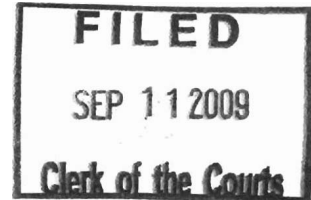


IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

IN RE: AMENDMENT TO RULE 9, ADOPTION OF NEW SECTION 32
RULES OF THE TENNESSEE SUPREME COURT,

M2009-01879-5C-RL-RL

Filed:



ORDER

Tennessee Code Annotated section 67-4-1702 levies a tax on the privilege of engaging in certain vocations, professions, businesses and occupations, including the practice of law by “persons licensed as attorneys by the supreme court of Tennessee.” Tennessee Code Annotated section 67-4-1704 provides that the failure to pay this privilege tax may result in suspension or revocation of “any license or registration by the appropriate licensing board” and encourages “[t]he supreme court of Tennessee . . . to establish guidelines to suspend the license of an attorney who fails to comply with the requirements of this part.” Consistent with this statutory request, on May 18, 2009, this Court published for public comment a proposed amendment of Tennessee Supreme Court Rule 9, adopting a procedure designed to promote compliance with Tennessee Code Annotated sections 67-4-1701 – 1710, by attorneys licensed by this Court. The deadline for submitting written comments expired on Friday, June 26, 2009.

Upon due consideration, the Court hereby amends Tennessee Supreme Court Rule 9, by adopting new section 32, set out in the attached Appendix to this order. This amendment shall become effective January 1, 2010.

The Clerk shall provide a copy of this order, including the attached Appendix, to LexisNexis and to Thomson-West. In addition, this order shall be posted on the Tennessee Supreme Court’s website.

FOR THE COURT:

Cornelia A. Clark
CORNELIA A. CLARK, JUSTICE

APPENDIX A

TENN. SUP. CT. R. 9, PROPOSED NEW SECTION 32

Section 32. Attorneys Failing to Comply with Tenn. Code Ann. § 67-4-1701 – 1710 (Privilege Tax Applicable to Persons Licensed to Practice Law)

Tenn. Code Ann. § 67-4-1702 levies a tax on the privilege of engaging in certain vocations, professions, businesses and occupations, including “persons licensed as attorneys by the supreme court of Tennessee.” Tenn. Code Ann. § 67-4-1704 provides that failure to pay the privilege tax can result in suspension or revocation of “any license or registration by the appropriate licensing board” and goes on to state that “[t]he supreme court of Tennessee is encouraged to establish guidelines to suspend the license of an attorney who fails to comply with the requirements of this part.” The Supreme Court hereby establishes the following procedures to promote compliance with Tenn. Code Ann. §§ 67-4-1701 – 1710, as those sections apply to attorneys licensed by the Court.

32.1. The Court designates the Chief Disciplinary Counsel of the Board of Professional Responsibility (“Board”) as the official to whom the Department of Revenue shall annually send a list of attorneys licensed by this Court who have failed, for two or more consecutive years, to pay the privilege tax imposed by Tenn. Code Ann. § 67-4-1702.

32.2. Upon receipt of the list of attorneys transmitted by the Department of Revenue, the Chief Disciplinary Counsel shall serve each attorney listed thereon with a Privilege Tax Delinquency Notice, stating that the Department of Revenue has informed the Board that the attorney has failed, for two or more consecutive years, to pay the privilege tax imposed by section 67-4-1702 and that the attorney’s license is therefore subject to suspension. The Notice shall be served upon the attorney by registered or certified mail, return receipt requested, at the address shown in the most recent registration statement filed by the attorney pursuant to Supreme Court Rule 9, Section 20.5 or other last known address.

32.3. Each attorney to whom a Privilege Tax Delinquency Notice is issued shall file with the Board, within sixty (60) days of the date of issuance of the Notice, an affidavit supported by documentary evidence showing that the attorney has paid the delinquent privilege taxes and any interest and penalties assessed by the Department of Revenue. In the event the attorney fails to submit such evidence to the Board, Disciplinary Counsel shall proceed according to the following provisions.

32.4. Within thirty (30) days of the expiration of the period for attorneys to respond, as required in section 32.3, to the Privilege Tax Delinquency Notices mailed to the attorneys listed by the Department of Revenue, the Chief Disciplinary Counsel shall prepare a proposed Suspension Order listing all attorneys who were issued Privilege Tax Delinquency Notices and who either failed to satisfactorily demonstrate to the Board that they had paid their delinquent taxes (and any interest and penalties) or failed to respond to the Notice. The proposed Suspension Order shall provide that

the license to practice law issued to each listed attorney shall be suspended upon the Court's filing of the order and pending the attorney's payment of the delinquent privilege taxes and any interest and penalties.

32.5. Upon the Court's review and approval of the order, the Court will file the order summarily suspending the license to practice law of each attorney listed in the order. The suspended attorneys shall comply with the applicable provisions of section 18 of this rule. The suspension shall remain in effect until the attorney pays the delinquent privilege taxes and any interest and penalties, as well as any fees imposed by this rule, and he or she is reinstated pursuant to section 32.7.

32.6. Each attorney who is issued a Privilege Tax Delinquency Notice shall pay to the Board a fee in the amount of \$100 to defray the Board's costs in issuing the Notice. Each attorney whose license to practice law is suspended by the Court pursuant to this rule shall pay to the Board a reinstatement fee in the amount of \$200 as a condition of reinstatement of his or her law license after paying the delinquent privilege taxes and any interest and penalties. The reinstatement fee shall be paid in addition to the fee for issuance of the Notice.

32.7. An attorney suspended by the Court pursuant to this rule may file with the Board an application for reinstatement demonstrating that he or she has paid all delinquent privilege taxes and any interest and penalties. If the application is satisfactory to the Board, if the attorney is otherwise eligible for reinstatement, and if the attorney has paid in full all fees due under this rule, the attorney shall be reinstated without further order.