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June 11, 2015

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Jacqueline A. Cook, Esq.
 Chief, Board of Finance and Revenue
 Treasury Department
 1101 South Front Street, Suite 400
 Harrisburg, PA 17104-2539

Dear Ms. Cook:

I write to personally comment on the Board's proposed regulations, published in the May 16, 2015, Pennsylvania Bulletin. I have had input into the comments submitted by PICPA and the Pennsylvania Chamber and by the PBA Tax Section and wholeheartedly join in those comments. However, I write separately to emphasize the necessity of additional guidance concerning the unauthorized practice of law prohibition in Section 702.21.

As you know, I have been involved with Pennsylvania tax appeals for many years. It seems to me that there is no question that representation of taxpayers in these matters often requires the presentation of legal arguments and urging one interpretation of the law over another. Many appeals require the application of case law to the facts of the instant case and often require the parsing of cases potentially pro and con. Statutory interpretation arguments abound in these cases and constitutional principles are asserted frequently. Although infrequently granted, requests invoking the Board's equitable powers also are frequently made and must be analyzed under the court cases granting and denying equitable remedies. No citation should be required to establish that presenting such cases involves the practice of law.

Furthermore, the case law clearly treats the negotiation of a settlement as the practice of law. Dauphin County Bar Association v. Mazzacaro, 465 Pa. 545, 351 A.2d 229 (1976).

In addition, failure to properly raise and preserve a legal issue in a petition to the Board deprives the petitioner of the right to pursue the issue upon appeal to court - a serious consequence for any taxpayer.

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As we all know, there are many folks who seem to think that because these cases involve "tax," the rule prohibiting unauthorized practice of law does not apply.

To make clear to the practitioner community the bounds of unauthorized practice and to protect taxpayers from representation by unqualified representatives, it is very important that the Board add to the regulations several examples of the types of arguments, the presentation of which will be considered to constitute the practice of law. Furthermore, the regulations should make clear that negotiation of compromises, under the case law, involves the practice of law.

I would be happy to discuss this matter with you at your convenience.

Very truly yours,

McNEES WALLACE & NURICK LLC

By

A handwritten signature in black ink, appearing to read "James L. Fritz", with a long horizontal flourish extending to the right.

James L. Fritz

JLF:al

cc: Independent Regulatory Review Commission