



STANDARDS FOR CERTIFICATION
OF LAWYERS SPECIALIZING IN
TAX LAW
(Revised 5/12/99)

Pursuant to the authority vested in the Arizona Board of Legal Specialization (“the BLS”) by the Board of Governors of the State Bar of Arizona, the BLS prescribes the following standards and requirements for certification of lawyers specializing in tax law in accordance with the Rules and Regulations of the Arizona Board of Legal Specialization established by the Board of Governors.

No provision herein contained shall in any way limit the right of a lawyer certified as specializing in tax law to practice law in all fields or to act as counsel in every type of legal matter. Any lawyer, alone or in association with any other lawyer, shall have the right to practice in all fields of law, even though the applicant is certified as specializing in tax law.

No lawyer shall be required to be certified as specializing in tax law before the applicant can practice law in the field of tax law or act as counsel in any particular type of tax matter. Any lawyer, alone or in association with any other lawyer, shall have the right to practice in the fields of tax law and to act as counsel in every type of tax case, even if the lawyer is not certified as specializing in tax law.

The Board of Legal Specialization is committed to promoting racial, ethnic, and gender diversity, and to assuring the rights of the disabled within all Board of Legal Specialization programs, committees, and activities, and will periodically monitor all existing programs, committees, and activities for compliance with the goal of diversity and with assurance of the rights of the disabled in every aspect of the BLS.

I. GENERAL REQUIREMENTS.

- A. Active Member of State Bar.** An applicant for certification as a lawyer specializing in tax law shall be an active member in good standing of the State Bar of Arizona.
- B. Application.** An applicant shall be required to complete an application in a form prescribed by the BLS, to furnish such additional and supplemental information as may be required by the BLS or the Taxation Advisory Commission, and to comply with all applicable rules and regulations of the Arizona Board of Legal Specialization.
- C. Recommendation by Taxation Advisory Commission.** An applicant shall be recommended to the BLS for certification as a lawyer specializing in tax law when the applicant is found to have complied with the applicable standards by not less than five members of the Taxation Advisory Commission.
- D. Expiration of Certification.** Certification shall expire five years after the date thereon; provided, however, that if timely application for renewal of certification is made as provided under the Rules and Regulations of the Arizona Board of Legal Specialization, the certification shall remain in effect until the BLS has acted upon the renewal application. Renewal of certification shall be required every five years.

Standards for re-certification shall be in substantial compliance with the standards for initial certification except in the case of re-certification where there has been no break in certification, formal examination shall not be required.

- E. Revocation of Certification.** The BLS may revoke the certification of a lawyer recognized as specializing in tax law for any reason specified in the Rules and Regulations, including but not limited to advice from the Tax Law Advisory Commission that the certified lawyer no longer meets the criteria for substantial involvement in the field of tax law as set forth in Section II(B) hereof.
- F. Fees.** Every applicant shall pay such application and testing fees as may be prescribed by the BLS.

II. STANDARDS FOR CERTIFICATION.

- A. Required Period of Law Practice.** An applicant shall have been admitted for a minimum of five years, of

which a minimum of two (2) years immediately preceding the application must have been in practice of law within the state of Arizona, and after such admission shall have engaged in legal service (as defined in Section I of the Rules and Regulations of the Arizona Board of Legal Specialization) on an annual basis equivalent to at least 50% of a full-time practice.

- B. Substantial Involvement in Tax Law.** An applicant shall make a satisfactory showing as determined by the BLS in accordance with these standards and the Rules and Regulations of the Arizona Board of Legal Specialization, based upon advice of the Taxation Advisory Commission, of substantial involvement in the field of tax law during at least four of the preceding six years, including the year immediately preceding his or her application.

For purposes hereof, “substantial involvement in the field of tax law” shall mean the engagement by the applicant in legal service (as defined in Section I of the Rules and Regulations of the Board of Legal Specialization) equivalent to at least 50% of a full-time practice, in the course of which the lawyer has annually devoted approximately one-half of a full-time practice to matters in which issues of tax law are significant factors, including the following:

- (1) Rendition of advice as to the tax consequences of transactions such as the formation, operation, liquidation, and reorganization of business organizations, and the acquisition, disposition, management, and operation of business interests and assets;
- (2) Rendition of advice as to the tax consequences of personal transactions and arrangements, including analysis of tax shelter investments and tax planning of estates and trusts;
- (3) Advice relating to and establishment of employee benefit plans, including pension, profit-sharing, stock bonus, stock option and other deferred compensation programs;
- (4) Representation in connection with civil or criminal tax controversies or liabilities, including income, estate and gift tax, and excise tax matters; or
- (5) Teaching of tax law at any law school accredited by the American Bar Association.

Anything herein to the contrary notwithstanding, full-time attendance in a graduate course of study which results in the applicant obtaining a degree in taxation shall constitute two years of both “legal service” under Section 11(A) and “substantial involvement in the field of tax law” under Section 11(B) hereof.

In determining whether an applicant has demonstrated substantial involvement in the field of tax law, the BLS may, upon advice of the Taxation Advisory Commission, take into consideration such additional factors as an applicant’s special educational experience in tax law, including concentration of continuing legal education courses in the area of taxation within the five years immediately preceding the application, authorship of articles relating to tax law, participation as a faculty member in programs of continuing legal education in tax law, the teaching of tax law, and qualification or experience in the field of tax law of unique or special character.

An applicant shall demonstrate substantial involvement in the field of tax law by furnishing the BLS with information regarding the nature of the legal services in which the applicant has been engaged and identifying the types of issues of tax law with which the applicant has dealt and the frequency of the applicant’s involvement therewith. Such demonstration shall be made initially through completion by the applicant of a form of questionnaire approved by the BLS, but written or oral supplementation may be required.

- C. Competence and Integrity.** An applicant must demonstrate honesty, integrity, professionalism as defined by the Lawyer’s Creed of Professionalism of the State Bar of Arizona, and a high degree of competence in the practice of tax law. The required degree of competence is substantially higher than that possessed by a general practitioner who regularly handles a tax matter. For purposes hereof, a “high degree of competence” shall meet the following standards:

1. That the applicant demonstrate a substantially complete knowledge of substantive law and rules of practice, procedure, evidence and ethics pertaining to tax law;
2. That the applicant demonstrate a high degree of skill, thoroughness, preparation, effectiveness,

professionalism and judgment in the field of tax law; and

3. That the applicant satisfactorily complete a written explanation in the topics specified in paragraphs (1) and (2) above. This examination shall be given at least once each calendar year at a date, time and location determined by the Tax Law Advisory Commission. The test and its grading criteria shall be formulated at the direction of the Advisory Commission and approved by the Board of Legal Specialization.
4. That the application demonstrate a substantially complete knowledge of and a high degree of skill in the use of alternative dispute resolution as it applies in the field.

Legal competence is measured by the extent to which an attorney (1) is specifically knowledgeable about the fields of law in which the applicant practices, (2) performs the techniques of such practice with skill, (3) manages such practice efficiently, (4) identifies issues beyond his or her competence relevant to the matter undertaken, bringing these to the client's attention, and (5) properly prepares and carries through the matter undertaken.

- D. References.** With each application, the applicant shall submit the names of at least five Arizona attorneys or professionals who practice in the field, at least two of whom must be attorneys, or judges before whom the applicant has appeared, familiar with the applicant's practice, and not including current partners or associates. The Advisory Commission will select at least five additional Arizona lawyers, judges, or qualified professionals as references from cases/matters/projects submitted by the applicant to demonstrate substantial involvement. The references will be requested to provide written comments concerning the applicant not only on such specific topics as knowledge, skill, thoroughness, preparation, effectiveness, and judgment, but also concerning the applicant's ethics and professionalism.

Names of applicants shall be published in a State Bar of Arizona publication, providing an opportunity for comment, at least 30 days before consideration of applications by the Advisory Commission. Reference names supplied by the applicant shall not include members of the Board of Legal Specialization or Tax Law Advisory Commission. The Tax Law Advisory Commission may also consult other sources. Documentation of all matters and comments considered by the Advisory Commission shall be contained in the applicant's file.

- E. Continuing Legal Education Requirements.** Continuing legal education requirements for attorneys certified as tax law specialists shall be 12 hours per year in one or more seminar of advanced level programming, concentrated in tax issues, consisting of 12 hours of substantive CLE activities in tax law and 3 hours in professional responsibility. Credit for other educational activities may be granted by the BLS as specified in the Rules and Regulations, Section VIII.B.

III. STANDARDS FOR RE-CERTIFICATION.

For the purposes of re-certification, the term "substantial involvement" shall mean engagement by the applicant in legal service equivalent to at least 50% of a full-time practice, in the course of which the lawyer has annually devoted at least one-half of a full-time practice to matters in which issues of tax law are significant factors. These services shall be detailed on an application form, showing the nature of the legal services in which the attorney has been engaged in the past five years, and identifying the types of issues of tax law with the applicant has dealt and the frequency of involvement therewith. Formal written examination for re-certification, where there has been no break in certification, shall not be required.