State Regulatory Update

September 2016

Overview
Welcome to the September 2016 edition of the State Regulatory Update. This publication by the AICPA State Regulation and Legislation Team provides news and information of interest to State Boards of Accountancy. Check out the updated AICPA State Board Resources for information and tools related to peer review, the AICPA Code of Conduct, CPE reciprocity, firm mobility, the CPA Exam, and more. Follow us on Twitter (@AICPAState).

State Regulation and Legislation
CPE profession sees victories related to firm mobility and attest in 2016, but continues to face tax on professional services threat
The CPE profession saw numerous policy priorities advance at the state level in 2016. 16 states now have firm mobility for attest work firms. 38 states have the comprehensive definition of attest. 5 prohibitions adopted legislation related to peer review, and Delaware passed a law allowing for public access to individual peer review reports. Attest work firms are still only a single majority (50 percent+1) of the owners hold CPA licenses.

At the same time, legislators in Arizona, California, Georgia, Oklahoma, and West Virginia introduced bills this year that would have created new taxes on professional services. While none of these bills have succeeded, the AICPA views this to be a heavy burden for team members in the attest area. The number of tax-related bills filed is generally higher in non-election years.

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Peer Review
Improving peer reviewer performance
The AICPA Peer Review Board (PRB) has begun more heavily scrutinizing peer reviewers’ performance when evaluating audits of high public interest, such as Employee Benefit Plans (2SPs), and Single Audits. The increased oversight follows a 2014 pilot program that found that 44% of selected engagements failed to conform to applicable professional standards on material aspects. Enhanced Oversight is now a permanent PRB initiative, with the number of engagements selected for more than double that of the pilot year.

The results of the 2014 pilot underscored the need for additional oversight, which is only performed on firms enrolled in the AICPA Peer Review Program, and prompted the PRB to issue draft revisions to the AICPA Standards for Performing and Reporting Peer Reviews (Standards) that propose allowing non-ACPAnet-member firms to enroll in the AICPA Peer Review Program. Currently, such firms are enrolled in programs monitored by state CPA societies which, though AICPA Standards are followed, do not subject such firms to certain national-level rigor, such as Enhanced Oversight.

Starting in 2017, reviewers will perform an enhanced assessment of each firm’s quality-control system using materials developed with help from the PRB. The objective of these efforts is to improve detection of quality challenges so that firms can appropriately remediate. In instances where firms do not make reasonable remediation, the PRB can require firms to complete a system review, which could put them at risk of not meeting state licensing requirements. As of August 2016, the AICPA has obtained efficiencies for approximately 62% of the 37,000 enrolled firms, and request efforts are continuing.

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This fee is in addition to any charged by the entity that administers peer review (e.g., the National Peer Review Committee or a state CPA society). It is designed to be assessed fairly across firms of all sizes, and is calculated based on the number of CPAs in the firm. The AICPA will send invoices for the 2017 fee in October/November, with payment due by May 1, 2017. More information on the national peer review administrative fee is available in this FAQ.

Increased transparency of individuals sanctioned by the professional ethics division and firms terminated from the Peer Review Program

The AICPA has enhanced its process of notifying state boards of accountancy when members are disciplined for failing to comply with the AICPA’s Code of Professional Conduct or when firms are terminated from the AICPA Peer Review Program for failure to cooperate.

The AICPA already publishes this information on its website, including details on specific Code violations, sanctions imposed on individuals, and reasons for a firm’s termination from the Program.

Under the enhancement, however, the AICPA now sends not only the peer review publication of dropped and terminated firms directly to board executive directors and chairs. The AICPA believes a robust enforcement program is critical to effective regulation of the profession and encourages state boards to take appropriate action in these matters.

In related enhancing audit quality efforts, the AICPA peer review and professional ethics divisions have identified firms performing attest services that have not complied with the applicable state board of accountancy’s peer review requirements. Where the AICPA does not have jurisdiction over the member responsible for this oversight, the matter—including applicable evidence—has been sent to the appropriate state board to consider opening an investigation. The AICPA has referred more than 250 of these cases over the last two years.

Ethics

PEEC adopts interpretations related to client files, commissions and referral fees

On July 12, 2016, the Professional Ethics Executive Committee (PEEC) adopted two new and one revised interpretation.

Client files. The first two interpretations provide guidance related to a CPA’s obligations concerning the confidentiality and return of client files when the CPA either transfers, sells, or discontinues their practice or the CPA acquires a practice. These are important practice issues that are not currently addressed in the AICPA Code of Professional Conduct.

The first interpretation requires that when a CPA discontinues, sells, or transfers all or part of their practice and the CPA no longer retains any ownership of the practice, the CPA must take certain steps to maintain the confidentiality of any client files in the CPA’s possession and obtain the client’s consent to transfer the client’s files to the successor firm. The CPA may also notify the client that his or her consent may be presumed if he or she does not respond within 30 days, unless prohibited by law (e.g., rules and regulations of the applicable state boards of accountancy). In cases where a CPA acquires a practice from another person or firm, the CPA must be satisfied that all clients of the predecessor firm subject to the acquisition have consented to the CPA’s continuation of professional services and retention of any client files. The new interpretation will be effective June 30, 2017, with early adoption permitted.

The second interpretation adopted involves a revision that extends the requirements of the confidential client information rule to any client files obtained as a result of acquiring a practice.

Commissions and referral fees. As part of its efforts to facilitate adoption of the AICPA Code of Conduct by state boards of accountancy, the PEEC agreed to adopt an interpretation that requires the disclosure of permitted commissions and referral fees be in writing. A significant number of state boards require such disclosures to be written, whereas the AICPA Code previously did not require the disclosure be in writing.