



State Regulatory and Legislative Affairs

AICPA State Regulation and Legislation Team Legislative Summary 2013 Year in Review

Across the country and throughout 2013, state legislatures have considered a variety of issues that will have a profound impact on the CPA profession. These issues include protecting cross-border practice privileges for CPAs, creating independent state boards of accountancy, and levying sales taxes on professional services. To date, the American Institute of CPAs' (AICPA) State Regulation and Legislation Team tracked 378 bills and 322 regulations impacting the CPA profession. The summary below provides an overview of the key issues tracked in 2013. For a more detailed list of state legislation and regulations considered this year, please contact James Cox, Manager – State Legislation, at jacox@aicpa.org.

Sales Taxes on Services

One of the greatest legislative threats impacting the profession in 2013 was the taxation of professional services. Many state policymakers undertook efforts this year to broaden their tax bases as a means of generating new revenue. These efforts included legislation to tax professional services, as well as tax Internet sales. Currently, Hawaii, New Mexico and South Dakota are the only states that levy a sales tax on professional services. This year, fifteen state legislatures considered bills related to service taxes.

For example, as part of his budget, Ohio Governor John Kasich (R) proposed an overhaul of the state's tax structure that included an expansion of the sales tax to offset a reduction in the income tax. The legislation, House Bill 59, included a tax on accounting, legal, and consulting services. The Ohio Society of CPAs launched a successful opposition campaign against the proposed expansion, which resulted in the Ohio House of Representatives removing the proposal from the bill. Similarly, Minnesota Governor Mark Dayton (D) proposed an expansion of the state's sales tax to a variety of services including accounting services. The proposal was defeated due in large part to the grassroots efforts of the Minnesota Society of CPAs.

In Massachusetts, the Legislature overrode Governor Deval Patrick's (D) veto of a bill funding transportation projects through an increased levy on several taxes including a 6.25 percent tax on software and computer services. Thanks in part to the combined efforts of the Massachusetts Society of CPAs, a number of CPA firms active in the state, individual Massachusetts CPAs, and the state's business community, Governor Patrick agreed to sign legislation to repeal the tax. Maine's Legislature debated a bill that would have expanded the state's sales and use tax to include services, and defined services as an activity engaged in for another person for a fee, retainer, or commission. While the legislation did not pass, Governor Paul LaPage (R) signed the state's budget bill, which included a provision establishing the Maine Tax Expenditure Review Task Force. The Task Force is charged with finding \$40 million in savings from the state's \$1 billion in tax breaks, exemptions, and credits; and, it is expected that taxes on

professional services will be on the Task Force's list of discussion topics. In addition to lawmakers and state budget experts, the Maine Society of CPAs was successful in having a CPA appointed to the Task Force. These bills were part of a larger effort to replace the state's personal income tax with other forms of taxation in order to compete with neighboring New Hampshire, which does not have such a tax.

North Carolina Governor Pat McCrory (R) signed a comprehensive tax overhaul package that includes reductions in the state's personal and corporate income taxes. Lawmakers considered adding a tax on professional services to the package; however, the language was not included in the final proposal. In Louisiana, legislation was introduced that would have levied a four percent sales tax on many services provided by CPAs and CPA firms. However, the legislation failed to advance, and the Legislature adjourned for the year.

Interstate CPA Mobility

In 2007, the AICPA, state CPA societies, the National Association of State Boards of Accountancy, state boards of accountancy, AICPA members, and CPA firms began a national effort to promote a uniform system of state licensing laws to allow licensed CPAs to provide services across jurisdictional lines without having to obtain a reciprocal license in states where they are providing temporary services. Currently, 49 states and the District of Columbia have passed mobility laws, with the remaining U.S. jurisdictions working towards this goal.

New legislation can sometimes be drafted in a way that has unintended consequences on CPA mobility, and it is important that the profession monitors these bills in order to safeguard the public interest. Three areas in which the profession saw efforts this year that could have harmed CPA mobility included: the easing of occupational licensing requirements for members of the military and their spouses; the creation of film tax incentives; and, the establishment of state tax tribunals.

Military Licensing

State legislatures continued to embrace a key component of the White House's [Joining Forces](#) campaign, streamlining the occupational licensure process for members of the military and their spouses who move across state lines. Legislative efforts to lessen these barriers could potentially impact CPA mobility requirements, such as substantial equivalency, if they do not consider existing laws and licensing requirements. In 2013, 15 states enacted legislation allowing service members to apply substantially equivalent experience gained in the military to the requirements for licensure, while 11 states passed bills that expedite the licensing process for military spouses. The Wyoming Society of CPAs successfully worked with the Wyoming Board of Certified Public Accountants and the office of the Wyoming Adjutant General on legislation requiring state professional licensing boards to consider substantially equivalent experience or training in determining whether a military service member meets that board's respective requirements. Hawaii's Legislature considered a bill that would have allowed the state's professional licensing bodies to exempt military veterans from taking a national or regional exam as a requirement for licensure. This bill was different from the majority of bills designed to facilitate cross-jurisdictional practice for military service members seen across the country in 2013. The bill could have potentially eliminated the requirement that CPAs pass the Uniform CPA Examination in order to become

licensed in Hawaii, thus potentially harming the public and turning some Hawaiian CPA licenses into a lower, second tier credential with fewer rights nationally. Working with other stakeholders, the Hawaii Society of CPAs was able to defeat the measure.

Film Production Tax Incentives

Film production tax incentives are often used as a way to attract the entertainment industry to states looking to boost their economies. According to the National Conference of State Legislatures, 45 states and Puerto Rico offer these incentives in the form of tax credits, rebates, and exemptions. In order to receive such incentives, many states require film companies to have an audit performed by a CPA licensed in that state, as opposed to one authorized to practice in the state, but licensed in another. State laws and legislation establishing such requirements are road blocks to the spirit of cross-border practice, and those states with such restrictions should consider modifying their statutes. This year, the Society of Louisiana CPAs successfully worked with lawmakers to remove such a restriction from a bill that was signed into law by Governor Bobby Jindal (R).

State Tax Tribunals

Many states have created or are proposing independent state tax tribunals to resolve tax appeal disputes, prior to litigation, between taxpayers and state departments of revenue. Thirty-two states currently have tax tribunals located in either the executive or judicial branches of government. In 2013, Alabama, Colorado, Louisiana, Tennessee, and Texas considered proposals to create tax tribunals and to allow CPAs to represent clients before these entities. However, legislation failed to pass in these states. The AICPA believes that laws creating or modifying state tax tribunals should ensure that all CPAs authorized to practice in the state are able to represent taxpayers before these bodies. The AICPA State Regulation and Legislation Team, along with the AICPA Tax Executive Committee, has developed a [White Paper](#) that explains how proposed state tax tribunals can account for mobility and also includes model legislative language, based on model language from the American Bar Association, to use as a guide in the states.

Peer Review

A peer review is a periodic outside review of a CPA firm's accounting and auditing practice aimed at helping the firm maintain and improve the quality of its services. Firms (and individuals) enrolled in programs following AICPA Standards are required to have a peer review, conducted by an independent reviewer, once every three years. With its emphasis on remediating deficiencies found in firms' processes for performing accounting and auditing engagements, peer review serves the public interest.

The Florida Institute of CPAs scored a major victory in 2013 when Governor Rick Scott (R) signed legislation requiring licensed firms, except those providing compilations and reviews, to be enrolled in a peer review program as a condition of license renewal. With the enactment of the Florida legislation, Delaware is now the only state that has not passed such legislation. However, conversations are beginning among stakeholders in the state, and the Delaware Society of CPAs is likely to pursue legislation in 2014. Peer review also emerged as an issue in Texas this year when the Legislature

considered a measure to eliminate peer review requirements for those CPAs who prepare compilation reports for micro or small businesses. The Texas Society of CPAs worked to defeat the bill, which failed to pass out of committee.

State Boards of Accountancy

The Georgia General Assembly considered a bill that would transfer the Georgia State Board of Accountancy from the Secretary of State's office to the State Accounting Office, granting the board more independence. Independent state boards of accountancy have access and control of their own funds thus strengthening their ability to support certification, licensing, and enforcement functions. The Georgia Society of CPAs supported the bill; however, it did not make it out of the House Judiciary Committee. The bill is likely to be heard during the 2014 regular legislative session.

Oregon and South Carolina also saw legislation pertaining to board effectiveness in 2013. Additionally, several states passed legislation to extend the sunset date of their boards of accountancy.

Marijuana and the Profession

A new issue with implications for the CPA profession centers on the legalization of marijuana for both recreational and medicinal use. While marijuana is illegal at the federal level, state governments and voters are showing a willingness to decriminalize the drug. In November 2012, voters in Colorado and Washington approved ballot measures legalizing the recreational use of marijuana. In addition to Colorado and Washington, 18 states and the District of Columbia have laws permitting the use of marijuana for medical use. Twelve states considered legislation in 2013 to decriminalize certain amounts of marijuana, while seven states saw legislation to legalize the drug for medicinal use. Even though none of these measures passed, this issue is expected to be considered next year. The AICPA, in conjunction with the Colorado Society of CPAs and the Washington Society of CPAs, has developed a [White Paper](#) on the issue which describes state-level marijuana laws and how they affect CPAs who are considering providing services for marijuana-related businesses.

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