Special Enrollment Exam
Part 3 - Representation, Practice and Procedures

2019 Study Cards
**Tax Return Preparer Rules**

**Preparer tax identification number (PTIN).** A PTIN must be obtained by all enrolled agents, as well as all tax return preparers who are compensated for preparing, or assisting in the preparation of, all or substantially all of any U.S. federal tax return, claim for refund, or other tax form submitted to the IRS except the following:

- Form SS-4, Application for Employer Identification Number.
- Form SS-8, Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding.
- Form SS-16, Certificate of Election of Coverage under FICA.
- Form W-2 series of returns.
- Form W-7, Application for IRS Individual Taxpayer Identification Number.
- Form 870, Waiver of Restrictions on Assessment and Collection of Deficiency in Tax and Acceptance of Overassessment.
- Form 872, Consent to Extend the Time to Assess Tax.
- Form 906, Closing Agreement On Final Determination Covering Specific Matters.
- Form 1098 series.
- Form 1099 series.
- Form 2848, Power of Attorney and Declaration of Representative.
- Form 3115, Application for Change in Accounting Method.
- Form 4029, Application for Exemption From Social Security and Medicare Taxes and Waiver of Benefits.
- Form 4419, Application for Filing Information Returns Electronically.
- Form 5300, Application for Determination for Employee Benefit Plan.

**Preparer tax identification number (PTIN).** A PTIN must be obtained by all enrolled agents, as well as all tax return preparers who are compensated for preparing, or assisting in the preparation of, all or substantially all of any U.S. federal tax return, claim for refund, or other tax form submitted to the IRS except the following:

- Form SS-4, Application for Employer Identification Number.
- Form SS-8, Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding.
- Form SS-16, Certificate of Election of Coverage under FICA.
- Form W-2 series of returns.
- Form W-7, Application for IRS Individual Taxpayer Identification Number.
- Form 870, Waiver of Restrictions on Assessment and Collection of Deficiency in Tax and Acceptance of Overassessment.
- Form 872, Consent to Extend the Time to Assess Tax.
- Form 906, Closing Agreement On Final Determination Covering Specific Matters.
- Form 1098 series.
- Form 1099 series.
- Form 2848, Power of Attorney and Declaration of Representative.
- Form 3115, Application for Change in Accounting Method.
- Form 4029, Application for Exemption From Social Security and Medicare Taxes and Waiver of Benefits.
- Form 4419, Application for Filing Information Returns Electronically.
- Form 5300, Application for Determination for Employee Benefit Plan.
Persons who are not preparers.

Note: The individual who prepares a substantial portion of a return is considered the preparer even if someone else may be required to sign the return.

Persons who are not preparers. A person shall not be considered a preparer if the person performs only one of the following services:
1. Typing, reproduction, or other mechanical assistance in preparing a return.
2. Preparing a return for a person, an officer, a general partner, or employee of a person by whom the individual is employed.
3. Giving advice on specific issues of law.

A person shall not be considered a preparer if the person performs only one of the following services:
1. Typing, reproduction, or other mechanical assistance in preparing a return.
2. Preparing a return for a person, an officer, a general partner, or employee of a person by whom the individual is employed.
3. Giving advice on specific issues of law.
**Tax Return Preparer Rules**

**Sign in the return.** A paid preparer must sign the return he or she prepared. The paid preparer can sign the return manually or use a rubber stamp, mechanical device, or computer software.

**Identification of preparer.** The preparer must furnish their preparer tax identification number (PTIN) and employer identification number on the return. Preparers employed by others or partners in partnerships must enter their PTIN and the identification number of the employer or partnership.

**Copies of return.** A preparer must furnish a copy of the return to the T/P at the time the return is presented for signature to the T/P. The preparer must also retain a copy of the return or retain a record of the name, T/P identification number, and taxable year of the T/P. The copy or record must be kept available for inspection for the 3-year period following the close of the return year.

**Information returns of income tax return preparers.** A person who employs preparers to prepare returns must keep a record of each preparer employed by him or her at any time during the return period (July 1 - June 30). The record must include each preparer's:
- Name,
- Taxpayer identification number, and
- Place of work.

**Recordkeeping.** This record must be kept available for inspection for the 3-year period following the close of the return period to which that record relates.

---

**Tax Return Preparer Rules**

**Sign in the return.** A paid preparer must sign the return he or she prepared. The paid preparer can sign the return manually or use a rubber stamp, mechanical device, or computer software.

**Identification of preparer.** The preparer must furnish their preparer tax identification number (PTIN) and employer identification number on the return. Preparers employed by others or partners in partnerships must enter their PTIN and the identification number of the employer or partnership.

**Copies of return.** A preparer must furnish a copy of the return to the T/P at the time the return is presented for signature to the T/P. The preparer must also retain a copy of the return or retain a record of the name, T/P identification number, and taxable year of the T/P. The copy or record must be kept available for inspection for the 3-year period following the close of the return year.

**Information returns of income tax return preparers.** A person who employs preparers to prepare returns must keep a record of each preparer employed by him or her at any time during the return period (July 1 - June 30). The record must include each preparer’s:
- Name,
- Taxpayer identification number, and
- Place of work.

**Recordkeeping.** This record must be kept available for inspection for the 3-year period following the close of the return period to which that record relates.
Due diligence. Preparers who prepare tax returns claiming the Earned Income Tax Credit (EITC), the child tax credit (CTC), the additional child tax credit (ACTC), the credit for other dependents (ODC), the American opportunity tax credit (AOTC), and head of household (HOH) filing status must meet four due diligence requirements. Failure to meet the due diligence requirements for claiming the EIC, the CTC/ACTC/ODC, the AOTC, and/or HOH filing status could result in a failure for each failure.

1. **Compute the Credits Based on the Facts.** Compute the credits and complete the applicable worksheet(s) or a preparer’s own worksheet(s) for any EITC, CTC/ACTC/ODC or AOTC claimed on the return or claim for refund. Most professional tax return preparation software includes the worksheets.

2. **Complete and Submit Form 8867.** Complete Form 8867, Paid Preparer’s Due Diligence Checklist, and submit this completed form to the IRS with every electronic or paper return or claim for refund prepared that claims the EITC, CTC/ACTC/ODC, AOTC, or HOH filing status.
   - Make sure that the software used includes Form 8867 and file the completed form with every electronic return or provide the completed form with every paper return or claim for refund prepared that claims the EITC, CTC/ACTC/ODC, AOTC, or HOH filing status.
   - Answer each question on the form based on information from the client and information the preparer knows is true.
   - The preparer must also personally complete Part VI, Eligibility Certification.

Continued on next card
3. **Keep records.** Keep copies of the following records either electronically or on paper:
   - Form 8867.
   - The applicable worksheet(s) or the preparer’s own worksheet(s) for the EITC, CTC/ACTC/ODC, or AOTC claimed on the return or claim for refund.
   - Any taxpayer documents that the preparer may have relied on to determine eligibility for the credit(s) and/or HOH filing status or to compute the amount of the credit(s).
   - A record of how, when, and from whom the information used to prepare Form 8867 and the applicable worksheet(s) was obtained.

Keep these documents for **3 years** from the latest of:
- The due date of the tax return.
- The date the tax return was electronically filed.
- For a paper return, the date the return or claim for refund was presented to the client for signature.
- If the preparer is a non-signing tax return preparer, the date the non-signing preparer submitted to the signing tax return preparer the part of the return for which the non-signing preparer was responsible.

4. **Ask all the right questions.** The preparer, in interviewing the taxpayer, should ask adequate questions and document the taxpayer’s responses to determine eligibility for the credit(s) and/or HOH filing status.