



## **Allowing Certified Public Accountants to Represent Taxpayers Before State Administrative Appeals Forums**

### **Executive Summary**

#### **ISSUE**

As more states consider establishing new independent tax appeal forums or revising their existing tax appeal systems, it is important to review the proposals to ensure CPAs authorized to practice in the state are able to represent taxpayers before the tribunal.

It is well established that a CPA is permitted to represent a taxpayer before tax authority examination teams, and further, that a CPA is authorized to assist a taxpayer before the Internal Revenue Service (IRS) Office of Appeals (the federal administrative appeals forum). However, it is not clear in all jurisdictions that CPAs may assist taxpayers before the state and local administrative appeals forums.

The American Institute of CPAs (AICPA) supports the ability of CPAs to have the privilege to assist taxpayers before a state and local administrative appeals forum, which is fully consistent with well-established principles of federal administrative practice. Therefore, all jurisdictions should permit it.

#### **BACKGROUND**

In 2015, the Pennsylvania Board of Finance & Revenue (“the Board”) began a project to reorganize itself. As part of the reorganization process, the Board reviewed the rules for representation and the qualified individuals who can represent taxpayers before it as part of the appeals process. The Board initially contemplated restricting qualified individuals to only those who are authorized to practice law. This project was finalized in early 2017, and the proposed restriction was not adopted. The final rulemaking language includes a preamble that states that practice before the Board is determined by the Pennsylvania Supreme Court.

A taxpayer’s tax return, regardless of type, is subject to examination by the relevant federal or state tax authority. In almost all cases, if the reviewing authority challenges a position on a return that could result in the imposition of additional tax, the taxpayer may contest the tax authority’s position. Discussions initially occur between the taxpayer, often with the tax adviser of their choice, and the tax authority’s examination team. If an agreement cannot be reached with the examination team, the taxpayer generally is provided a right to further contest the proposed change before the tax authority’s administrative appeals forum.

Many states and other tax jurisdictions currently permit CPAs to represent a taxpayer before an administrative appeals forum when properly authorized by the taxpayer, e.g., upon filing of a power of attorney, which is similar to the procedure when representing a taxpayer in a federal tax matter administrative appeal.

#### **IMPORTANCE TO CPAs**

As discussed in the [AICPA state tax tribunal position paper](#), state tax tribunals are a good idea for taxpayers, as well as for the broader goal of good tax administration. There are two principal reasons why all states should consider establishing a state tax tribunal for the benefit of taxpayers.

1. Tax tribunals ensure a fair and effective tax administration system for taxpayers. All taxpayers would have a state tax appeal forum for state tax disputes that functions independently from the state tax authority.
2. Tax tribunals, when structured in line with the Model Act, provide taxpayers with greater representation rights and service opportunities.

## **AICPA POSITION**

The AICPA suggests that state CPA societies strongly encourage state and local tax authorities to uniformly recognize the ability of CPAs authorized to practice in the state to represent clients and taxpayers in currently established administrative appeals forums. State CPA societies should work with state-level policymakers to ensure that administrative appeals forums allow CPAs comparable privileges to attorneys when establishing new tax-specific administrative forums.

## **STATE ACTIVITY**

Beyond the Pennsylvania issue that was resolved in 2017, no recent activity has taken place in connection with this matter.

The AICPA maintains extensive resources on the [State Tax Tribunals](#) page on its website including a [position paper](#) and a [list of states](#) with and without state tax tribunals that is updated periodically.

The AICPA's Tax Executive Committee, State and Local Tax Technical Resource Panel, and AICPA State Legislative and Regulatory Affairs team continue to monitor state developments on this topic.

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