, *Capital Gains and Losses*, and Schedule E, *Supplemental Income and Loss*; and Form 2106, *Employee Business Expenses*, Form 4562, *Depreciation and Amortization*, and Form 8283, *Noncash Charitable Contributions*.)

The approximate percentage of the examination that should be dedicated to each area of tax law identified above:

Each preparer's practice likely will involve different areas of emphasis (*e. g.*, heavily focused on clients with rental real estate, unreimbursed employee business expenses, retirees, Schedule C filers, *etc.*). Accordingly, it may be difficult to determine on which areas of tax law to focus the most weight. There should be an emphasis on the areas affecting the majority of taxpayers (*e.g.*, wages, interest, dividends, itemized deductions, and self-employment income). The content of the examination should be regularly adjusted to reflect those areas that the IRS believes are causing the greatest confusion and/or creating the greatest potential for abuse (such as Earned Income Tax Credit (EITC) and other refundable credits).

The format of the examination (*e.g.*, multiple choice, short-answer questions, written tax computations problems, or a combination thereof):

We believe that a combination of different examination question styles would be best. We feel strongly that a practical section involving the preparation of a sample return is essential. In addition, at least one short essay question to test the applicants' ability to communicate tax concepts to their clients would be helpful.

The general difficulty and approximate length of the examination:

The level of difficulty should probably fall somewhere between that of the existing Enrolled Agent examination and the examination given to VITA volunteer preparers. The examination should be given in two parts: each approximately 3 to 4 hours in length.

The detail of examination result information reported to the applicant (e.g., pass/fail, numeric scores):

Applicants should receive a numeric score. Passing should require a score of at least 75.

The appropriate time-of-year/month to annually update the examination to reflect the most current law:

The most logical time to update the examination would be late fall to early winter when Publication 17 and the tax forms are updated for the upcoming filing season.

The frequency that the examination should be administered (e.g., annually, semi-annually, quarterly, monthly, weekly, or daily):

To spread out testing throughout the year and minimize the strain on testing facilities, the examination should be offered at least monthly and possibly weekly.

The period of time that applicants, other than those individuals who obtain a preparer tax identification number prior to the examination being offered, should be required to wait before retaking the examination if the applicant does not pass:

We recommend that applicants who fail the examination be required to wait a minimum of three months after notification of failure to be re-tested.

The administration of the examination in languages other than English and the other languages that should be considered:

While Publication 17 and many tax forms are provided in both English and Spanish, in order to demonstrate knowledge of the vast complexities of the Internal Revenue Code, the examination should only be offered in English.

The elements of the special enrollment examination (content or test administration) for either enrolled agents or enrolled retirement plan agents that the competency examination should attempt to utilize or should not attempt to reproduce:

The IRS might consider using some of the questions from the Individual Tax part of the Enrolled Agent examination.

Any additional information that the IRS should consider when developing the content of, and the procedures for administering, the competency examination:

The examination should include some questions concerning the Treasury Department Circular No. 230 obligations that are relevant to “registered tax preparers” to include an appropriate section on Professional Ethics.