

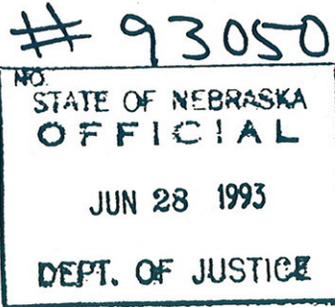


STATE OF NEBRASKA
Office of the Attorney General

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DATE: June 24, 1993

SUBJECT: State Board of Public Accountancy; Procedure for Receipt and Deposit of Fees Received for Renewal of Permits of Certified Public Accountants

REQUESTED BY: Carol M. Lockwood, Chairperson
 Nebraska State Board of Public Accountancy

WRITTEN BY: Don Stenberg, Attorney General
 Fredrick F. Neid, Assistant Attorney General

This is in response to the several questions that have been asked regarding appropriate procedures for receipt and deposit of permit renewal fees received by the Board. All permits of Certified Public Accountants expire on June 30 of each year and are renewed annually for a period of one year by certificate holders and registrants in good standing. To be in good standing, a permit holder shall have completed continuing education credits and other professional development criteria established by the Board. You have indicated that the greater volume of permit renewals, accompanied by renewal fee payments, are received during the months of June and July.

Your questions in part are due to a recommendation of the Auditor of Public Accounts that "money be immediately deposited." For the most part, your questions are related to good business practices and prudent management of funds and monies that are received by the Board. As a matter of sound business practice, funds coming to the Board for payment of application, registration, renewal fees and for any other reason should be promptly negotiated and deposited.

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The first specific question asked is "[I]f our office would receipt the money for deposit before determining the qualification of each of the individuals involved, would that in any way infer that the qualification has been met?" We do not believe that receipt for and deposit of permit renewal fees in and of itself constitutes qualification for and renewal of a permit. The actual renewal is evidenced by or formalized in some other document or communication that states that the holder's permit has been renewed for the annual period. To resolve any doubt or uncertainty, the receipt should include appropriate indicia that the receipt does not constitute renewal of the permit.

The second question, "can a permit holder retaliate by indicating that we accepted his money; therefore, we must issue a permit?", is similar to the first question. The Board is not required to issue a permit due to deposit of the renewal fee amount. A permit for the practice of public accountancy by a certified public accountant is not an article of property or commodity that is offered for sale and may be purchased. Rather, the fee is assessed for annual renewal of the permit for certificate-holders and registrants in good standing who have complied with the requirements for the issuance of a permit. See Neb. Rev. Stat. § 1-136 (1991).

You also indicate that you would like the opinion of the Attorney General "regarding any possible problem in that area." Generally, we do not perceive any problems because of following prudent and sound business procedures by negotiating or depositing fee payments in an expeditious manner and in receipting for those payments. Rather, problems should be minimized.

Most importantly, it is statutorily required that fees be immediately deposited. Neb. Rev. Stat. § 1-111 (1991) in pertinent part states:

All fees collected under the provisions of the Public Accountancy Act of 1957 shall be paid by the secretary of the Board, as collected, into the state treasury, and the State Treasurer shall enter and carry on his records all such collections in a separate fund to be designated as the Public Accountants Fund. . . .

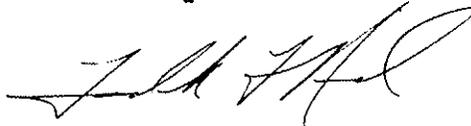
(Emphasis added).

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For these reasons, it is our opinion that fee amounts received should be promptly negotiated and deposited and that practice, in and of itself, does not constitute renewal of a permit for the practice of public accountancy.

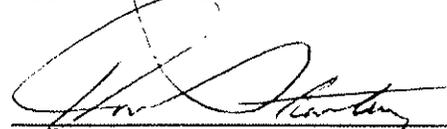
Sincerely yours,

DON STENBERG
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Approved By:



Attorney General

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