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June 9, 2015

Jacqueline A. Cook, Chairperson
Board of Finance and Revenue
Riverfront Office Center
1101 South Front Street, Suite 400
Harrisburg, PA 17104-2539
Attention: Public Comment

Re: Comments and Suggestions Concerning Proposed Rulemaking
61 Pa. Code Chapters 701-703

Dear Ms. Cook:

The Pennsylvania Bar Association (the "PBA" or "Association"), upon the recommendation of its Tax Law Section respectfully submits the following comments and suggestions regarding the Proposed Rulemaking published by the Board of Finance and Revenue (the "Board") in the Pennsylvania Bulletin dated May 16, 2015.

§ 702.1. Scope.

§ 702.1(b) provides that "[t]his chapter supersedes 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure)." The General Rules of Administrative Practice and Procedure do not apply to proceedings before the Board of Finance and Revenue. See 2 Pa.C.S. § 501(b). The PBA therefore suggests that § 701.1(b) be revised to read: "1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure) does not apply to proceedings before the Board," and that references to the "supersession" of certain provisions of the General Rules of Administrative Practice and Procedure (the "Rules") throughout the remainder of the rulemaking be deleted or revised to indicate that the referenced provisions of the Rules are "not applicable."

§ 702.4. Filing Generally.

The second sentence of § 702.4(c) provides that "[t]he petitioner accepts the risk that delay, disruption or interruption of a document filed with the Board by electronic delivery may cause the document to not be properly or timely filed." The Association proposes that this sentence be removed because it would penalize petitioners for circumstances beyond their control. If a petitioner timely submits a petition to the Board by electronic means, and there is a problem with the delivery to the Board, the PBA believes the petition should be considered to be timely filed if the petitioner can establish that the document was timely submitted by the petitioner.

§ 702.21. Representation.

Subsection (b) provides that "[a]ppearances in proceedings before the Board may be by the petitioner or by an attorney, accountant or other representative provided the representation does not constitute the unauthorized practice of law as administered by the Pennsylvania Supreme Court." This language simply recites the applicable statutory language at 72 P.S. § 9704(d.1).

The current regulations regarding representation in proceedings before the Board provide as follows: "Only an attorney at law representing any petitioner or other applicant in any proceeding before the Board, or an applicant acting in his own behalf, shall be permitted to raise any legal question in any petition or application filed with the Board or to argue or discuss any legal questions at a hearing before said Board." See 61 Pa. Code § 701.6(b). Since this section will be deleted under the proposed rulemaking, the PBA suggests that the Board further clarify, by way of example, its position regarding the types of arguments and/or activities that may or may not be raised or conducted by non-attorney practitioners before the Board.

Not all tax petitions filed with the Board involve a legal issue. Some petitions may be limited to less complicated non-legal issues, such as the correction of errors made by the Department of Revenue or the submission of additional factual information or evidence that was not made available to the Department prior to the issuance of a tax assessment. However, many petitions filed by taxpayers who are represented by paid representatives involve the interpretation of statutes and court decisions and the application of legal principles to the facts in a given case.

The legal issues raised before the Board range from very straightforward arguments to very complicated statutory and constitutional arguments. While the Board historically has not decided appeals on constitutional issues, the Commonwealth Court has ruled that some constitutional issues must be presented to the Board or those issues are waived in any subsequent court proceedings. See, e.g., *EUR Systems, Inc. v. Commonwealth*, 965 A.2d 319 (Pa. Cmwlth. 2009), *aff'd per curiam*, 991 A.2d 307 (Pa. 2010). Some generic examples of legal issues commonly raised in tax petitions filed with the Board include:

- (1) Applying a statutory imposition or exemption provision, or a regulation, to a particular set of facts where the statute or regulation does not refer specifically to the facts as at issue in the case;
- (2) Arguing for application of one statutory provision or regulatory provision over another provision, on the basis that one applies more appropriately to the facts than the other;
- (3) Construing the meaning of statutory terms when the statute itself does not define them. This may involve examination of the legislative

history, the use of the same or similar terms in other statutes and whether such use properly suggests the meaning in the context of the particular tax at issue, the examination of cases construing similar provisions, etc.;

(4) Examining the decisions of Pennsylvania appellate courts construing tax statutes and arguing by analogy for a certain result on the facts of a specific case;

(5) Looking to principles of real estate law, public utility law, the UCC, etc. for assistance in applying tax law in cases with facts implicating those legal fields;

(6) Analyzing a federal statute, e.g., Public Law 86-272, which limits the rights of states to impose taxes on interstate commerce, interpreting court decisions applying that statute and arguing for a particular result on specific facts;

(7) Analyzing the state and federal court decisions applying Commerce Clause and substantive Due Process limitations to state taxes and arguing the application of principles drawn from such cases to particular facts; and

(8) Analyzing state and federal court decisions applying the Pennsylvania Constitution's Uniformity Clause and the federal Equal Protection Clause in tax cases, and arguing for a particular result on the facts of a specific case.

In addition to the scenarios set forth above, there is a question as to whether a non-attorney representative may properly represent a taxpayer in advocating or negotiating a compromise agreement on behalf of a taxpayer. By Resolution dated March 14, 2012, the Unauthorized Practice of Law Committee of the PBA issued the attached Resolution Opposing Non-attorney Representation in Advocating or Making Compromises on behalf of Petitioners before the Pennsylvania Department of Revenue Board of Appeals. The Resolution, which was unanimously approved by the PBA's Board of Governors on May 9, 2012 and by the PBA's House of Delegates on May 11, 2012, concluded that it was "the OPINION of the Committee that only an attorney at law duly licensed in the Commonwealth of Pennsylvania should be permitted to represent or advocate for a Petitioner before the DOR Board of Appeals to the extent such representation or advocacy raises or makes a legal argument and/or involves the process of negotiating, proposing and/or entering into a compromise on behalf of a Petitioner at any hearing or procedure before the DOR Board of Appeals" and resolved that the "Pennsylvania Bar Association should urge the Secretary of Revenue of the Commonwealth of Pennsylvania to discontinue any such practice" (of allowing non-attorneys to present and negotiate compromise offers).

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At the time the above Resolution was issued, the Board of Finance and Revenue did not have statutory authority to compromise tax appeals. Now that the Board does have such authority, the same issue arises with respect to the negotiation of compromise agreements regarding tax appeals pending before the Board of Finance and Revenue. Taxpayers with cases that involve only the correction of errors or "black and white" issues would have no reason to compromise their tax liabilities. Accordingly, in most cases in which a taxpayer seeks a compromise at the Board, it is likely that the compromise will be based on an evaluation of one or more legal issues.

The PBA believes that additional guidance regarding the scope of what non-attorneys may argue in a tax appeal before the Board, and whether non-attorneys may legally engage in settlement negotiations involving tax appeals pending before the Board, would be beneficial to all categories of representatives practicing before the Board. The existing uncertainty concerning these issues is discussed in the attached article which was published in "State Tax Today" on May 20, 2015.

§ 703.3. Board acknowledgement.

The Association proposes that the acknowledgement issued by the Board include the staff member assigned to handle the petition in addition to the deadlines for subsequent submissions. If it is not feasible for the Board to include that information in the acknowledgement, then the Association proposes that a separate notice be issued to advise the petitioner or representative of the staff member assigned to handle the appeal.

§ 703.6. Consolidation.

The Association suggests that it would be beneficial to permit, in an appropriate situation, the consolidation of petitions involving common questions of law or fact for multiple petitioners, as well as for a single petitioner, with the consent of the petitioners. Accordingly, the Association proposes that the first sentence of § 703.6(a) be revised as follows: "The Board may consolidate petitions, issues or proceedings involving a common question of law or fact for the same petitioner or, with the consent of the petitioners, for multiple petitioners."

§ 703.7. Timeliness of submissions.

The Association suggests that the standard 60 day deadline for the submission of additional evidence is too restrictive because, in a significant number of cases, a petitioner does not immediately retain a representative or is otherwise unable to obtain all of the additional information with the 60-day period after the petition is filed.

The Association also proposes that the Board should have discretion to consider evidence submitted after the prescribed deadlines. Therefore, it is proposed that the third sentence

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of this section be revised as follows: "Evidence filed after the prescribed deadlines may ~~not~~ be reviewed ~~by the~~ at the Board's discretion."

§ 703.11. Compromise generally.

In order to be more consistent with current practice, to permit the submission of compromise proposals by the Department of Revenue, and to further facilitate the negotiation of compromise offers in appropriate cases, the PBA proposes that subsections (d) and (e) be deleted and that subsection (b) be revised as follows: A party or their representative may ~~petitioner offering a compromise shall~~ submit to the Board and to the other party ~~Department~~ a completed Board of Finance and Revenue Request for Compromise Form, which is posted on the Board's web site, with a petition or ~~within 30 days from the petition filing date~~ at any time prior to decision." If there is a need to postpone a prehearing conference or a hearing to allow additional time for compromise negotiations, the parties can advise the Board or its staff accordingly.

§ 703.45. Appeal rights.

The PBA recommends that the word "original" be inserted before the word "order" in the second sentence of proposed § 703.45 to clarify that the appeal period starts to run from the date of the original Board order, and not from the date of the Board's denial of the request for reconsideration, in cases where a request for reconsideration is denied.

Other Comments/Suggestions.

The Association suggests that the Board consider adding provisions to the proposed regulations to address procedural issues relating to the handling of petitions that are placed into "pending litigation" status as authorized by 72 P.S. § 9704(f)(2). For example, the proposed regulations should address the procedure for consideration or compromise of such cases after the "lead" case has been settled or otherwise resolved.

The PBA appreciates the Board's consideration of its comments before proceeding to finalize the proposed regulations at 61 Pa. Code Chapters 701-703.

Please contact the undersigned with any questions regarding the above comments.

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Very truly yours,

PENNSYLVANIA BAR ASSOCIATION

By William H Pugh V
William H Pugh V, President

Sharon R. Paxton
Sharon Paxton, Chair, Tax Law Section

cc: Independent Regulatory Review Commission
Chairperson, House Committee on Finance
Chairperson, Senate Committee on Finance

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State Tax Today

MAY 20, 2015


Practice of Law in Pennsylvania Tax Appeals: Where's the Line?

David Sawyer

Summary by **taxanalysts**

Long-standing uncertainty in Pennsylvania regarding the scope of what CPAs can argue on behalf of taxpayers and whether CPAs can legally engage in settlement negotiations before the state's administrative tax review boards is back in focus as the comment period for the proposed governing regulations of the Board of Finance and Revenue winds down.

Full Text Published by **taxanalysts**

Long-standing uncertainty in Pennsylvania regarding the scope of what CPAs can argue on behalf of taxpayers and whether CPAs are legally able to engage in settlement negotiations before the state's administrative tax review boards is back in focus as the comment period for the proposed governing regulations  of the Board of Finance and Revenue (BFR) winds down.

The question of who can represent taxpayers in Pennsylvania's administrative tax appeals process has been open since 2011. The comment period for the BFR's proposed regulations is scheduled to end on June 15.

While it is clear in the regulations controlling both of Pennsylvania's administrative tax review boards that taxpayers are not limited to representation by duly licensed attorneys, the threshold of when a CPA makes a legal argument or engages in the practice of law may be more stricter than is currently enforced.

Sam Denisco of the Pennsylvania Chamber of Business and Industry acknowledged that the Pennsylvania bar has concerns about the unauthorized practice of law before the two administrative tribunals.

"In Pennsylvania, by law, a tax practitioner who is not a licensed attorney can represent a taxpayer in a dispute before the Board of Appeals [BOA] or the Board of Finance and Revenue. From what I gather, the Bar, relying on case law, is saying that entering into this new compromise authority with the BOA and BFR is the practice of law, and therefore you need to be a licensed attorney to do so," Denisco said. "I don't know if that is getting traction," he added.

Pennsylvania's Administrative Tax Appeals Process

In Pennsylvania a taxpayer has the right to file a petition with the Department of Revenue's Board of Appeals to appeal a tax assessment or seek a tax refund within 90 days of an assessment. The petition must include the taxpayer's name and contact information and a "detailed statement in separate numbered paragraphs of the facts and grounds relied upon." (61 Pa. Code 7.14.)

The DOR does not require a taxpayer bringing a case before the BOA to have representation and does not limit who can represent a taxpayer as long as the representative has the taxpayer's written authorization and has "the requisite technical education, training, or experience." However, the department's regulations in 61 Pa. Code 7.15(2)(ii) also provide that legal arguments may only be raised and argued by either the taxpayer or an attorney representing that taxpayer.

If a taxpayer is not satisfied with the BOA's decision, it may file an appeal with the BFR within 90 days. During both the BOA appeals process and the BFR appeals process, taxpayers have the right to compromise and settle their disputed tax liability with the department.

The BOA's compromise authority is not contained in the board's regulations but was authorized by Miscellaneous Tax Bulletin 2011-02 [\[1\]](#) in November 2011, under which taxpayers can file a request for compromise [\[2\]](#) before the board renders a final decision. A taxpayer that successfully enters into a compromise settlement with the department and receives a compromise order from the BOA must waive its rights to appeal the compromise order, pursue a refund of any money paid as part of the compromise order, or "file any petition or appeal that raises the same issues for the tax period(s) and liability(ies) addressed in the compromise order."

The BFR's compromise authority was authorized by statute in Act 52 of 2013 [\[3\]](#). The board may issue a settlement order with the agreement of both the department and the taxpayer. A petition for compromise must be submitted to the BFR within 30 days of a taxpayer filing a petition for appeal. Taxpayers entering into a settlement with the BFR must waive the same rights they would waive in settlement with the BOA. (Prior coverage [\[4\]](#).)

The BFR's interim operating rules [\[5\]](#) say a taxpayer is not limited to an attorney or CPA for representation, "provided the representation does not constitute the unauthorized practice of law as administered by the Pennsylvania Supreme Court."

Although the chamber has not taken a position either way, "we do like the compromise authority," Denisco said. "We feel that is a much needed tool that the administrative agencies need to provide for efficient, swift resolution to disputes, but we don't have a position as to who


shall represent the taxpayer -- whether it be a licensed attorney or a tax practitioner."

At What Point Must a Representative Be an Attorney?

Both the BOA and BFR expressly provide in their regulations that a taxpayer representative need not be a licensed attorney, with the caveat that only an attorney may make a legal argument or undertake any representation that would constitute the practice of law. Neither expressly explains what constitutes a legal argument or unauthorized practice of law.

In a November 18, 2011, client alert, Reed Smith LLP said that because only attorneys or unrepresented taxpayers are allowed to raise legal arguments before the BOA, a request for compromise based on doubt as to liability would presumably also require attorney representation if it involves a legal issue.

However, a November 23, 2011, Grant Thornton state and local tax alert said that until the department issued its tax bulletin, a settlement was only possible when an appeal moved to the Pennsylvania Commonwealth Court, meaning that it was an option available only to taxpayers with attorney representation. "The new procedure also extends the ability for settlement to taxpayers represented by non-legal practitioners at the BOA level, including certified public accountants," the alert said.

The Pennsylvania Bar Association's Unauthorized Practice of Law Committee agreed with Reed Smith's position, issuing on March 14, 2012, a resolution  opposing non-attorney representation for taxpayers entering into compromises or advocating before the BOA. In its resolution, the committee said that the DOR's regulations stipulating that representation by an attorney is required only to make legal arguments before the BOA were underinclusive in defining when an attorney is required.

"[T]he Committee has determined that representing or advocating for a Petitioner before the DOR Board of Appeals in not only making 'a legal argument' but also in negotiating, proposing and/or entering into a compromise on behalf of a Petitioner requires the same abstract understanding of legal principles and refined skill in their concrete application," the resolution said.

The DOR has not adjusted its regulations to adhere to the committee's concerns.

Elizabeth Brassell of the DOR told Tax Analysts that the department considers a legal argument to be "[a]rguing that case law, Constitution, statutes, regulations, or other legal documents apply or do not apply in the taxpayer's case." She added that non-attorney representatives are limited to arguing factual issues, but she would not explain what the department considers to be a factual issue.

Brassell also said non-attorney representatives have represented taxpayers in the BOA's compromise process. Whether this representation would constitute the practice of law is "not within the expertise of the department," she added.

Practice of Law in Pennsylvania

The BFR defers to the state supreme court to determine what constitutes the practice of law.

Nonlicensed attorneys are barred from practicing before the board.

Pennsylvania courts have issued opinions dating back to the 1930s on what constitutes the practice of law for administrative tribunals and negotiations, though the state supreme court has stated that defining the practice of law is so broad that the court has not attempted to provide an all-encompassing statement of what actions constitute it.

The general rule in Pennsylvania is that a person is engaged in the practice of law "whenever and wherever the services require legal knowledge, training, skill, and ability beyond those possessed by the average man." (*In re Arthur*, 15 B.R. 541 (Bankr. E.D. Pa. 1981).)

The state supreme court determined in *Shortz v. Farrell*, 193 A. 20 (Pa. 1937), that representing a taxpayer at a hearing before an administrative workers' compensation board constitutes the practice of law.

Pennsylvania courts also determined in *Blair v. Motor Carriers Serv. Bureau Inc.*, 40 Pa. D. & C. 413 (Pa. Com. Pl., 1939), that appearing and representing clients before the state's utility commission -- though the commission is only quasi-judicial and not a court of record -- constituted the practice of law because "every order of the commission must be in conformity with law, and, among other things, it must appear from the record that the order was supported by sufficient legal, competent evidence."

Pennsylvania courts also said in both *In re Campanella*, 207 B.R. 435 (Bankr. E.D. Pa., 1997), and *In re Arthur* that the preparation of pleadings and other legal documents constitutes the practice of law. In the *Shortz* case, the court found preparation of the pleadings involved did not constitute the practice of law, but the court in *Blair* determined that the pleadings involved required "the consideration of complicated legal problems and require[d] familiarity not only with statutory legislation on the subject, but also with judicial decisions interpreting the statutes."

Under the courts' rulings in *Shortz* and *Blair*, it could be argued that anytime a taxpayer representative assists in putting together a petition to the BOA or BFR that applies legal principles to facts to dispute an assessment or tax liability, the representative is engaged in the practice of law. That, along with representing the taxpayer and making arguments before either board, could constitute the unauthorized practice of law in Pennsylvania.

In *Dauphin County Bar Assoc. v. Mazzacaro*, 351 A.2d 229 (Pa. 1976), the state supreme court determined that the act of negotiating and settling cases is the practice of law. "While the objective valuation of damages may in uncomplicated cases be accomplished by a skilled lay judgment, an assessment of the extent to which that valuation should be compromised in settlement negotiations cannot," the court said.

The supreme court continued that "even when liability is not technically 'contested,' an assessment of the likelihood that liability can be established in a court of law is a crucial factor in weighing the strength of one's bargaining position." Thus, it said, a negotiator cannot know what kind of settlement can be exacted "unless he can probe the degree of unwillingness of the other side to go to court." That assessment involves an understanding and application of abstract legal principles to the facts of any claim, the court said. This, the court said, constitutes the practice of law.

One practitioner noted that most of the appeals that come before both boards can be resolved based on evidentiary or other fact-based issues that were not proved during audit, such as having sales tax exemption certificates or a credit that applies to income taxes paid to another jurisdiction. It makes sense to have an accountant or other consultant assist a taxpayer in resolving evidentiary issues, the practitioner said.

Collecting resale certificates and gathering documents regarding taxes paid in other states are not the type of legal analysis most people think of as the practice of law, a practitioner said. However, working through decades of case law to present on a subjective statutory exemption or arguing that a statute is unconstitutional are things that are outside of the typical layperson's skill set, the practitioner added.

When a dispute involves a true legal question, such as challenging the constitutionality of a statute or going through a complex issue of statutory interpretation, there is an outstanding question for both boards regarding whether the taxpayer's representative must be a lawyer, a practitioner said.

Other practitioners noted that while some accountants can handle some of those legal issues, the question is whether making legal arguments before the boards constitutes the practice of law. Although the boards' rules say that arguing legal points in the practice of law is restricted to attorneys, accountants sometimes do make these arguments to the board on behalf of a taxpayer, a practitioner said.

Taxpayers need to include in their administrative appeal petition all points of law and legal issues that they want to raise. If a taxpayer's representative isn't comfortable arguing a nebulous area of law and instead decides to include only something more factual, that issue cannot be raised if the taxpayer decides to appeal to the state's Commonwealth Court because it was not preserved during the administrative appeals, the practitioner said.

A taxpayer's appeal to the Commonwealth Court may be a *de novo* review, but taxpayers are permitted to raise only the legal issues that were preserved at the lower administrative boards, and several practitioners said that is the most important issue outside the compromise authority.

Some practitioners argue that the clearer question is that of who can engage in the boards' compromise settlement programs, which they say are clearly settlement negotiations that the state courts have determined to constitute the practice of law. Though nonlicensed attorney representatives do negotiate settlements before the boards, the state court decisions appear to consider this as engaging in the unauthorized practice of law. "The compromising of legal rights crosses the line," one practitioner noted.

However, negotiating and compromising disputed tax settlements through either compromise program could more clearly be considered the practice of law. To determine whether to waive all rights to appeal and to pursue litigation at the state's court system, as stated in *Mazzacaro*, requires an understanding of the law at issue, as well as the ability to assess each side's legal arguments and positions and to apply abstract legal principles to the facts of a taxpayer's situation.

Arguing law versus facts is an unresolved gray area that has not been determined by any court, a practitioner said, despite the need to preserve taxpayers' legal arguments at each level of administrative appeal. However, the practitioner added, exercising compromise authority is clearly practicing law.

Failing to preserve arguments for judicial appeal and the inadvertent practice of law by using the boards' compromise authority put non-attorney practitioners at risk of engaging in the unauthorized practice of law when they negotiate settlements, and possibly when they advocate for a client's position in a hearing. In Pennsylvania that unauthorized practice is a misdemeanor criminal offense.

Tax Analysts Information

Jurisdiction: Pennsylvania

Subject Areas: Practice and procedure
Legislation and lawmaking
Litigation and appeals
Settlements and dispute resolution
Tax policy
Professional responsibility

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Pennsylvania Bar Association
Unauthorized Practice of Law Committee

**Resolution Opposing Non-attorney Representation in
Advocating or Making Compromises on behalf of Petitioners
Before the Pennsylvania Department of Revenue Board of Appeals**

Whereas, the Secretary of Revenue of the Commonwealth of Pennsylvania Department of Revenue (DOR) has proposed amended Regulations Regarding Representation Before the DOR Board of Appeals on February 28, 2012 which proposed regulations restate prior regulations at Section 7.3 Petitions and Section 7.5 Board Practice and Procedure concerning representation before the DOR Board of Appeals affecting tax issues and also Small Games of Chance as follows:

“Section 7.13 “Petitions””

E. “Contents””

1. “General””

(iii) “The petitioners’ signature. If the petitioner is a corporation or association, an officer of the corporation or association shall sign the petition. If an authorized representative files the petition for the petitioner, then the authorized representative may sign the petition on behalf of the petitioner.

“Section 7.14 “Board Practice and Procedure””

A. “General Rules””

2. “Representation””

(i) an individual may appear on his own behalf or be represented by a person possessing the requisite technical education, training or experience. There is no requirement that a petitioner be represented before the Board by an attorney or certified public accountant. A petitioner’s representative shall be authorized in writing to represent the petitioner. A letter signed by the petitioner, or a listing as a representative on the face of the petition signed by the petitioner will be accepted as authorization for the representation. An authorization continues until the Board is notified in writing by the petitioner that the authorization is rescinded.

(ii) only an attorney at law representing a petitioner, or the petitioner acting without representation before the Board, shall be permitted to raise or make a legal argument at a hearing before the Board.”

Whereas, the Committee has determined that representing or advocating for a Petitioner before the DOR Board of Appeals in not only making "a legal argument" but also in negotiating, proposing and/or entering into a compromise on behalf of a Petitioner requires the same abstract understanding of legal principles and refined skill in their concrete application (Dauphin County Bar Association v. Mazzacaro, 465 Pa. 545; 351 A.2d 229 (1976)) which has been determined to

be the Practice of Law thus requiring that such activities only be engaged in by a person duly licensed as an attorney at law in the Commonwealth of Pennsylvania; and

Whereas, it has come to the attention of the PBA Unauthorized Practice of Law Committee that Petitioner representation in negotiating or making a compromise on behalf of a Petitioner before the DOR Board of Appeals is not viewed as a matter limited only to attorney representation as set forth in present Section 7.5 and Proposed Regulation 7.14 A.2. (ii);

Whereas, it is the OPINION of the Committee that only an attorney at law duly licensed in the Commonwealth of Pennsylvania should be permitted to represent or advocate for a Petitioner before the DOR Board of Appeals to the extent such representation or advocacy raises or makes a legal argument and/or involves the process of negotiating, proposing and/or entering into a compromise on behalf of a Petitioner at any hearing or procedure before the DOR Board of Appeals.

Now therefore, be it Resolved, that Pennsylvania Bar Association should urge the Secretary of Revenue of the Commonwealth of Pennsylvania to discontinue any such practice.

Joseph Patrick O'Brien, Co-Chair
William F. Hoffmeyer, Co-Chair

March 14, 2012

**Unanimously approved by the Board of Governors on May 9, 2012*

***Unanimously approved by the House of Delegates on May 11, 2012*