

Before the House Committee on Commerce and Consumer Protection

February 25, 2025

HB 2338

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Chair Rep. Sosa, Vice-Chairs Rep. Chaichi, Osborne, Members of the Committee, I am an attorney, enrolled agent, and Oregon Licensed Tax Consultant. I have been a solo practitioner in Oregon since 2016. Before that I was a full-time tax law professor for 23 years. I write in support of the concept and intent of HB 2338, but **I oppose the bill as drafted.**

As a solo practitioner, my ability to serve my community is severely limited. HB 2338 does not go far enough, and in some instances it goes too far.

In general

In general, I support the move to provide more opportunities for Oregonians to become tax return preparers. I applaud the tireless efforts that have gone into the bill we are now discussing. However, as it currently reads, I cannot support it. A 40-hour course plus an examination is almost as much of a barrier to entry as an 80-hour course and an examination. So I doubt this new designation will do much to solve the shortage of seasonal help available. (Of course, as a former law professor, I think I should be allowed to train and supervise my own employees, a privilege currently only afforded to CPAs, not to attorneys).

In addition, the bill as drafted is unclear and in some cases inconsistent with existing law. I offer these observations and technical corrections in the hope that we end up with legislation that is clear and effective.

Drafting issues :

First, there are provisions in the proposed law that do not make sense.

1. Section 5 amends ORS 673.615 to include new subsection (3) stating that a certified tax aide may assist a tax consultant, attorney, or CPA “only under the supervision of a tax consultant” and subject to board-imposed conditions.

As this reads, an attorney or CPA cannot directly supervise a tax aide. Rather, the attorney or CPA would have to employ a tax consultant to do the supervision.

It is unlikely that this is the intent of this provision, as that would not solve the problem of too few licensed tax professionals. In addition, it makes little sense when applied to a tax aide employed by a CPA. Under current law, an employee of a CPA does not need to be licensed at all

This provision could be revised to read:

“A certified tax aide may assist in the preparation of tax returns only under the supervision of a tax consultant or a person described in ORS 673.610(2) or (4) and subject to such conditions and limitations as the board by rule may impose.”

2. Section 5 also amends ORS 673.615 by adding new subsection (5), which provides that a licensed tax consultant, attorney, or CPA may employ and supervise no more than two certified tax aides.

This rule does not make sense as applied to CPAs. Under current law, an employee of a CPA or CPA firm does not need a license, and there is no limit on how many unlicensed preparers a CPA can employ. The proposed restriction would only apply to the new tax aide designation, making it disadvantageous for employees of CPAs to obtain this designation.

Second, the proposed legislation is unclear in some important ways.

1. It is unclear how the two-only rule would apply to a firm of more than one tax professional. Could a firm of, say, four or five tax consultants hire two each? What if the firm is organized as a corporation (in which case an individual owner is not the employer)? Since the proposed legislation provides a restriction on hiring, its details should be in the statute and the Board should not be required to provide the contours of the law.
2. Under Section 9 of the bill, a consultant license can be revoked for “failing to supervise the activities of certified tax aides” but there is no definition of “supervise.” While the proposed statute does empower the Board to establish standards for supervising certified tax aides, more statutory clarity would be preferable in a provision under which a tax consultant can lose their license.
3. There may also arise confusion about how the tax aide designation and the licensed tax preparer designation will fit together. Specifically, will the hours of employment as a tax aide count towards the required 1100 hours for preparers who wish to

become consultants? Is work as a tax aide “employment . . . in a capacity that is . . . equivalent to that of a tax preparer . . .”? This employment should count, and the statute should say so. (See ORS 673.625(3)(a))

I hope that we can solve the ongoing problem of too few tax professionals in this state. Like many, I am at or beyond my capacity but have few options to present to potential clients who have already been turned away by every other firm in town.