9/24/2010 12:02 PM FROM. (850) 229-1050 Weith L. Janes, GFA TO: +1 (352) 333-2508

PAGE: 002 OF

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Deputy Agency Clerk CLERIK Brandon Nichola

Date 9/24/2010 File #

Keith L. Jones, CPA

America Counts on CPAs September 23, 2010

State of Florida Department of Business and Professional Regulation Division of Certified Public Accounting Board of Accountance 240 Northwest 76th Drive Suite A Gainesville, FL 32607-6635

BOARD OF ACCOUNTABLY

Petition for Declaratory Statement before the Florida Department of Business and Professional Regulation, Division of Certified Public Accounting, Board of Accountance

Petitioner name: Keith L. Jones, CPA

Petitioner address: 202 Marina Drive, Suite 303, Port Saint Joe, FL 3245B

Petitioner telephone number: (850) 229-1040 Petitioner facsimile number: (850) 229-1050

Dear Honorable Board Members.

DS 2010-073

The purpose of this letter is to respectfully seek a declaratory statement to obtain an answer to the following question. The question is whether or not contingency fees are permissible given the following particular facts and circumstances under Chapter 473 of the Florida Statutes and Chapter 51H1, Florida Administrative Code, which govern public accountancy in the State of Florida.

Section 473.319 F.S. states in part that "public accounting services as defined in s. 473.302(8)(a) and (c), and those that include tax filings with federal, state, or local government, shall not be offered or rendered for a fee contingent upon the findings or results of such service". It further states that "this section does not apply to services involving federal, state, or other taxes in which the findings are those of the tax authorities and not those of the certified public accountant or fam".

Furthermore, Section 81H1-21.005 (2) of the Florida Administrative Code states in part that "no cartified public accountant or firm shall accept a confingent fee for tax filings with the federal, state, or local government unless the findings are those of the tax authorities and not those of the certified public accountant or firm. Unless the certified public accountant or firm has specific reason to know that the filing will be reviewed in detail by the texting authorities, the findings will be presumed to be those of the certified public accountant or firm and a contingent fee is not permissible^a.

It is my contention that a contingent fee can be charged to assist in enabling clients to take advantage of a particular Florida State tax incentive. The

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engagement consists of gaining approval for Florida Enterprise Zone jobs credits that can be taken against sales tax due <u>upon approval</u> by the State of Florida Department of Revenue.

For your information, a business located in an enterprise zone may take a credit against sales tax when it hires new employees who either reside in an enterprise zone or participate in a welfare transition program.

To qualify for the credit, the business must show an increase in the number of fulltime jobs over the average of the previous 12 months. It must also have employed the eligible employees for at least 3 months or have leased the eligible leased employees for more than 6 months.

To claim the credit, the business must complete Form DR-15ZC (Application for Florida Enterprise Zone Jobs Credit for Sales Tax), a copy of which is enclosed, and attach all required documentation. The business must also obtain certification from the enterprise zone coordinator for the zone in which the business is located and submit Form DR-15ZC and the required documentation to the Department of Revenue. The credit may be claimed for up to 24 months after approval by the Florida Department of Revenue (DOR) as clearly noted at the bottom of page one on the Application for Florida Enterprise Zone Jobs Credit for Sales Tax.

Again, I contend that contingent fees are permissible under the particular facts and circumstances as described above. This is due to the fact that Form DR-15ZC (Application for Florida Enterprise Zone Jobs Credit for Sales Tax) is reviewed in detail by the taxing authorities prior to approval and before the credits are allowed to be taken on the Florida Sales and Use tax returns. In fact, if these credits are claimed prior to approval by the DOR, a notice of tax and interest due in the amount of the credit taken will be generated systematically by the DOR and malled to the taxpayer stating that "you underpaid your DR-15 Sales and Use Tax". Therefore I believe that the findings are in deed those of the taxing authorities and not those of the CPA.

Thank you in advance for your consideration in this matter. If you have any questions or need additional information, please feel free to contact me.

Sincerely.

Enclosures

Kith Z. Jones, CPA
Keith L Jones, CPA

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		Enterprise Zone Coordinator: Met a supp of the completed application to the address above.	

Schedule One - Enterprise Zone

DA-1520 M. 10/08 Page 2

For a business to qualify for a credit of 20 percent of total wages paid they.

- must be physically located in an enterouse zone,
 have created new jobs, and
- have hired new eligible employees.

Enter the information requested below for each qualifying employee. The number of employees may not exceed the total listed on Page 1, Line 12c.

As an additional incentive, if at least 20 percent of ALL permanent full-time jobs are filled with employees sesicing in an enterprise zone, you quality for a credit of 50 percent. Attach a separate list of ALL permanent full time-employees, coing the terms: below,

Name, Street Address, City and ZIP of Employe	Security Number	Data Essployed	Monthly Wages	Brangine Zone Header in which the Spotters Reside
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Schedule Two - Rural Enterprise Zone

DR-162C P. 10/09

For a business to quality for a credit of 50 percent of total wages poid they:

* must be physically located in a rural enterprise zons.

- have created new jobe, and
 have hired new eligible employees who reside in a rural county.

Enter the information requested below for each qualifying employee.

As an additional incentive, if at least 20 percent of ALL partnerent full-time jobs are filled with employees residing in an enterprise zone, you qualify for a credit of 45 percent. Attach a separate list of ALL permanent full-time amployees, using the format below.

Name, Street Address, Gity and ZIP of Employee	"Employae's Bodiel Boouthy Number	Date Employed	Marthly Wages	Band County to which the Employee Parish
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Total Monthly Weges	THE ACTION OF THE PARTY OF THE	70.00		17:

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Schedule Three - Weltere Transition Progress

DR-1520 R. 10/09 Page 4

For a businese to quality for precit on wages paid they:

• must be physically located in an enterprise zone,

- have created new jobs, and
- have have new eligible employees who are Wellaro Transition Program participants.

The qualifications for the percentage of monthly wages plained for crudit are as follows:

- St.00 above the hourly federal minimum wage qualifies for 40 percent.
 St.00 above the hourly federal minimum wage qualifies for 40 percent.
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 St.00 above the hourly federal minimum wage qualifies for 42 percent.
 \$7.00 above the hourly federal minimum wage qualifies for 43 percent.
 \$8.00 above the hourly federal minimum wage qualifies for 44 percent.

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Exhibit A



Instructions for Completing the Seles and Use Tax Return, Form DR-15, when taking the Enterprise Zone Jobs Tax Gredit DR-15ECIN P., QUAR Pub int-18P

To be eligible for the enterprise zone jobs credit against sales and use tax, employees are required to work an average of at least 50 hours per week each month. The credit is available to businesses that have increased the number of full-time jobs from the date 12 months prior to the date of application.

The credit is computed as 20 percent of the actual monthly wages paid to eligible employees after a new fulf-time job is created, or 30 percent of the monthly wages paid if the business is located in a rural enterprise zone. If at least 20 percent of the fulf-time permanent employees of the business are residents of an enterprise zone, the credit is 50 percent of the actual monthly wages paid, or 45 percent of the actual monthly wages paid if the business is located in a rural enterprise zone.

The phrate "new job has been created" means that the total number of full-time jobs in an enterprise zone has increased from the date 12 months prior to the date of application, as demonstrated to the Department by a business located in the enterprise zone.

The enterprise zone jobs cradit against seles and use tax is allowed for up to 24 consecutive months baginning with the first tex return ductates approval. Please refer to Taxpayer Information Publication (TIF) \$01,001-06, \$02,001-07, and \$00,001-02, which can be found on our internal site at www.myttorida.com/dor.

Certain enterprise zone jobs tex credits, refunds and distributions are considered state financial assistance. State financial assistance in subject to the auditing end reporting requirements of:

- The Florida Single Audit Act, section 216.97, Florida Statutes (F.S.)
- Applicable rules of the Executive Office of the Governor, Chapters 27D-1 and 3A-5.
- Rules of the Auditor General, Chapter 10.550 (local government entities) and Chapter 10.850 (nonprofit and for-profit organizations).

For more information refer to 7IP #02ADM-02, which can be found on our internet site at www.my/florids.com/clor.

All approved enterprise zone jobs tex credits must be taken on Line 16 of your Spice and Use Tax Return (Form DR-15). If you have been using Form DR-16EZ, contect the Department.

To speak with a Department of Revenue representative, cell Texpayer Services, Monday through Friday, 8 s.m. to 7 p.m., ET, at 800-352-3671.

Reference: Beglion 212.096, F.S.



Any Date

Sample Engagement

Any Client Any Address Any City, State, Zip

Dear Client:

Monte devolve concern

This letter is a follow up to our recent conversation. I would like to thank you for allowing me to submit this proposal to assist in enabling you to take advantage of a Florida state tax incentive relative to your business venture.

In the proposed engagement, I will work with you to gain approval for Florida Enterprise Zona jobs credits to be taken against sales tax due. In order for me to proceed with this engagement, please acknowledge your acceptance by signing the copy of this letter along with the attached Power of Attorney and returning them to me.

My fee for gaining approval of the job credits will be "x" percent of the sales tax credits obtained and taken on your sales tax return each and every month the credit is taken.

if you have any questions, please contact me as I will be pleased to discuss them with you.

sal and home
Ketth L. Jones, CPA
APPROVED:
Ву
Date