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Senate Committee on Finance and Revenue
Written Testimony

SB1510, Amendment 2 : Enrolled Agent Parity proposed legislation

I write in support of the amendment to SB1510, which would exempt enrolled agents and their employees from the Oregon tax preparer licensing requirements. Although I am a member of the National Association of Enrolled Agents, the Oregon Society of Enrolled Agents, the Oregon Association of Tax Consultants, the Oregon Society of Tax Consultants, and the Oregon State Bar, this testimony is offered in my individual capacity as a tax professional with multiple credentials.

I am an attorney, enrolled agent ("EA"), and licensed tax consultant ("LTC") living and working in Oregon. I provide estate planning services, prepare tax returns, and teach continuing education for other tax and legal professionals. For many years, I was a law professor in Minnesota and Delaware, mostly teaching tax courses. When I moved back to Oregon in 2016, I became a licensed attorney here. As an attorney, I do not need an additional license to prepare tax returns or represent tax clients, but I wanted to be sure I had the knowledge deemed useful, so I studied and tested to become an Oregon Licensed Tax Consultant. I had already become an Enrolled Agent for the same reason.

Why we need this legislation

We have a shortage of tax professionals in Oregon. It is very difficult to find employees willing to do tax work at all, let alone willing to take a course and an exam to become licensed just for a part-time or seasonal job. While our Oregon licensing requirements have been shown to result in better tax returns from all sources (even self-prepared), they also lead to a shortage of tax pros. And while I am competent to TEACH any level tax professional, as an attorney, EA, and LTC, I am not allowed to train my own employees in Oregon. So I turn people away all year long and especially at tax time. As a result, I have limited my practice to a number of clients I can manage on my own.

In addition, in recent years the Oregon Board of Tax Practitioners has required out-of-state enrolled agents to become Oregon Licensed Tax Consultants in order to file Oregon tax returns. I have received numerous referrals of clients from competent and knowledgeable tax professionals in other states. I have taken some of these referrals to

help my colleagues and their clients, but I cannot continue to do so. In addition, I don't think I should. I believe strongly that most people are best served by tax pros in their own states; when my own clients move out of Oregon, I tell them to find a local preparer after the transition year.

This proposed legislation would help to ease the pressure on the tax professional community in Oregon and would allow out-of-state taxpayers to continue relying on trusted professionals outside of Oregon.

This exemption for enrolled agents makes logical sense.

Attorneys and CPAs are exempt from Oregon's tax licensing laws but it is not because of their knowledge. Not all CPAs are tax preparers or even tax experts, and most attorneys are not. Most law schools do not require a tax course, and the bar exam in most states does not test tax knowledge. CPAs are somewhat better off, being required to take a tax course or two and show some tax knowledge on the CPA exam. But neither attorneys nor CPAs are required to obtain continuing education in tax. So it is not because of tax knowledge that the Oregon tax licensing laws exempt attorneys and CPAs.

Rather, it is because these professionals are subject to professional codes of conduct which require ethical and competent performance. Enrolled agents also are subject to statutory and regulatory requirements for ethical and competent performance and can be disbarred for incompetent service. Enrolled agents, like CPAs, can even be admitted to the United States Tax Court as non-attorney practitioners. Accordingly, enrolled agents should be exempt from Oregon's tax licensing laws, for the same reasons that CPAs and attorneys are exempt.

Moreover, enrolled agents actually ARE tax professionals. The enrolled agent exams are all about tax law and taxpayer representation, and enrolled agents are required to complete annual continuing education specifically on tax issues. In fact, of the three licensed professions allowed to practice before the IRS (attorneys, CPAs, and EAs), enrolled agents are the ONLY ones required to complete TAX continuing education courses.

I note that our current laws do not require continuing education about Oregon tax issues. That is a separate issue worth consideration, but it is not before us now.

I do hope the Enrolled Agent Parity proposal can be enacted and implemented; this would allow enrolled agents to serve clients in Oregon with a simple registration, and perhaps we would not need to absorb nonresident clients who happen to own property in Oregon. Those nonresidents could be served by competent tax pros in their own locations.

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