

BOARD OF

ACCOUNTANCY: IN RE: Paragraph (c) Section 14911f, Laws of Missouri, 1943, prescribes alternative qualifications for individuals who apply for certificates as certified public accountants.

December 19, 1946

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Mr. A. Henry Cuneo, Secretary
Missouri State Board of Accountancy
700 National Fidelity Life Building
Kansas City 6, Missouri

Dear Sir:

In reply to a request, submitted last December, for an official opinion, an opinion was submitted to you dated January 2, 1946, interpreting Section 14911f, paragraph (c), Laws of Missouri, 1943. That opinion has recently been reviewed and after further consideration and study has been withdrawn and the one herein contained, written on the same subject matter, shall be the official opinion of this department in lieu of the one previously submitted. Again we quote the letter containing the original request which reads:

"The Missouri State Board of Accountancy requests an opinion from your office on the meaning of Section 14,911f (c) of chapter 115 of the Revised Statutes of Missouri 1939, relating to the State Board of Accountancy, which reads as follows:

"Individuals who apply for a certificate as a certified public accountant must (except as otherwise herein provided):

- (a) . . .
- (b) . . .
- (c) Be residents of this State, have an office therein for the regular practice of public accountancy, or be an employee of a certified public accountant practicing within this state."

"Your opinion is requested regarding whether Section 14,911f (c) means that the applicant must be a resident of this State and have an office in the State for the practice of public accountancy or be an employee of a

certified public accountant or a public accountant practicing within the State, or whether it means that the applicant must be a resident of this state or have an office therein or be an employee of a certified public accountant or a public accountant, etc."

The principal question involves the construction of paragraph (c) Section 14911f, Laws of Missouri, 1943. The primary consideration when construing a statute is to ascertain the intent of the Legislature and in this case the rule is stated in the case of *Artophone Corp. v. Coale*, 345 Mo. 344, 133 S. W.(2d) 345, 1. c. 347:

"* * *The primary rule of construction of statutes is to ascertain the lawmaker's intent, from the words used if possible; and to put upon the language of the Legislature, honestly and faithfully, its plain and rational meaning and to promote its object and "the manifest purpose of the statute, considered historically," is properly given consideration.* * *"

Another important rule of construction is to give effect to the whole and every part of the statute. The several parts of the statute are to be construed in connection with every other part and all are to be considered as parts of a connected whole and harmonized if possible. *Norberg v. Montgomery*, 173 S. W.(2d) 387, 351 Mo. 180. Therefore, all of Section 14911f, supra, must be considered and given effect when construing any part thereof. For greater clarification, we quote Section 14911f:

"Individuals who apply for a certificate as a certified public accountant must (except as otherwise herein provided):

- (a) Be citizens of the United States;
- (b) Be over the age of twenty-one years;
- (c) Be residents of this State, have an office therein for the regular practice of public accountancy, or be an employee of a certified public accountant or a public accountant practicing within this State."

In examining the above section in its entirety we observe that paragraph (a), requiring the applicant to be a citizen of the United States, is set out separately, paragraph (b), requiring the applicant to be twenty-one years of age, is also set out separately. If the lawmakers intended that residency within the state was to be another requirement, it is our notion that they would have set out the requirement separately in another paragraph as they did the requirement pertaining to being a citizen of the United States and as to age.

Looking to the grammatical construction of paragraph (c) of Section 14911f, supra, we observe the use of the word "or". The use of the word "or" is disjunctive, denoting an alternative. So it was held in *Dodd v. Independence Stove and Furnace Co.*, 330 Mo. 662, 51 S. W. (2d) 114, from which the following is taken at S. W. 1. c. 118,

"* * *While the word 'or' may sometimes be so used, its ordinary use is as a disjunctive 'that marks an alternative generally corresponding to "either," as "either this or that."'
* * *"

In the case of *State v. McGee*, 83 S. W.(2d) 98, the word "or" was defined at 1. c. 110, as follows:

"* * *Or 'is a disjunctive participle that marks an alternative generally corresponding to "either," as "either this or that,"' 46 C. J. 1124, Sec. 1; *State v. Combs* (Mo. Sup.) 273 S. W. 1037, 1039 (1); *Dodd v. Independence S. & F. Co.*, 330 Mo. 662, 671 (8), 51 S. W. (2d) 114, 118 (9). 'A disjunctive conjunction coordinating two or more words or clauses each one of which in turn is regarded as excluding consideration of the other or others.'* * *"

The conclusion to be drawn from a study of the grammatical construction of paragraph (c) of Section 14911f, supra, is that the paragraph comprises a coordinated series of three requirements listed in the alternative and the possession of either would qualify the applicant to take the examinations for certified public accountants and entitle him to a certificate upon passing the examination. The conjunction "or" serves to join all three requirements with the purpose of separating them and does separate them with equal force and importance. Each requirement is excluded from being considered

in conjunction with the other, or others, and the possession of any one of them by the applicant would suffice.

To determine the meaning of paragraph (c) of Section 14911f, supra, we may also look to other related sections of the Act. Section 14911 (d) makes it mandatory on the Board to register firms and partnerships as certified public accountants if the following two conditions are met:

"(a) Each member or partner of the firm or partnership is in good standing as a certified public accountant in one or more states or political subdivision of the United States; and

"(b) Either

(1) Each resident or local member or partner is the holder of a valid certificate as a certified public accountant issued under the laws of the State; or

(2) If there is no resident or local member or partner then each resident or local manager is the holder of a valid certificate as a certified public accountant issued under the laws of this State."

That the Legislature did not wish to impose residency as one of the basic qualifications for the C.P.A. certificate is evident from the fact that they say that the local partner or local manager of the firm or partnership must be the holder of a certificate issued under the laws of this state.

There is no possibility of confusion in the meaning of the word "local" since it is defined in Section 14911(d) as follows:

"The term 'local', as used herein, is intended to denote persons engaged in practicing public accountancy in this State, who spend all or the greater part of their time during business hours in this State, but reside in another State."

If residency was one of the basic qualifications for obtaining a certificate the Board would be without authority to issue certificates to local partners or managers and Section 14911(d) would,

to some extent, be meaningless. To hold that residency is not a requirement for procuring a certificate would achieve greater harmonization of all sections of the Act.

CONCLUSION

In view of the foregoing, it is the opinion of this department that paragraph (c) Section 14911f, Laws of Missouri, 1943, prescribes three qualifications for individuals who apply for certificates as certified public accountants. That said qualifications are in the alternative and the possession of either would qualify the applicant to obtain a certificate provided the other two qualifications, as set forth separately in paragraphs (a) and (b), are possessed.

Respectfully submitted,

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APPROVED:

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