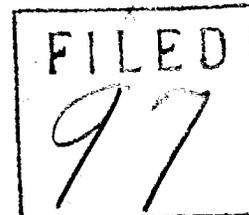


ACCOUNTANCY: Certificate of public accountant may not be
BOARD OF: issued if application is not made before
January 1, 1946, or more than one year after
honorable discharge even if applicant possesses
all other requirements of Section 14911j.

September 2, 1947



9-15
Mr. D. P. Williams, Secretary
Missouri State Board of Accountancy
1807 Boatmen's Bank Building
St. Louis 2, Missouri

Dear Sir:

This department is in receipt of your request for an official opinion which reads as follows:

"The Missouri State Board of Accountancy desires to have your opinion on the question involving the administration of Section 14,911j of the Revised Statutes of Missouri. This section provides:

"A certificate as a public accountant shall be issued by the Board to each individual who

"Makes due application to the Board before January 1, 1946 and presents satisfactory evidence that he was

"(1) Maintaining an office in this State for the practice of public accountancy on his own account on November 23, 1943, and has been in continuous practice during the whole or major portion of the regular business hours of each day as a public accountant in the State since that time; or

"(2) That on November 23, 1943, he was in responsible charge of accounting engagements as an employed member of the staff of a certified public accountant or accountants, or of a public accountant or accountants, or of a firm or partnership of certified public accountants, or of a firm or partnership of public account-

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ants, or of a corporation, including an agricultural, nonprofit association, lawfully engaged in the practice of public accountancy in this State.

"Section 14,911j makes the following provision for filing by individuals who, on November 23, 1943, were in the service with the armed forces:

"Individuals who, on November 23, 1943, were in the service with the armed forces of the United States, or its allies, if otherwise qualified, may file applications under either subparagraphs (a) or (b) hereof, at any time within twelve months after date of honorable discharge from such service

"The propositions which we wish to submit to you for ruling are the following:

"1. If the Board receives an application after January 1, 1946, from an individual, and the Board determines that such individual meets all other requirements set out in the section for the issuance of a public accountant certificate, may the Board grant to such person a certificate as a public accountant notwithstanding the fact that due to neglect, excusable or not, such person did not apply for such certificate before January 1, 1946?

"2. If the Board receives an application from an individual who, on November 23, 1943, was in the service of the armed forces, after one year from the date of such individual's honorable discharge from the armed forces, and the Board determines that such individual meets all other requirements set out in the section for the issuance of a public accountant certificate, may the Board grant to such person a certificate as a public accountant notwithstanding the fact that due to neglect, excusable or not, such person did not apply for such certificate within twelve months after date of honorable discharge?

"Your early reply will be appreciated."

Section 14911j, Laws of Missouri 1945, page 61, provides as follows:

"A certificate as public accountant shall be issued by the Board to each individual who:

"(a) Makes due application to the Board before January 1, 1946, and presents satisfactory evidence that he was maintaining an office in this State for the practice of public accountancy on his own account on November 23, 1943, and has been in continuous practice during the whole or a major portion of the regular business hours of each day, as a public accountant in the State since that time; or

"(b) Makes due application to the Board before January 1, 1946, and presents satisfactory evidence that on November 23, 1943, he was in responsible charge of accounting engagements as an employed member of the staff of a certified public accountant or accountants, or of a public accountant or accountants, or of a firm or partnership of certified public accountants, or of a firm or partnership of public accountants, or of a corporation, including an agricultural non-profit association, lawfully engaged in the practice of public accountancy in this State.

"The Board shall require the same information from each applicant for a public accountant registration certificate that it requires from an applicant for a certificate as a certified public accountant. Applicants for public accountant registration certificates shall comply with all applicable requirements of this Act and of the rules enacted thereunder.

"Individuals who, on November 23, 1943, were in service with the armed forces of the United States, or its allies, if otherwise qualified,

may file applications under either subparagraph (a) or (b) hereof, at any time within twelve months after date of honorable discharge from such service; and their status, at the date of entry into such service, shall be conclusively deemed to be and treated, for the purposes hereof, as the status on November 23, 1943, of all such individuals. As to such individuals, the requirement of continuous practice in subparagraph (a) shall not be applicable."

A reading of the above act discloses that an individual who on November 23, 1943 was engaged in the practice as a public accountant may be issued a certificate as a public accountant, if he makes application to the board before January 1, 1946. Further, a person who was in the armed forces of the United States or its allies on November 23, 1943, may file an application at any time within twelve months after date of honorable discharge from such service.

The rule as to statutes which set forth a time limitation for the performance of a duty or the acquisition of a privilege by private individuals is given in 59 Corpus Juris, page 1079 as follows:

" * * * * * So under statutes conferring privileges on private individuals for a certain period of time, such privileges cannot be exercised after the lapse of the time allowed."

As was said in Bryant v. Kentucky Lumber Company, 144 Ky. 755, 139 S. W. 1089, 1. c. 1091:

"The rule is that under statutes conferring privileges on private individuals for a certain period of time the privilege cannot be exercised after the time allowed. 36 Cyc. 1160; Black on Interpretation of Laws, 359; 26 Am. & Eng. Ency. of Law, 691, and cases cited."

CONCLUSION

It is therefore the opinion of this department that the Missouri State Board of Accountancy under Section 14911j,

Mr. D. P. Williams

September 2, 1947

Laws of Missouri 1945, page 12, may not issue a certificate of public accountant to an individual who makes application after December 31, 1945, even though the individual possesses the requirements set out in said section.

It is further the opinion of this department that the board may not under Section 14911j, Laws of Missouri 1945, page 62, issue a certificate of public accountant to a member of the armed forces who makes application for a certificate more than one year after the date of such individual's honorable discharge even though the applicant possesses the requirements set out in said section.

Respectfully submitted

ARTHUR M. O'KEEFE
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General