



## North Carolina Department of Revenue

Beverly Eaves Perdue  
Governor

Kenneth R. Lay  
Secretary

February 26, 2010

North Carolina State Board of Certified Public Accountants  
Attn: Mr. Robert N. Brooks, Executive Director  
1101 Oberlin Road, Suite 104  
Raleigh, NC 27605

Re: Privilege License

Dear Mr. Brooks:

This is in reference to your memorandum dated August 28, 2009 in which you asked the Department guidance on issues related to the annual privilege license in accordance with NCGS 105-41.

The Department's response follows each of your questions.

- 1. The Board does not have definitions for "principals" or "managers" as referenced in NCGS 105-41. Does the NCDOR define these terms? If so, how are those terms defined. If the NCDOR does not have those terms defined, can the NCDOR provide guidance in determining which individuals are considered "principals" or "managers"?*

The statute does not define the terms "principals" or "managers" as referenced in NCGS 105-41. Black Law Dictionary defines a "principal" as "one who authorizes another to act on his or her behalf as an agent." Additionally, "manager" is defined as "[a] person who administers or supervises the affairs of a business, office, or other organization." If a licensed CPA is acting in either capacity in the business of public accountancy, those individuals would be subject to the annual \$50.00 privilege license fee

- 2. Are all CPAs employed by a registered CPA firm required to obtain a \$50.00 privilege license from the NCDOR on an annual basis?*

The employees that are "principles" or "managers" in the CPA firm would be required to pay the \$50.00 privilege license from the Department on an annual basis. Any other employees of the CPA firm that are "engaged in the capacity of supervising or handling work of auditing, devising or installing systems of accounts" would be required to pay the \$12.50 privilege license from the Department on an annual basis.

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3. *With respect to NCGS 105-41(c), is a non-CPA (an accountant who is not licensed by the Board) who may be "...engaged in the capacity of supervising or handling work..." required to obtain the \$12.50 privilege license or the \$50.00 privilege license?*

The individual would be responsible for obtaining the \$12.50 privilege license.

4. *The Board's statutes and rules address the public practice of accountancy (see attached), by assistants who need not be certified as well as the concept of holding out to the public as a CPA or accountant. Would any individual licensed by this Board as a CPA who performs services under the statutory and rule definition of the public practice of accounting and who is holding out to the public be required to obtain an annual privilege licensee from the NCDOR? Such individuals may be:*

- *A CPA preparing tax returns and doing tax research for clients in a law firm*

If the CPA was a "principle" or "manager" in the law firm, acting in the capacity of the business of public accountancy, then the CPA would be required to obtain a \$50.00 privilege license.

- *A CPA in a real estate or medical management firm (not a registered CPA firm) performing accounting services for clients*

There is no requirement to obtain a privilege license provided no fee is charged for their services and they derive no income in part or in whole for a fund generated by those fees.

- *A CPA performing services in a trust department of a financial organization for a trust client*

There is no requirement to obtain a privilege license provided no fee is charged for their services and they derive no income in part or in whole for a fund generated by those fees.

- *A CPA performing financial planning services and/or selling financial products in a financial organization for clients*

There is no requirement to obtain a privilege license provided no fee is charged for their services and they derive no income in part or in whole for a fund generated by those fees.

- *An Attorney/CPA who only has a privilege licensee as an attorney*

If the CPA is in the public practice of accounting as a “principal” or “manager” of the business of public accountants, then they would be required to obtain a \$50.00 privilege license.

- *A CPA performing CFO, business evaluations, litigation support, or management advisory services for clients*

If the CPA is in the public practice of accounting as a “principal” or “manager” of the business of public accountants, then they would be required to obtain a \$50.00 privilege license.

5. *Is a licensed CPA employed in business, industry, government, and/or education required to obtain an annual privilege license from the NCDOR?*

CPA's employed exclusively by the Federal and State governments and not holding themselves out to the public in the practice of their professions would not be subject to the annual privilege license from the Department. If a CPA is practicing his profession but is wholly compensated from appropriations, grants, business income or from sources other than funds generated by fees charged for his services, they are not liable for the annual privilege license tax.

6. *The Governor recently signed Senate Bill 647 into law. This legislation allows non-resident CPAs from 55 jurisdictions to practice in North Carolina in person, by mail, telephone, or electronic means without notice to the Board. Are these individuals required to obtain an annual privilege from the NCDOR to exercise his or her practice privilege in North Carolina?*

Yes. The privilege tax is on every individual in this State that practices a profession in this State.

7. *If a CPA who purchased a \$12.50 privilege license in an accounting business where he or she was an assistant then opened a part-time accounting practice would he or she be required to purchase a \$50.00 privilege license from the NCDOR for his or her part-time CPA firm?*

Yes

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This response offers general information about a tax issue of general applicability. It is not specific advice and cannot be relied on as such. If you would like to obtain specific tax advice which is binding on the Department, you may follow the procedure for requesting a private letter ruling, which is located at [www.dornc.com](http://www.dornc.com).

Please be aware that if a taxpayer, an association of taxpayers, or a tax professional asks for general information about a tax issue of general applicability, the Department may respond in writing. The

Department's responses to these requests are not binding on the Department and will not relieve a taxpayer from tax otherwise due. A tax issue of general applicability includes: (1) questions about applicable tax rates; and (2) questions about tax matters *specifically* addressed in a statute, regulation, technical bulletin or Departmental or IRS publication. If a written response would require the Department to interpret the law in a manner not specifically addressed in a statute, regulation, or Departmental or IRS publication, then the Department will advise the person requesting the written response to follow the procedure for requesting a private letter ruling.

Very truly yours,



Alexander J. Milak, Administrative Officer  
Corporate, Excise and Insurance Tax Division  
Telephone: (919) 733-8510  
Fax: (919) 733-1821