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FEASIBILITY OF REGULATING PUBLIC  
TAX PREPARERS

by

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STATE OF HAWAII  
JAN 10 1971  
LEGISLATIVE REFERENCE BUREAU

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Legislative Reference Bureau  
University of Hawaii

## FOREWORD

This study on the regulation of persons who prepare income tax returns for the public has been prepared in response to House Resolution 360 of the Fifth Legislature of the State of Hawaii, Regular Session of 1970.

Information obtained from the District Office of the Internal Revenue Service, the State Department of Taxation, the Office of Consumer Protection and the Honolulu Better Business Bureau was most helpful in the preparation of this report.

To a great extent, this report could not have been completed without the cooperation and information provided by those individuals and businesses engaged in the field of tax preparation, who responded freely to the survey conducted by this office.

Henry N. Kitamura  
Director

STATE OF HAWAII

JAN 08 1996

LEGISLATIVE REFERENCE BUREAU

TABLE OF CONTENTS

	<u>Page</u>
FOREWORD . . . . .	i
I. INTRODUCTION . . . . .	1
II. SURVEY OF TAX PREPARERS . . . . .	3
III. REGULATION OF TAX PREPARERS . . . . .	9

Appendix

A. California Senate Bill 1287 . . . . .	15
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COPY

## HOUSE RESOLUTION

REQUESTING THE LEGISLATIVE REFERENCE BUREAU TO STUDY THE FEASIBILITY  
OF REGULATING THOSE PERSONS WHO HOLD THEMSELVES OUT TO THE  
PUBLIC AS BEING SKILLED IN THE PREPARATION OF TAX RETURNS.

1 WHEREAS, there is a growing number of persons who run businesses  
2 of preparing tax returns and who hold themselves out to the public  
3 as being skilled in the preparation of tax returns; and  
4

5 WHEREAS, because of the complexities involved in the preparation  
6 of tax returns, a large segment of the public rely on the expertise  
7 of these businesses to prepare tax returns; and  
8

9  
10 WHEREAS, the taxpayer, relying on these tax return preparers,  
11 often finds that he has a faulty tax return on his hands; and  
12

13 WHEREAS, with most of the tax return preparers closing their  
14 offices after the tax season, the taxpayer often finds that he has no  
15 recourse against the tax return preparers; and  
16

17  
18 WHEREAS, it may be in the public interest to empower the State  
19 to regulate, examine and license these tax return preparers to see if  
20 they have the training and skill to prepare tax returns and to see if  
21 they have the financial ability to back up their representations to  
22 the public; now, therefore,  
23

24  
25 BE IT RESOLVED by the House of Representatives of the Fifth  
26 Legislature of the State of Hawaii, Regular Session of 1970, that it  
27 request the Legislative Reference Bureau to study the feasibility of  
28 regulating those persons who hold themselves out to the public as  
29 being skilled in the preparation of tax returns; and  
30

31  
32 BE IT FURTHER RESOLVED that the Legislative Reference Bureau  
33 submit a report of its findings to this Legislature at least ten days  
34 prior to the convening of the Regular Session of 1971; and  
35

36  
37 BE IT FURTHER RESOLVED that a duly certified copy of this  
38 Resolution be transmitted to the Director of the Legislative Refer-  
ence Bureau.

## Chapter I

### INTRODUCTION

House Resolution 360 of the Fifth Legislature of the State of Hawaii, Regular Session of 1970, requested the Legislative Reference Bureau to study the feasibility of regulating those persons who hold themselves out to the public as being skilled in the preparation of income tax returns. The resolution expressed concern over the fact that a large segment of the public relies on the expertise of those persons in the business of preparing tax returns and that it may be in the public interest to examine and license these tax preparers to see that they have the financial ability and the necessary training to prepare tax returns for the public.

In preparing this report, a survey was conducted to determine how many businesses were in operation primarily for the preparation of tax returns. Twenty-seven businesses were in operation during 1970. One firm, with branches throughout the United States, stated that it prepares approximately ten per cent of the federal income tax returns filed in the nation. In the year 1967 (the most recent figures), this percentage would have represented over 7 million returns out of the 71.7 million federal income tax returns filed. This 71.7 million returns represented 62.9 billion dollars in federal income tax payments.<sup>1</sup> The State of Hawaii, in 1967, received 257 thousand income tax returns for an income tax revenue of 65 million dollars.<sup>2</sup>

These income tax returns are prepared for the public by many individuals and businesses. Advertisements or telephone listings were found for twenty-seven individuals and businesses in the Honolulu Advertiser, the Honolulu Star-Bulletin, the Windward Shopper, the Wahiawa Press, and the telephone directory.

In addition, certified public accountants, public accountants, and attorneys also prepare tax returns. These three professions, however, were not included in this study because they are generally regulated by either the Board of Accountancy or the Bar Association.

Supplementing the regulated professions and those actively advertising their services through telephone listings and newspapers, are individuals who prepare income tax returns for their friends and fellow employees. The local office of the Internal Revenue Service conducts one-day courses, prior to the tax season, for union members, military personnel, business employees, and teachers.<sup>3</sup> These persons, once completing the federal courses, assist fellow employees in the preparation of tax returns. No fee is usually charged for this service. Finally, there are persons who prepare income tax returns for their friends but who do not actively advertise, except by word of mouth and cards posted on bulletin boards in neighborhood stores. Such individuals are usually former state or federal tax employees, and others with some accounting or bookkeeping background, gained either through education or experience.<sup>4</sup>

This study is divided into two chapters. Chapter two discusses the availability, qualifications and the financial responsibility of the tax preparers that were interviewed. The feasibility of regulating these tax preparers is presented in chapter three.

## Chapter II

### SURVEY OF TAX PREPARERS

To determine the need for regulating tax preparers, public bodies dealing with consumer protection and with tax preparers were contacted. Neither the State Department of Taxation nor the Federal Internal Revenue Service indicated that they were having any problems with tax preparers. The Honolulu Better Business Bureau also had no complaints on file concerning tax preparers during 1970. The Office of Consumer Protection, however, did receive two complaints in the same period. One dealt with an advertisement which led the public to believe that the returns would be prepared free. This manner of advertisement was stopped by the preparer upon being informed that it was misleading. The second complaint dealt with the business practice of a tax preparer who, when contacted, indicated that it was a communication problem between the preparer and the consumer. This complaint was cleared up to the satisfaction of both the consumer and the tax preparer.<sup>1</sup>

The Legislature, in adopting House Resolution 360, expressed a concern that the public interest may be better served if tax preparers were regulated in the following areas:

1. The availability of tax preparers after the tax filing period;
2. The qualifications of tax preparers; and
3. The financial responsibility of tax preparers.

#### Availability of Tax Preparer

The services of tax preparer should be available to the taxpayer not only during the time that the tax return is being



prepared but also after the return is filed, since tax returns may be questioned for numerous reasons after filing by both state or federal authorities. To determine the availability of the tax preparers, an attempt was made to contact them either in person or by telephone. On the whole, the tax preparers could be easily reached. Of the twenty-seven individuals and businesses which advertised their services during the 1970 tax period,<sup>2</sup> three could not be reached. Two of the three had used telephone answering services and left no further reference with the service and the third had disconnected his telephone.

Of the remaining twenty-four tax preparers contacted, one was formed by a California based company. This company hired four persons in the State to prepare income tax returns but only one person remains in the State, the other three having moved to the mainland. The remaining person stated that he had discontinued doing tax returns and that he had done very few 1970 returns since he felt that he was not adequately trained by the parent company. Furthermore, he stated that he was not compensated by the company for the tax returns he had completed.

One of the individual entrepreneurs moved his place of business but had left a referral telephone number. However, he could not be reached through the referral number and he was finally contacted at his home. Another tax preparer is open only on Saturdays. He does, however, have a home telephone number listed at his place of business and may be contacted there by any of his clients. The office hours of a third preparer were from six to nine in the morning and after six-thirty in the evening.

Thus, nineteen tax preparers were contacted with ease. Some of the smaller tax preparers that were contacted advertised



their services only during the tax period in the regional or neighborhood newspapers, such as the Windward Shopper. The services of these tax preparers are available to their clients after the tax period but it is difficult to contact them unless the taxpayer has recorded the name of the tax service or has retained his copy of the tax return which indicates the name of the person preparing his return.

#### Qualification of Tax Preparer

In many instances, it is difficult for the public to judge whether a tax preparer is qualified to do a competent job. Often, a taxpayer has little knowledge or means to determine a tax preparer's background or qualifications. The only means of selection available to the taxpayer is by price shopping which is seldom a guarantee of obtaining a satisfactory work product.

The twenty-four tax preparers interviewed were found to have varying educational or business backgrounds. Their length of time in the tax preparation field varied from one to sixteen years. Of the twelve businesses composed of more than one individual, or involving the hiring of extra personnel during the tax period, a majority had persons in charge with a bookkeeping, tax, or accounting background. Also, all the businesses required the tax returns to be checked by someone other than the original preparer prior to giving the completed return to the taxpayer. These businesses either retained persons who were trained in taxes, accounting, or bookkeeping or offered income tax courses or training of varying lengths, from six weeks to six months, to prepare the persons hired for tax work.

Some of the businesses which offered a formal training course required that its newly hired personnel have a minimum amount of specialized education or experience. One firm required its newly hired personnel to be former employees of the Internal Revenue Service or the State Tax Department, or to have done tax work for other firms or in the military. This company gave its employees an eight-week course in taxes. Another business required its new hires to be trained in accounting, particularly those eligible to take the certified public accounting test given by the State. This firm gave its employees, training from September to January.

Four businesses which offered training courses did not require the applicants to have any previous training or experience. The courses were offered to anyone who could read, write, and use mathematics. One of the companies offered a seventy-two hour program, which ran for eight weeks with all students being assessed a fee. The students were tested at the end of the course, and the higher scoring students were selected and given ten days of on-the-job training. A second business required its employees to either take the seventy-two hour course of its competitor or to attend a twelve week course that it offered. Another business gave a three week classroom course, after which the employees were trained on-the-job for three weeks. The fourth business gave a six month course to all new employees.

The qualifications of the individual entrepreneurs were also varied. Six had an educational or experience background in bookkeeping and three in accounting. Two had taken tax courses from businesses in the tax preparation field and worked for these businesses prior to going into business for themselves. One had obtained his knowledge of taxes through the experience

of doing his own, his employees' and his friends' returns before entering the tax preparation field.

### Financial Responsibility of Tax Preparers

Although taxpayers may seek help in the preparation of the income tax return, the burden of filing and paying income taxes rests directly upon the taxpayer and is a nondelegable duty.<sup>3</sup> The most common interest charge or penalty that may be imposed upon a taxpayer for failing in his duties under the income tax laws, and which may arise through the use of a tax preparer, is that which results from the underpayment of taxes. The underpayment of taxes carries an interest penalty under both state and federal law.<sup>4</sup> The amount of the interest penalty for underpayment varies with the amount of underpayment of taxes. Some of the reasons why a person may underpay his taxes are because of unqualified deductions and mathematical errors. To eliminate such errors, the public often seek the services of someone whom they feel is better qualified than themselves to prepare their return. This demand has created a market for tax preparers who, generally, will agree to pay any interest or penalty assessments caused by their error or negligence.

Twenty of the twenty-four tax services surveyed stated that they would pay any penalties or interest assessed the taxpayer for any errors caused due to their negligence. Of those who replied that they would pay the penalties and/or interest due to their negligence, not all made this policy public, but would pay only if requested to do so. Of the four who did not state that they would pay the penalties and interest, two indicated that it had never happened and that they were not

prepared to state what they would do until the question arose.

The financial responsibility of a tax preparer is not only important in determining his ability to pay in cases where penalties and interest are due because of errors caused by his negligence but also in cases where fraud is practiced by the tax preparer or his employees. Although we are unaware of any specific cases occurring in Hawaii, there have been instances in other states where fraud has been practiced by tax preparers. One instance occurred where the tax preparer had completed returns for his clients and was paid the full amount of the tax, including his fee, with the understanding that the tax money and the returns were to be forwarded to the proper authority. The tax preparer, however, kept the tax money and failed to file the returns.<sup>5</sup> Other problems may occur where the taxpayer gives the tax preparer the power of attorney or where the taxpayer signs a blank return. The tax preparer may intentionally raise the amount of the deductions claimed by the taxpayer, particularly if the tax refund is to be sent to the preparer from which he takes his fee and forwards the balance of the refund to the taxpayer.<sup>6</sup> Another example is where the tax preparer may make claims on the tax return for estimated tax payments when such payments have not been made, thereby increasing the refund.<sup>7</sup>

## Chapter III

### REGULATION OF TAX PREPARERS

The survey conducted of the businesses engaged in the preparation of income tax returns indicates that employees hired by the firms are given training in the preparation of tax returns. There is, however, no uniformity in the length of training given the newly hired employee. Nor is there any uniformity in the hiring practices of the businesses. Some firms only hired personnel with a specialized education or experience, whereas certain other firms only required that the newly hired employee be able to read, write and use mathematics and to take a formal training course in income tax.

The survey also revealed that, on the whole, the tax preparers could be reached by their clients after the tax returns were filed to answer any questions concerning the returns. With respect to the question of financial responsibility of the tax preparers, a majority indicated that they would pay any penalties and interest assessed the taxpayer for errors caused by their negligence. This information, however, was not passed on to the taxpayers by all the firms interviewed. It has also been pointed out that, in other jurisdictions, there has been occasions in which fraud has been practiced by the tax preparer to the detriment of his clients. We have not been apprised of any case where this has happened in this jurisdiction.

Agencies in the consumer protection field and those that deal with tax preparers were interviewed to determine whether there is a need to regulate the tax preparer. All responded

that they could not make a definitive determination since their agencies did not have substantial complaints concerning the qualifications and practices of tax preparers. The State Tax Department, however, did indicate that they are generally satisfied with the work being done by the tax preparer. Presently, there are no regulations specifically governing tax preparers but both the State and Federal authorities do informally check on the work done by them.

Questionnaires were sent to forty-nine states to determine whether income tax preparers are being regulated by the other states. Forty-four of the states replied and none are presently regulating income tax preparers.

California has had a number of bills under consideration regarding the regulation of persons engaged in the preparation of tax returns. One bill, signed into law this year, makes it a misdemeanor for preparers to disclose, with certain exceptions, any information obtained in the preparation of federal or state income tax returns.<sup>1</sup> Another bill now under interim study by the Senate Committee on Business and Professions would direct the board of accountancy to license income tax preparers. This bill is set forth in Appendix A. Briefly, the bill provides that any person shall be deemed engaged in the practice of public income tax preparation who:

1. Prepares income tax forms for clients, based on information made available by the clients for presentation to government agencies,
2. Certifies the accuracy of the form based on the information available, and
3. Does any of the following:

- (a) Holds himself or herself out to the public in any manner as one skilled in the knowledge, science, and practice of income tax preparation, and as qualified and ready to render professional service therein as a public income tax preparer for compensation.
- (b) Maintains an office for the transaction of business as a public income tax preparer.
- (c) Offers to prospective clients to perform for compensation, or who does perform on behalf of clients for compensation, professional services that involve or require examination of records, review of financial transactions, and accounting records.

In order to be certified by the board of accountancy under the California bill, the tax preparer must be:

1. A citizen of the United States,
2. A bona fide resident of the State for at least three months,
3. Over twenty-one years old,
4. Of good moral character,

and have either:

1. Completed a four-year high school which included three years of English and two years of mathematics and, in addition, graduate from a junior college or had two years of college, or
2. Satisfy the board that he had the equivalent education, or
3. Pass a preliminary written exam.

All persons who comply with the requirements or pass the preliminary written exam may then take a qualifying written exam prepared by the board of accountancy. Once the person



passes this written exam he may be certified by the board.

The regulation of business in general has increased at an accelerating rate in the last few years, particularly in those fields which involve technicalities beyond the purview of the average consumer. It is generally conceded that a state may regulate an occupation where the occupation in question, if improperly or incompetently carried on, is fraught with danger to the public's health, safety, morals, or welfare. If a service rendered by an incompetent person produces harm to an appreciable part of the community, the legislature, in the exercise of its police power, can set standards for those undertaking to perform such service.<sup>2</sup> However, there is no conclusive data to indicate that the field of income tax preparation, as practiced in Hawaii, is being improperly carried on to the detriment of the public. If upon further review, new facts are uncovered which indicate a need for regulation, then the "California bill" discussed above could be used as a model for legislation to regulate the income tax preparers. It should be noted that the bill does not provide for the bonding of the tax preparers to insure financial responsibility. If a bill regulating tax preparers is considered by the Legislature, serious consideration should be given to the insertion of the bonding provision for the reasons stated in this report.

## FOOTNOTES

### Chapter I

1. Preliminary Statistics of Income, 1967 Individual Income Tax Returns, 1969 (Washington: U. S. Government Printing Office, (1969)).
2. Tax Research Planning Office, Department of Taxation, Hawaii Income Patterns 1967 (Honolulu: 1969).
3. Interview with Mr. James Kajiki, Federal Internal Revenue Service, August 13, 1970.
4. Interview with George Freitas, Tax Assessor, Department of Taxation, State of Hawaii, August 13, 1970; and Interview with Mr. James Kajiki, Federal Internal Revenue Service, August 13, 1970.

### Chapter II

1. Interview with Jann L. Yuen, Consumer Protector, State of Hawaii, August 13, 1970.
2. The 1970 tax period was defined as falling between January 1 and April 15, 1970.
3. Bar L. Ranch Inc. v. Phinney, 272 F. Supp. 249 (S.D. Texas 1967); Davis v. C. I. R., 184 F. 2d 86 (10th Cir. 1950); 3 ALR2d 619 (1949).
4. Internal Revenue Code, 26 U.S.C.A. 6601 (1967); Hawaii Rev. Stat., sec. 231-39(b) (3) (A).
5. U.S. v. Gase, 248 F. Supp. 704 (N.D. Ohio 1965); U.S. v. Donovan, 250 F. Supp. 463 (W.D. Texas 1966).
6. U.S. v. Blount, 339 F. 2d 331 (7th Cir. 1965); U.S. v. Barnes, 313 F. 2d 325 (6th Cir. 1963); U.S. v. Herskovitz, 209 F. 2d 881 (2nd Cir. 1954).
7. Edwards v. U.S., 375 F. 2d 862 (9th Cir. 1967).

### Chapter III

1. Ch. 34, Session Laws of California, 1970.
2. 10 ALR2d 1443 (1950).

SENATE BILL

No. 1287

Introduced by Senator Sherman

April 3, 1970

REFERRED TO COMMITTEE ON BUSINESS AND PROFESSIONS

*An act to amend Sections 5018, 5020, 5020.3, 5023, 5070.7, and 5130 of, and to add Sections 5034.5, 5051.5, 5056.5, 5057.5, 5080.1, 5081.4, 5082.5, 5083.5, 5085, 5085.5, and 5131.5 to, the Business and Professions Code, relating to public income tax preparers.*

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 5018 of the Business and Professions
- 2 Code is amended to read:
- 3 5018. The board may by regulation, prescribe, amend or
- 4 repeal rules of professional conduct appropriate to the estab-
- 5 lishment and maintenance of a high standard of integrity and
- 6 dignity in the profession. In addition to the requirements con-
- 7 tained in Chapter 8.1.5 (commencing with Section 11370
- 8 11371 ), Part 1, Division 3, Title 2 of the Government Code,
- 9 a copy of such rules shall be mailed to every holder of a permit
- 10 under the provisions of this chapter at least 30 days prior to a
- 11 date named for a public hearing held for the purpose of
- 12 receiving and considering objections to any of the proposed
- 13 provisions. Every person who holds a permit to practice public
- 14 accountancy or public income tax preparation in this State
- 15 shall be governed and controlled by the rules and stand-
- 16 ards adopted by the board.
- 17 SEC. 2. Section 5020 of the Business and Professions Code
- 18 is amended to read:
- 19 5020. The board shall appoint administrative committees of
- 20 not less than three nor more than five members who shall be

LEGISLATIVE COUNSEL'S DIGEST

SB 1287, as introduced, Sherman (B. & P.). Public income tax preparers.

Amends, adds, various secs., B. & P.C.

Empowers State Board of Accountancy to issue certificates and permits to public income tax preparers. Specifies requirements to become public income tax preparer and fees required therefor.

Vote—Majority; Appropriation—Yes; Fiscal Committee—Yes.

1 public accountants, to perform any of the following duties, and  
2 such committees shall be vested with the full powers of the  
3 board for such purposes:

4 (a) To receive and investigate complaints and to initiate  
5 and conduct investigations or hearings, with or without the  
6 filing of any complaint, and to obtain information and evi-  
7 dence relating to any matter involving the conduct of public  
8 accountants *or public income tax preparers*.

9 (b) To receive and investigate complaints and to initiate  
10 and conduct investigations or hearings, with or without the  
11 filing of any complaint, and to obtain information and evi-  
12 dence relating to any matter involving any violation or alleged  
13 violation of any of the provisions of this chapter by public  
14 accountants *or public income tax preparers*.

15 The board shall prescribe the units or sections of such com-  
16 mittees and designate the areas or localities in which they may  
17 act.

18 SEC. 3. Section 5020.3 of the Business and Professions  
19 Code is amended to read:

20 5020.3. The board shall appoint administrative committees  
21 of not less than three nor more than five members, who shall  
22 be certified public accountants, to perform any of the follow-  
23 ing duties, and such committees shall be vested with the full  
24 powers of the board for such purposes:

25 (a) To receive and investigate complaints and to initiate  
26 and conduct investigations or hearings with or without the  
27 filing of any complaint, and to obtain information and evi-  
28 dence relating to any matter involving the conduct of certified  
29 public accountants *or public income tax preparers*.

30 (b) To receive and investigate complaints and to initiate  
31 and conduct investigations or hearings, with or without the  
32 filing of any complaint, and to obtain information and evi-  
33 dence relating to any matter involving any violation or alleged  
34 violation of any of the provisions of this chapter by certified  
35 public accountants *or public income tax preparers*.

36 The board shall prescribe the units or sections of such com-  
37 mittees and designate the areas or localities in which they may  
38 act.

39 SEC. 4. Section 5023 of the Business and Professions Code  
40 is amended to read:

41 5023. The board may establish an examining committee of  
42 its own certified public accountant members or other certified  
43 public accountants of the State *state* in good standing, having  
44 the power:

45 (a) To examine all applicants for the certificate of certified  
46 public accountant *or public income tax preparer*.

47 (b) To recommend to the board applicants for the certifi-  
48 cate of certified public accountant *or public income tax pre-*  
49 *parer* who fulfill the requirements of this chapter.

50 The examining committee shall follow the rules and regula-  
51 tions adopted by the board for the purpose of making effective

1 the qualifications prescribed in Articles 4 (commencing at *with*  
2 Section 5070) and 5 (commencing at *with* Section 5050).

3 Sec. 5. Section 5034.5 is added to the Business and Profes-  
4 sions Code, to read:

5 5034.5. As used in this chapter, "public income tax pre-  
6 parer" means any person who has registered with the board  
7 as a public income tax preparer and who holds a valid cer-  
8 tificate and permit to practice issued by the board.

9 Sec. 6. Section 5051.5 is added to the Business and Profes-  
10 sions Code, to read:

11 5051.5. Except as provided in Sections 5052, 5053, and  
12 5054, a person shall be deemed to be engaged in the practice  
13 of public income tax preparation within the meaning and in-  
14 tent of this chapter who prepares personal income tax forms  
15 for clients, based on information made available by such  
16 clients, for presentation of government agencies, who certifies  
17 the accuracy of the form based on all information of which he  
18 has any knowledge, and who does any of the following:

19 (a) Holds himself or herself out to the public in any manner  
20 as one skilled in the knowledge, science, and practice of income  
21 tax preparation, and as qualified and ready to render profes-  
22 sional service therein as a public income tax preparer for com-  
23 pensation.

24 (b) Maintains an office for the transaction of business as a  
25 public income tax preparer.

26 (c) Offers to prospective clients to perform for compensa-  
27 tion, or who does perform on behalf of clients for compensa-  
28 tion, professional services that involve or require examination  
29 of records, review of financial transactions, and accounting  
30 records.

31 Sec. 7. Section 5056.5 is added to the Business and Profes-  
32 sions Code, to read:

33 5056.5. Any person who has received from the board a  
34 certificate of public income tax preparer and holds a valid  
35 permit to practice under the provisions of this chapter shall  
36 be styled and known as a "public income tax preparer" and  
37 may also use the abbreviation "P.I.T.P.". No other person,  
38 except a partnership registered under Article 4 (commencing  
39 with Section 5070) of this chapter, shall assume, use, or issue  
40 that title, designation, or abbreviation, or any other title, des-  
41 ignation, sign, card, or device tending to indicate that the per-  
42 son using it is a public income tax preparer.

43 Sec. 8. Section 5057.5 is added to the Business and Pro-  
44 fessions Code, to read:

45 5057.5. Any person qualified under Article 4 (commene-  
46 ing with Section 5070) to register with the board for the prac-  
47 tice of public income tax preparation and who has so regis-  
48 tered and who holds a valid permit for the practice of public  
49 income tax preparation shall be styled and known as a "public  
50 income tax preparer." No other person except a partnership  
51 registered under Article 4 (commeneing with Section 5070)  
52 shall assume or use the title, designation, or words tending to

1 indicate that such person is a public income tax preparer.  
 2 Nothing herein contained shall prohibit a person who holds a  
 3 certificate of public income tax preparation issued by this  
 4 board from being styled and known as a "public income tax  
 5 preparer."

6 SEC. 9. Section 5070.7 of the Business and Professions  
 7 Code is amended to read:

8 5070.7. A permit which is not renewed within five years  
 9 following its expiration may not be renewed, restored, or rein-  
 10 stated thereafter, and the certificate of the holder of the permit  
 11 shall be canceled immediately upon expiration of the five-year  
 12 period.

13 A partnership whose certificate has been canceled by opera-  
 14 tion of this section may obtain a new certificate and permit  
 15 only if it again meets the requirements set forth in this chap-  
 16 ter relating to registration and pays the registration fee and  
 17 initial permit fee.

18 A certified public accountant or public income tax preparer  
 19 whose certificate is canceled by operation of this section may  
 20 apply for and obtain a new certificate and permit if:

21 (a) He is of good moral character, and no fact, circum-  
 22 stance, or condition exists which, if the certificate and permit  
 23 were issued, would justify their revocation or suspension,

24 (b) He pays all of the fees that would be required of him  
 25 if he were then applying for the certificate and permit for the  
 26 first time, and

27 (c) He takes and passes the examination which would be  
 28 required of him if he were then applying for the certificate  
 29 for the first time. The examination may be waived in any case  
 30 in which the applicant establishes to the satisfaction of the  
 31 board that, with due regard for the public interest, he is quali-  
 32 fied to engage in practice as a certified public accountant.

33 The board may, by appropriate regulation, provide for the  
 34 waiver or refund of all or any part of the application fee in  
 35 those cases in which a certificate is issued without an examina-  
 36 tion under this section.

37 SEC. 10. Section 5080.1 is added to the Business and Pro-  
 38 fessions Code, to read:

39 5080.1. A certificate of public income tax preparer shall  
 40 be granted by the board to any person who meets the require-  
 41 ments of this article.

42 SEC. 11. Section 5081.4 is added to the Business and Pro-  
 43 fessions Code, to read:

44 5081.4. An applicant for admission to the examination  
 45 for a public income tax preparer shall:

46 (a) Be a citizen of the United States, or have declared his  
 47 intention to become a citizen.

48 (b) Have been a bona fide resident of the state for at least  
 49 three months immediately preceding the time his application  
 50 is filed.

51 (c) Be over the age of 21 years.

52 (d) Be of good moral character.



1 (c) Comply with any one of the following:

2 (1) He shall present satisfactory evidence that he has suc-  
3 cessfully completed a four-year day high school course, or the  
4 equivalent hours of courses in an evening high school, which  
5 included three years of English and two years of mathematics,  
6 and in addition thereto has successfully completed two years'  
7 courses of study of college grade.

8 (2) He shall present satisfactory evidence that he has suc-  
9 cessfully completed a four-year day high school course, or the  
10 equivalent hours of courses of study in an evening high school,  
11 which included three years of English and two years of mathe-  
12 matics, and in addition thereto has graduated from a junior  
13 college of recognized standing.

14 (3) He shall show, to the satisfaction of the board, that he  
15 has had the equivalent of the educational qualifications re-  
16 quired by paragraphs (1) or (2) of this subdivision, or shall  
17 pass a preliminary written examination given by the board  
18 and approved by the Director of Education.

19 The members of the board may require an applicant to  
20 appear in person to determine whether his qualifications are  
21 as prescribed in this chapter and the rules of the board  
22 thereunder.

23 SEC. 12. Section 5082.5 is added to the Business and Pro-  
24 fessions Code, to read:

25 5082.5. An applicant for public income tax preparer shall  
26 successfully pass written examinations on subjects deemed ad-  
27 visable by the board.

28 SEC. 13. Section 5083.5 is added to the Business and Pro-  
29 fessions Code, to read:

30 5083.5. The board shall prescribe rules establishing prior  
31 experience to be required of an applicant for a certificate of  
32 public income tax preparer.

33 SEC. 14. Section 5085 is added to the Business and Pro-  
34 fessions Code, to read:

35 5085. Individuals who have been engaged in the business  
36 of public income tax preparation for two years immediately  
37 preceding the effective date of this section shall be issued a  
38 certificate by the board, and shall not be required to meet the  
39 educational or experience qualifications set forth in this chap-  
40 ter. Upon lapse of the certificate of any person, he shall be  
41 required to take the examination for reinstatement.

42 SEC. 15. Section 5085.5 is added to the Business and Pro-  
43 fessions Code, to read:

44 5085.5. Any person who is the holder of a valid unrevoked  
45 certificate as a certified public accountant or public accountant  
46 issued under the laws of this state may engage in the practice  
47 of public income tax preparation as described in Section  
48 5051.5, and no additional certificate shall be required.

49 SEC. 16. Section 5130 of the Business and Professions Code  
50 is amended to read:

51 5130. The board shall charge and collect a fee from each  
52 applicant for the certificate of certified public accountant or

1 of public income tax preparer. The fee shall accompany the  
2 application which ~~must~~ shall be made on a blank provided by  
3 the board. In no event shall any portion of the fee be returned  
4 to the applicant unless his application is rejected.

5 SEC. 17. Section 5134.5 is added to the Business and Pro-  
6 fessions Code, to read:

7 5134.5. Notwithstanding Section 5134, the fees prescribed  
8 by this chapter for public income tax preparers is that fixed  
9 by the following schedule:

10 (a) The preliminary examination fee is ten dollars (\$10).

11 (b) The registration fee is seven dollars and fifty cents  
12 (\$7.50).

13 (c) The renewal fee shall be set by the board at a sum not  
14 less than six dollars (\$6) nor more than fifteen dollars (\$15).

15 (d) The delinquency fee is five dollars (\$5).

16 (e) The initial permit fee is an amount equal to the renewal  
17 fee in effect on the last regular renewal date before the date on  
18 which the permit is issued, except that, if the permit is issued  
19 less than one year before it will expire, then the initial permit  
20 fee is an amount equal to 50 percent of the renewal fee in  
21 effect on the last regular renewal date before the date on which  
22 the permit is issued. The board may, by regulation, provide for  
23 the waiver or refund of the initial permit fee where the permit  
24 is issued less than 45 days before the date on which it will  
25 expire.