
EXPOSURE DRAFT

OMNIBUS PROPOSAL

AICPA PROFESSIONAL ETHICS DIVISION

PROPOSED NEW INTERPRETATIONS AND PROPOSED DELETION OF ETHICS RULING

November 30, 2011

Comments are requested by January 30, 2012

Prepared by the AICPA Professional Ethics Executive Committee for comments from persons interested in independence, behavioral, and technical standards matters.

Comments should be addressed to Lisa A. Snyder, director of the Professional Ethics Division, at lsnyder@aicpa.org.

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November 30, 2011

This exposure draft contains important proposals for review and comment by the AICPA's membership and other interested parties regarding pronouncements for possible adoption by the Professional Ethics Executive Committee (PEEC). The text and an explanation of the proposed pronouncements are included in this exposure draft.

After the exposure period is concluded, and the PEEC has evaluated the comments, the PEEC may decide to publish one or more of the proposed pronouncements. Once published, the pronouncements become effective on the last day of the month in which they are published in the *Journal of Accountancy*, except if otherwise stated in the pronouncements.

Your comments are an important part of the standard-setting process; please take this opportunity to comment. Responses must be received at the AICPA by January 30, 2012. All written replies to this exposure draft will become part of the public record of the AICPA.

All comments received will be considered by the PEEC at its April 30–May 1, 2012 open meeting.

Please send comments to Lisa A. Snyder, director of the Professional Ethics Division, via e-mail at lsnyder@aicpa.org.

Sincerely,

Wes Williams, *Chair*
AICPA Professional Ethics Executive Committee

Lisa A. Snyder, *Director*
AICPA Professional Ethics Division

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Proposed New Interpretation No. 505-4 and Proposed New Interpretation No. 505-5 Under Rule 505

Explanation

The Professional Ethics Executive Committee (PEEC) is exposing for comment two new interpretations under Rule 505, *Form of Organization and Name* (AICPA, *Professional Standards*, ET sec. 505 par. .01). Proposed Interpretation No. 505-4, “Misleading Firm Names,” and proposed Interpretation No. 505-5, “Use of a Common Brand Name in Firm Name,” provide guidance on when firm names would be considered misleading.

Rule 505 of the AICPA Code of Professional Conduct states, in part, that members “...may practice public accounting only in a form of organization permitted by law or regulation...” and “...shall not practice public accounting under a firm name that is misleading.” The PEEC believes it would be helpful to provide guidance to members on what would be considered misleading firm names consistent with the guidance contained in the revised Uniform Accountancy Act (UAA) and Model Rules.

Specifically, in August 2011, revisions were made to Section 14(i) of the UAA and conforming changes to Article 14 (Unlawful Acts) of the Model Rules (Rule 14-1 – CPA Firm Names), that provide guidance on misleading firm names (www.nasba.org/files/2011/09/2011UAAModel-RulesRevised.pdf). Consistent with UAA Model Rule 14-1, the PEEC is proposing Interpretation No. 505-4, “Misleading Firm Names,” which states a firm name would be considered misleading if the name contains any representation that would be likely to cause a reasonable person to misunderstand, or be confused about, the legal form of the firm or who the owners or members of the firm are. Unlike the UAA, however, the PEEC did not believe an extensive list of examples of misleading firm names was necessary, but instead, included a provision in the proposal referring members to the rules and regulations of their state board(s) of accountancy concerning misleading firm names.

Also consistent with UAA Model Rule 14-1, the PEEC is proposing Interpretation No. 505-5, “Use of a Common Brand Name in Firm Name,” which states that a firm’s use of a common brand name as *part of* the firm name would not be considered misleading, provided the firm was a *network firm* as defined by the AICPA Code of Professional Conduct (ET section 92.24). However, in order for a firm to use a common brand name as the *entire* firm name, it would need to meet the definition of *network firm* and share one or more of the other characteristics of a network (ET section 92.23), such as common control or a significant part of professional resources, in addition to sharing a common brand name.

Text of Proposed New Interpretation

505-4—Misleading Firm Names

Rule 505 prohibits a member from practicing public accounting under a firm name that is misleading. A firm name would be considered misleading if the name contains any representation that would be likely to cause a reasonable person to misunderstand, or be confused about, the legal form of the firm or who the owners or members of the firm are, such as a reference to a type of organization or an abbreviation thereof, which does not accurately reflect the form under which the firm is organized.

In addition, the member should consider the rules and regulations of his or her state board(s) of accountancy concerning misleading firm names, which may be more restrictive than the requirements contained in this ethics interpretation.

Text of Proposed New Interpretation

505-5—Use of a Common Brand Name in Firm Name

Firms within a network sometimes share the use of a common brand, including common initials, as part of the firm name. The use of such a common brand name or common initials as part of the member's firm name would not be considered misleading, provided the firm is a *network firm* as defined in ET section 92.24.

The use of a common brand name, including common initials, as the entire name of the member's firm would not be considered misleading, provided the firm is a *network firm* as defined in ET section 92.24 and shares one or more of the following characteristics with other firms in the network:

- Common control (as defined in Financial Accounting Standards Board *Accounting Standards Codification* 810, *Consolidation*) among the firms through ownership, management, or other means
- Profits or costs, excluding costs of operating the network, costs of developing audit methodologies, manuals, and training courses, and other costs that are immaterial to the firm
- Common business strategy that involves ongoing collaboration amongst the firms whereby the firms are responsible for implementing the network's strategy and are held accountable for performance pursuant to that strategy
- Significant part of professional resources
- Common quality control policies and procedures that firms are required to implement and that are monitored by the network

Members should refer to Interpretation 101-17, "Networks and Network Firms" under Rule 101, *Independence* (AICPA, *Professional Standards*, ET sec. 101 par. .19), for independence requirements applicable to network firms.

Proposed Deletion of Ethics Ruling No. 134 Under Rule 505

Explanation

The PEEC is recommending Ethics Ruling No. 134, "Association of Accountants Not Partners," of ET section 591, *Ethics Rulings on Other Responsibilities and Practices* (AICPA, *Professional Standards*, ET sec. 591, par. .267), be deleted because the guidance contained in proposed Interpretation No. 505-4, "Misleading Firm Names," would provide members with guidance on misleading firm names.

Text of Proposed Deletion

134. Association of Accountants Not Partners

.267 Question—Two members who are not partners share an office, have the same employees, have a joint bank account, and work together on each other's engagements. Would it be proper to have a joint letterhead showing both names, "Certified Public Accountants," and their addresses?

.268 Answer—In these circumstances the public would assume that a partnership existed. If any reports were to be issued under the joint heading, Rule 505 [ET section 505.01] would be violated.

Members should not use a letterhead showing the names of two accountants when a partnership does not exist.