SEE
Special Enrollment Exam
Part 3 - Representation, Practice and Procedures
2017 Study Guide
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Introduction

The Phoenix Tax Group Guarantee

We have been successfully preparing tax practitioners to pass the Special Enrollment Exam for over 20 years. Practitioners who have used our study materials, study strategies and have put in the time and effort have had over a 90% passing rate.

30 Day Refund

If you are not satisfied with any of our products, you can return them for a full refund, excluding shipping and handling charges. A refund must be requested within 30 days of purchase, and all hardcopy materials must be returned in the original box. No credit will be given for any materials marked on, missing or damaged in any way. To request a refund, fill out the Refund Request form at the link below.

Pass Guarantee Refund

1. The Pass Guarantee applies only to products designated as "Packages."
2. To receive a refund, you must have taken and failed a test or exam twice.
3. You must provide your failed scores for both failed exams by filling out the online Refund Request Form (see link below). This must be done within 30 days of the second failed exam.
4. Hard copy materials must be returned within 30 days of the second failed exam.
5. If you purchased Enrolled Agent study materials together in a 3 part package, refunds will be pro-rated for the part being returned.
6. The refund will only apply to the person who purchased the study materials from The Phoenix Tax Group. The refund policy does not apply to companies purchasing study materials for employees.

Instructions

To ensure proper credit, please fill out our online refund request form.

http://www.phoenixtax.com/about/refunds
Course Objectives

This course is designed to prepare students to pass the IRS Special Enrollment Examination the first time they take the exam. After completing our course, you should have the tax knowledge needed to pass the exam.

This course is taught at an intermediate level. It is helpful if the student has had some beginning level courses relating to tax laws and at least a year of income tax preparation experience.

Our course is broken down into three parts similar to the parts on the exam. Part 1 discusses individual income tax law, Part 2 discusses sole proprietorship and partnership, corporation (including S corporation), fiduciary, estate, and trust tax law and tax-exempt organizations, and Part 3 discusses practitioner ethics, record-keeping, IRS tax examination, appeals, and collection procedures, practitioner rules and penalties, and research materials. All the materials have been updated to 2016 tax law. The 2017 exam (May 1, 2017 - February 28, 2018) will cover the federal tax law as of December 31, 2016. No tax law that goes into effect after 2016 will be on the test.

We feel we have the best and most comprehensive enrolled agent exam preparatory course available. However, we are always looking for ways to improve our course. We would appreciate it if you would take a moment to complete the course evaluation located at the end of each part of the course or complete our online evaluation at www.phoenixtax.com.

If you have any questions, please email us at support@phoenixtax.com. Do not call our 800 number.

Good luck on the exam.
How to Prepare for the Exam

The following is a set of guidelines for preparing for the exam:

1. We recommend that you study a minimum of 100 to 120 hours total for all three parts of the exam. For Part 1, we recommend 35-45 hours of study. For Part 2, we recommend 45-60 hours of study. For Part 3, we recommend 20-25 hours of study. Break up your study time. Do not try to study 3 or 4 hours at a time. Most people's comprehension level starts to fade after an hour. You will be surprised how much you can absorb by studying in intervals of 15 to 30 minutes.

2. DO NOT rely on your tax experience to pass this exam. It has been our experience that people with limited tax experience (one year or less) have a far better success rate on this exam than people with many years of tax experience. The reason is that preparers with years of experience tend to rely on their practical knowledge of taxes. This exam tests on theory, not practical experience. The IRS is primarily interested in your ability to understand the tax law and to properly and accurately determine taxable income (i.e., figuring basis in an asset to determine gain, what income is taxable, what deductions are allowed, etc.).

3. You can now use a calculator to do the computational questions. Prometric will provide you with a hand-held calculator. You cannot bring your own calculator.

4. Be familiar with the tax forms and the filing dates for those forms. There is a quick reference in the Appendix.

5. The exam will test on a specific tax law in more than one part. For example, questions pertaining to property basis or retirement plans will be tested in both Part 1 and Part 2; questions pertaining to recordkeeping in Part 1 and Part 2 could be tested in Part 3; taxpayer penalties could be tested in all three parts. Therefore, we strongly recommend you to take the exam in the following order. Take Part 1 first, Part 2 second and Part 3 last. You should also take all three parts of the exam as close together as possible.

6. You must have a positive attitude toward this exam. If you do not think you can pass this exam, you won't. Fifty percent of preparing for this exam is being mentally prepared.
About the Computer Based SEE Exam

The Internal Revenue Service has contracted with Prometric to conduct its examination program. Prometric provides computerized testing at test centers throughout the world. The IRS and Prometric are working together closely to ensure that examinations meet federal requirements as well as professional examination development standards.

Testing Dates
The 2017 SEE examination begins May 1, 2017 and examinations will be offered continuously through February 28, 2018. The exam is in three parts. The three parts DO NOT have to be taken at once. You can take one part at a time. Once you have taken and passed one part, you have two years from the date of passing that part to take and pass the other two parts.

Testing Fees
The exam costs $111.94 per part ($335.82 for all three parts).

Exam Questions
Each part of the exam has 100 questions. All questions are weighted equally.

Time Limited for the Exam
You are given 3.5 hours to complete each part of the exam. The actual seat time is 4 hours to allow for a tutorial at the beginning and a survey at the end.

Examination Results
The exam is graded on a scale of 40 - 130 with 40 being the lowest score and 130 being the highest score possible. You must have a score of 105 or better for each part of the exam to pass. You will receive your scores immediately after taking the exam.

Passing Score. If you pass, the score will only show a passing designation. It will not show a score.

Failing Score. If you fail, your score report will show a scaled score between 40 and 104. You will also receive diagnostic information to assist you with future examination preparation. Diagnostic information will show an indicator of 1, 2, or 3 meaning:

1. Considerably below the minimally acceptable score. It is important for you to approach how you study this topic as you prepare to take the test again. You may want to consider taking a course or participating actively in a study group on this topic.
2. Marginally below the minimally acceptable score. You should study this topic in detail as you prepare to take the test again.
3. At or above the minimally acceptable score. Be sure to review this topic as you prepare to take the test again.
Experimental Questions

The examination may include some experimental questions that will not be scored. If present, they are distributed throughout the exam and will not be identified as such. These are used to gather statistical information on the questions before they are added to the exam as scored items. These experimental questions will not be counted for or against your final score.
Obtain a PTIN

You must have a PTIN to sign up for the Enrolled Agent Exam. Chances are you already have your PTIN, but if you do not, you can still get one. The IRS Tax Professional PTIN Sign-up System is available at www.irs.gov/ptin. Once online, you will need to:

Create Your Account. Provide your name, email address, and security question information. The system will then email your temporary password, which you will change when you go back to enter your information in the PTIN application.

Apply for Your PTIN. Complete the online application by providing personal information, information about your previous year’s tax return, professional credentials, and more. You will need the following information available to complete this process.

- Permanent Mailing Address
- Address on your last filed tax return
- Social Security Number
- Professional Certification Number (e.g. CPA number) if you have one
- Employer Identification Number (EIN) if you have one
- Electronic Filing Identification Number (EFIN) if you have one
- CAF Number, if you have one

Pay Your Fee. Make your payment of $50 by credit card, direct debit, or eCheck.

Get Your PTIN. After the bank confirms your payment, you will receive your PTIN. You will be able to view your next steps, including any testing requirements, through your online PTIN account. It takes about 15 minutes to sign up online and receive your PTIN. If you opt to use the paper application, Form W-12 IRS Paid Preparer Tax Identification Number (PTIN) Application, it will take 4-6 weeks to process.

IRS PTIN Sign-up Videos

You can preview the PTIN sign-up process on the IRS YouTube Channel. The IRS has created two step by step video recordings of the online PTIN Sign-Up process.

PTIN Sign-up Part 1: http://youtu.be/3WBI5WRYxng

PTIN Sign-up Part 2: http://youtu.be/vmyBeA7Pu2o
Registering and Scheduling an Examination Appointment

Registration Process
You can register and schedule the exam using one of the three following options:

A. Online—a one-step process
The quickest way to register and schedule an examination is online. This is the only way to register and schedule an exam in the same day.

To register and schedule an examination online, follow these steps:

2. Click the Obtain a PTIN:Register for My Test button.
3. If it’s your first time, click Create Account button to set up your user ID and password.
4. Register and pay for the test. You will be asked to provide your PTIN number. Prometric will assign you a candidate number. It will be the same as your PTIN.
5. Schedule your test. Again, go to www.prometric.com/irs. Click on the Schedule My Test button. You will be asked to provide the candidate number that Prometric assigned to you when you registered for your test in step 4. Schedule your test at your closest testing center at a convenient date and time.

B. By phone
1. Call Prometric at 800.306.3926

C. By mail
1. Mail your completed Form 2587 to:
   Prometric
   Attn: IRS Special Enrollment Examination
   7941 Corporate Drive
   Nottingham, MD 21236
   
2. Wait six to 10 calendar days for delivery and processing before scheduling an examination appointment.
Scheduling an Examination

Candidates can take each part of the examination at their convenience. Consequently, parts do not have to be taken on the same day, or on consecutive days. All parts do not have to be taken or scheduled during an examination window.

Candidates can take examination parts up to four times each during the testing period (May 1, 2017 to February 28, 2018). Once your registration has been processed, you can schedule an examination appointment at any time online at www.prometric.com/irs or by calling 800-306-3926 between 8 a.m. and 9 p.m. (Eastern Time), Monday through Friday. You will be provided a number confirming your appointment. Record and keep this confirmation number for your records—you will need it to reschedule, cancel or change your appointment in any way.

Examination Locations

Examinations are administered by computer at a Prometric Testing Center. Currently, the Special Enrollment Examination is given at nearly 300 Prometric testing centers located across the United States and internationally. Test centers are located in most major metropolitan areas. A complete list of these testing centers, addresses and driving directions is located at www.prometric.com/irs. In the box titled Do More, click on “Continue” and select your preferred test location. Most locations are open on Saturdays and some locations are open on Sundays and evenings.

Testing Fees

The testing fee is $111.94 for each part of the examination. This fee is paid at the time you schedule your examination. Accepted forms of payment include: MasterCard, Visa, American Express, Discover, Diner's Club cards bearing the MasterCard symbol and JCB. Electronic checks are also accepted when scheduling by phone. Money orders, paper checks and cash are not accepted. Examination testing fees are not refundable or transferable.

Rescheduling Your Appointment

If you need to reschedule an examination for another date, time or location, you must contact Prometric. Rescheduling fees will apply as follows:

- No fee if you reschedule at least 30 calendar days prior to your appointment.
- $35 fee if you reschedule five to 29 calendar days before your appointment.
- Another $111.94 full examination fee if you reschedule less than five calendar days before your appointment date.
Chapter One

Practices and Procedures

Congress has legislated tax practitioner rules governing the treatment of taxpayer information to ensure its security and privacy. In addition, the IRS has established rules against negligent or intentional disregard of IRS regulations. Chapter One discusses the practices and procedures an Enrolled Agent must know to pass the Enrolled Agent Exam and must follow when preparing a taxpayer’s income tax return and conducting business as a tax preparer.

In This Chapter

1. Tax Return Preparer Rules and Penalties
2. Practice Before the IRS
3. Duties and Restrictions for an Enrolled Agent
4. Sanctions for Violation of the Regulations
5. Disciplinary Proceedings
Tax Return Preparer Rules and Penalties

Chapter 1

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 W-8BEN, Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding.
- 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.
- Form 5307, Application for Determination for Adopters of Master or Prototype or Volume Submitter Plans.
- Form 5310, Application for Determination for Terminating Plan;
- Form 5500 series.
- Form 8027, Employer’s Annual Information Return of Tip Income and Allocated Tips.
- Form 8288-A, Statement of Withholding on Dispositions by Foreign Persons of U.S. Real Property Interests.
- Form 8288-B, Application for Withholding Certificate for Dispositions by Foreign Persons of U.S. Real Property Interests.
- Form 8508, Request for Waiver From Filing Information Returns Electronically.
- Form 8717, User Fee for Employee Plan Determination, Opinion, and Advisory Letter Request.
- Form 8809, Application for Extension of Time to File Information Return.
- Form 8821, Tax Information Authorization.
- Form 8942, Application for Certification of Qualified Investments Eligible for Credits and Grants Under the Qualifying Therapeutic Discovery Project Program.

**Tax Preparer Defined**

An income tax return preparer is any person who prepares for compensation, or who employs (or engages) one or more persons to prepare for compensation, all or substantially all of a tax return or claim for refund of tax. Factors involved in determining whether an individual is a tax return preparer include, but are not limited to, the following:

- The complexity of the work the individual performs relative to the overall complexity of the tax return or claim for refund of tax.
- The amount of the items of income, deductions, or losses attributable to the work the individual performs relative to the total amount of income, deductions, or losses required to be correctly reported on the tax return or claim for refund of tax.
- The amount of tax or credit attributable to the work the individual performs relative to the total tax liability required to be correctly reported on the tax return or claim for refund of tax.

**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:

- Typing, reproduction, or other mechanical assistance in preparing a return.
- Preparing a return for a person, an officer, a general partner, or employee of a person by whom the individual is employed.
- Giving advice on specific issues of law.

**Signing the Tax 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 Tax Return**

A preparer must furnish a copy of the return to the taxpayer at the time the return is presented for signature to the taxpayer. The preparer must also retain a copy of the return or retain a record of the name, taxpayer identification number, and taxable year of the taxpayer. 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.

**EITC Due Diligence Requirements**

Preparers, who prepare tax returns claiming the Earned Income Tax Credit (EITC), must meet four due diligence requirements:

1. **Complete and Submit Eligibility Checklist.** Complete Form 8867, Paid Preparer’s Earned Income Credit Checklist and submit this completed form to IRS with every electronic EITC claim prepared and attach to every paper return.

2. **Computation of Credit.** Complete the EIC Worksheet in the Form 1040 instructions, or Publication 596, Earned income Credit, or a form with the same information. Most professional tax preparation software includes the computation worksheet.

   **Note:** The preparers completion of the Eligibility Checklist (or Alternative Eligibility Record) and Computation Worksheet (or Alternative Computation Record) must be based on information provided by the taxpayer or otherwise reasonably obtained by the preparer.

3. **Knowledge.** The preparer must not know or have reason to know, that any information used in determining the client’s eligibility for the amount of the EIC is incorrect, inconsistent, or incomplete. At the time of the interview the preparer must document any additional questions he or she asked the clients and the clients answers.

4. **Retention of Records.** The preparer must retain for 3 years all the following:
   - Form 8867.
   - The EIC worksheet.
   - A copy of any document that was provided by the client that the preparer relied on to complete Form 8867 or the EIC Worksheet.
• A record of how, when, and from whom the preparer received the information used to prepare the return and worksheet.
• A record of any additional questions the preparer asked to determine eligibility for and the amount of the credit and the client’s answers.

Example of Documents
The following are examples of documents that a preparer may rely on to determine a taxpayer's eligibility for the credit or the amount of the credit.

Residency of a Qualifying Child
• School records or statement
• Landlord or a property management statement
• Health care provider statement
• Medical records
• Child care provider records
• Placement agency statement
• Social service records or statement
• Place of worship statement
• Indian tribal official statement
• Employer statement

Disability of Qualifying Child
• Doctor statement
• Other health care provider statement
• Social services agency or program statement

Schedule C
• Business license
• Forms 1099
• Records of gross receipts provided by taxpayer
• Taxpayer summary of income
• Records of expenses provided by taxpayer
• Taxpayer summary of expenses
• Bank statements reconstruction

Retention of Records.
The preparer must retain for 3 years all the following:
• Form 8867.
• The EIC worksheet.
• A copy of any document that was provided by the client that the preparer relied on to complete Form 8867 or the EIC Worksheet.
Chapter 1

- A record of how, when, and from whom the preparer received the information used to prepare the return and worksheet.
- A record of any additional questions the preparer asked to determine eligibility for and the amount of the credit and the client’s answers.

**Penalty**

The penalty for failure to meet due diligence requirements is **$510** per return.

**Preparer Penalties**

**Penalty for Understatement Due to an Unrealistic Position (IRC Section 6694(a))**

A penalty of the greater of **$1,000 or 50%** of the preparer’s fee for preparation of a return will apply if:

1. The preparer knew (or reasonably should have known) of the unrealistic position,
2. There was not a reasonable belief that the position would be sustained on its merits, and
3. The position was not disclosed, or there was no reasonable basis for the position.

**Penalty for Understatement Due to Willful, Reckless, or Intentional Conduct (IRC Section 6694(b))**

A penalty of the greater of **$5,000 or 50%** of the preparer’s fee will apply if any part of an understatement was due to:

1. A willful attempt in any manner by an income tax return preparer to understate the liability for tax; or
2. Any reckless or intentional disregard of rules or regulations by an income tax return preparer.

**Burden of Proof**

The preparer must bear the burden of proof of whether he or she understated the tax liability of a taxpayer under section 6694(a), understating tax liability due to unrealistic position and under section 6694(b), understating tax liability due to willful understatement of tax liability or reckless or intentional disregard of rules and regulations.

**Section 6694(b) Penalty Reduced by Section 6694(a) Penalty**

If a preparer is assessed both the section 6694(a) penalty and the section 6694(b) penalty on a given return, the total amount of the penalty cannot exceed the section 6694(b) penalty.

**Abatement of Penalty Where Taxpayer’s Liability Not Understated**

If a penalty under section 6694(a) or section 6694(b) is assessed against a preparer, and if it is established in a final IRS examination that there was no understatement of liability on the return, the penalties are abated.
Claim for Refund of Income Tax Return Preparer and Promoter Penalties (Form 6118)

If a preparer is assessed a penalty under section 6700, 6701, or 6694, the preparer may file a claim for refund upon paying 15% of the penalty within 30 days from the date of notice and demand. Otherwise, a claim under sections 6700 and 6701 must be filed within 2 years from the date the penalty is paid in full. A claim under sections 6694 and 6695 must be filed within 3 years from the date the penalty is paid in full. The preparer files Form 6118 with the IRS service center or IRS office that sent the statement.

Penalty Reference Table

The table below is a quick reference to the various penalties, the pertinent IRC Section, the penalty amounts and limitations.

<table>
<thead>
<tr>
<th>Type of Penalty</th>
<th>IRC Section</th>
<th>Amount</th>
<th>Limitation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Understatement of taxpayer’s liability due to unreasonable position</td>
<td>6694(a)</td>
<td>$1,000 or 50% of preparer fees</td>
<td>No limit</td>
</tr>
<tr>
<td>Willful attempt to understate taxpayer’s liability or intentional disregard of rules or regulations</td>
<td>6694(b)</td>
<td>$5,000 or 50% of preparer fees per return</td>
<td>Must reduce 6694(b) penalty by 6694(a) penalty if both are assessed</td>
</tr>
<tr>
<td>Failure to furnish a copy of return to taxpayer</td>
<td>6695(a)</td>
<td>$50 per return</td>
<td>$25,000 per year</td>
</tr>
<tr>
<td>Failure to sign return</td>
<td>6695(b)</td>
<td>$50 per return</td>
<td>$25,000 per year</td>
</tr>
<tr>
<td>Failure to retain copy of return or list of returns prepared</td>
<td>6695(d)</td>
<td>$50 per return</td>
<td>$25,000 per year</td>
</tr>
<tr>
<td>Failure to furnish identifying number(s) of preparer/employer</td>
<td>6695(c)</td>
<td>$50 per return</td>
<td>$25,000 per year</td>
</tr>
<tr>
<td>Employer failure to file correct information return of preparers employed</td>
<td>6695(e)(1)</td>
<td>$50 per return</td>
<td>$25,000 per year</td>
</tr>
<tr>
<td>Failure to file correct information returns</td>
<td>6695(e)</td>
<td>$50 per return</td>
<td>$25,000 per year</td>
</tr>
<tr>
<td>Preparer endorsement or negotiation of taxpayer’s refund check</td>
<td>6695(f)</td>
<td>$510 per check negotiated</td>
<td>No limit</td>
</tr>
<tr>
<td>Failure to comply with due diligence requirements in determining eligibility for earned income credit</td>
<td>6695(g)</td>
<td>$510 per return</td>
<td>No limit</td>
</tr>
</tbody>
</table>