

NATIONAL ASSOCIATION OF STATE BOARDS OF ACCOUNTANCY

Comments on Notice 2011-61

Relating to the Process for Individuals and Entities to be Approved by the Internal Revenue Service as Continuing Education Providers

In Notice 2011-61, the Internal Revenue Service (“IRS”) is seeking the input of education providers, tax return preparers, the associated industry and consumer groups, and taxpayers on the procedures and standards that will govern the approval process for continuing education providers for tax return preparers registered with the IRS.

GENERAL COMMENTS

The National Association of State Boards of Accountancy (NASBA) serves as a forum for the nation’s state boards of accountancy, which administer the Uniform CPA Examination, license over 650,000 certified public accountants (CPAs), and regulate the practice of public accountancy in the United States.

Because continuing education is a licensing requirement for CPAs in every state except Wisconsin, there already exists a comprehensive system to monitor the quality of continuing professional education (CPE) courses for CPAs. In 1990, NASBA launched the National Registry of CPE Sponsors to recognize CPE providers that offer CPE programs in accordance with the Statement on Standards for Continuing Professional Education Programs (the “CPE Standards”). The CPE Standards are nationally recognized and jointly developed by state boards of accountancy, NASBA and the American Institute of Certified Public Accountants (AICPA). Because of the respected standards and process for membership on the National Registry of CPE Sponsors (the “Registry”), almost all state boards accept and/or require that CPE credits be earned from Registry providers. In addition, the CPE Standards are periodically reviewed and evaluated by a committee represented by all facets of the CPE community with experience in: development of group live, group internet based and self study programs; instructional design of courses; development of courses for internal use; development of technical courses; higher education (college/university); and the administration of CPE from state board, state society and AICPA perspectives.

We believe the most critical element to providing quality continuing education to enhance the knowledge and professional competence of an individual is to provide a meaningful basis or framework for continuing education providers around the development, presentation, measurement and reporting of continuing education. Once that basis or framework is

established, there should be a process for review and evaluation to ensure the basis or framework remains relevant and current.

While section 10.9(3) contains some requirements in the development, presentation and reporting elements of continuing education programs, we recommend that the IRS establish a more detailed framework by providing specific guidelines or standards by which providers will be governed in order to maintain a consistent level of quality among those approved continuing education providers. This framework of standards could be developed internally by the IRS or alternatively, the IRS could adopt or accept continuing education standards recognized by licensing bodies in the United States such as the CPE Standards. Numerous state boards have taken the approach of incorporating the CPE Standards into their regulations or accepting providers governed under such standards to ensure that CPE programs taken to meet state board requirements are offered by providers who adhere to specific and comprehensive standards.

Section 10.9(a)(1) of Circular 230 specifies the organizations/entities to be recognized as continuing education providers. NASBA believes that its members of the National Registry of CPE Sponsors are recognized within the meaning of section 10.9(a)(1)(ii) because the NASBA National Registry of CPE Sponsors is accepted by state boards of accountancy as qualifying CPE for licensing purposes. We support the acceptance of those organizations/entities recognized by licensing bodies of any state as continuing education providers for tax return preparers and believe the requirement to obtain a continuing education provider number issued by the IRS is necessary and appropriate to manage the process.

In the latest amendment to Circular 230, the IRS chose not to finalize the rules proposed in section 10.9 regarding pre-approval of individual continuing education courses. We agree with that decision. Yet, section 10.9(a)(4)(i) of the final regulations require every continuing education provider to obtain a continuing education provider program number and pay any applicable user fee for each program offered. If the intention of the IRS is to approve or authorize continuing education at the provider level, then the requirements to obtain a continuing education provider program number for each program offering and pay a fee for each program offering add what we view as an unnecessary layer of administrative complexity and cost to the process for both the IRS and the program providers.

Our understanding is that qualified continuing education providers will be required to provide attendance records to the IRS in digital format using program numbers to identify courses and that may be the reason for the requirement of obtaining individual program numbers. We believe it is important for the IRS to enforce the continuing education requirement and requiring the digital submission of attendance records is an appropriate enforcement technique. However, if the relevant qualifying factor for a continuing education program taken by a registered tax return preparer is that it be taken from a qualified provider, then the continuing education provider

number issued by the IRS is the key data element, not a specific course number. The requirement to obtain a continuing education program number for every program offering would result in an undue burden on the IRS in the administration of the program and potentially impede the ability of providers to make continuing education courses available to the registered tax return preparers on a timely basis.

We recommend that the IRS revisit the need for obtaining and paying for continuing education program numbers or, in the alternative, exempt the continuing education providers recognized in sections 10.9 (a)(1)(i), (ii) or (iii) from the requirement in section 10.9(a)(4)(i). Requiring an approved continuing education provider that is recognized by another entity to obtain a program number and remit a fee for every program offering is a duplicative cost that would likely be passed on to the registered tax return preparers.

SPECIFIC COMMENTS

I. CONTINUING EDUCATION PROVIDERS

A. Information Submission Requirements of Applicant

For those organizations that will be recognized by the IRS as specified in sections 10.9(1)(i), 10.9(1)(ii) and 10.9(1)(iii), we recommend a separate abbreviated application process in order to obtain a continuing education provider number. The applicant should be required to submit documentation or evidence that the continuing education provider qualifies under those sections, such as the sponsor identification number issued to members of the National Registry of CPE Sponsors.

For those organizations that will be recognized by the IRS as specified in section 10.9(1)(iv), we recommend that an applicant complete an application to include information about the organization/entity and identify the persons within the organization responsible for continuing education programs. Additionally, the applicant should submit a program list that includes all planned program offerings in subject matters within section 10.6(f). The program list should include the instructional delivery method and recommended number of continuing education credits. The applicant should submit administrative policies governing program content development, content updates, record retention, complaint resolution, and attendance monitoring. The applicant should submit one program for review which would include program materials/slides or program outline. The applicant should also submit resumes of the instructors/program writers for the program submitted for review. In addition, the applicant should submit promotional material/course announcement information; program evaluation

forms and certificate of attendance in the form that it would be presented/delivered to a participant.

B. Criteria to Evaluate Continuing Education Applicant

For those organizations that will be recognized by the IRS as specified in Section 10.9(1)(iv), a continuing education applicant should represent that they have previous experience in developing, conducting and measuring a training/educational course. Additionally, we recommend that the IRS establish specific guidelines or standards that must be followed by continuing education providers in the development, presentation, measurement and reporting of continuing education programs as discussed in more detail in the general comments section above.

C. Criteria to Evaluate Applicant's Continuing Education Program

As previously mentioned in the general comments, while section 10.9(3) contains some requirements in the development, presentation and reporting elements of continuing education programs, the IRS should establish a framework for those organizations that will be recognized by the IRS as specified in Section 10.9(1)(iv) using specific guidelines or standards in order to maintain a consistent level of quality among those approved continuing education providers. Alternatively, the IRS could adopt or accept continuing education standards recognized by licensing bodies in the United States such as the CPE Standards. Once that framework is established, there should be a process for review and evaluation to ensure the framework remains relevant and current.

The guidelines and standards should outline the acceptable instructional delivery methods for continuing education programs as well as the specific requirements based on the instructional delivery method of the program.

D. Information Required for Continuing Education Provider's Renewal

For those organizations that will be recognized by the IRS as specified in sections 10.9(1)(i), 10.9(1)(ii) and 10.9(1)(iii), we recommend an abbreviated renewal application that requires the submission of documentation or evidence that the continuing education provider continues to qualify under those sections and the submission of a current program list of programs offered that meet the requirements of section 10.6(f)(1)(iii)..

For those organizations that will be recognized by the IRS as specified in Section 10.9(1)(iv), we recommend that the continuing education providers complete a renewal application to self-certify that they comply with the established guidelines and standards of the IRS and submit a

current program list of programs offered that meet the requirements of section 10.6(f)(1)(iii). The compliance verification should occur through a random audit process.

E. Frequency of Renewal

For those organizations that will be recognized by the IRS as specified in Sections 10.9(1)(i), 10.9(1)(ii), 10.9(1)(iii) and 10.9(1)(iv), we recommend annual renewal by the 1st of the month in which the provider received its initial approval.

F. Notification of Changes in Continuing Education Programs Offered

As previously mentioned in the general comments section above, if approval or authorization by the IRS is granted at the provider level, then notification of changes in continuing education program offerings would not be necessary throughout the year. Instead the continuing education providers could submit a current program list of programs offered that meet the requirements of section 10.6(f)(1)(iii) annually as part of the renewal process. Program offerings and technical content accuracy could be verified during the random audit process for those organizations recognized by the IRS as specified in section 10.9(1)(iv).

G. Identification of Approved Continuing Education Providers for Tax Return Preparers

The IRS should provide a listing of all continuing education providers that have been issued an active continuing education provider number on its website and that information should be updated upon the deletion or addition of a qualified provider to the program. At a minimum, the organization name, continuing education provider number, and contact information should be provided.

H. Date for Approval to begin Offering Continuing Education Programs to Tax Return Preparers by January 1, 2012

We recommend that the approximate date by which continuing education providers receive approval from the IRS to be able to offer continuing education programs by January 1, 2012 is October 1, 2011.

II. ACCREDITING ORGANIZATIONS

A. Criteria to Evaluate Accrediting Organizations

For the purposes of accrediting organizations, our comments will focus on those qualifying organizations (accrediting organizations) recognized by the IRS as specified in Section 10.9(1)(iii). In order to maintain the integrity of the approval process and to maintain a consistent level of quality among continuing education providers approved under sections 10.9(a)(1)(i), (ii), (iii) and (iv), it is important that the criteria by which accrediting organizations be evaluated include sound fundamentals and independent input and oversight.

To that end, accrediting organizations under section 10.9(a)(1)(iii) should:

1. Be established in the continuing education community with extensive experience in evaluating courses for instructional design and content;
2. Have established publicly available standards by which the continuing education providers are measured and approved;
3. Have standards that are established with input from and oversight by a governing body comprised of members with appropriate expertise in education, regulation and/or relevant content;
4. Have standards that are reviewed and updated on a regular and documented basis;
5. Have a documented process for evaluating continuing education providers that meets the requirements set forth by the IRS for continuing education providers that the IRS recognizes pursuant to section 10.9(a)(1)(iv);
6. Maintain a database of providers that generates real-time information on a provider's status (whether approved and active, under audit or removed);
7. Have a renewal process consistent with those specified in Section 10.9 ensuring that providers are subject to regular review; and
8. Have documented audit and complaint processes.

B. Procedures Required of Accrediting Organizations

Accrediting organizations should apply to the IRS for approval under section 10.9(a)(1)(iii) and submit, among other things, written documentation evidencing their compliance with the criteria listed in the "Criteria to Evaluate Accrediting Organizations" section above. Accrediting organizations should submit a written agreement with the IRS agreeing to comply with such criteria on an ongoing basis and to notify the IRS of any changes made that may affect such compliance. Accrediting organizations should renew their status on an annual basis, submitting documentation necessary to ensure continued compliance with the above-listed criteria.

C. Reporting Requirements of Accrediting Organizations

To allow the IRS to verify that continuing education providers that apply to the IRS for recognition under section 10.9(a)(1)(iii) are approved by and have an active status with an accrediting organizations, accrediting organizations should provide a monthly report of all active providers and highlight those that have been added in the previous month and those that have been removed. A public list of all active providers should also be available.

D. Documentation Requirements

Accrediting organizations should maintain continuing education provider applications and documentation submitted with the applications for a period of at least five years. The accrediting organizations should also maintain all audit, complaint and renewal information with respect to their approved providers for a period of five years.

E. Identification of Approved Accrediting Organizations

Those accrediting organizations recognized by the IRS as specified in Section 10.9(1)(iii) should be listed on the IRS website and such listing should include the name, contact information and website address of the organization.

CONCLUSION

As noted previously, the most critical element to providing quality continuing education is to provide a meaningful basis or framework for continuing education providers around the development, presentation, measurement and reporting of continuing education. We recommend that the IRS establish a framework through specific guidelines or standards in order to maintain a consistent level of quality among those approved continuing education providers. We believe that if the IRS modifies or enhances certain aspects of the regulations in consideration of the recommendations included in our comments, the process for the approval of continuing education providers for registered tax return preparers will be more effective, less of an administrative burden for the IRS, and more attractive for continuing education providers, resulting in the availability of a large, diverse pool of qualified continuing education providers offering quality continuing education to the ever increasing number of registered tax return preparers.