NASBA
State Board Report
A Digest of Current Developments Affecting State Accountancy Regulation
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3 States Embrace Mobility

Though the "no notice, no fee, no escape" revisions to Section 23 of the Uniform Accountancy Act have not yet been finalized by the AICPA and NASBA Boards of Directors, some states have already moved ahead with the concept described in the revisions. Most recently, such legislation passed in Maine (Bill LD 751, which affects Title 32 MRSA §12251, sub-§4-B), Tennessee (Senate Bill 0443 can be found at www.legislature.state.tn.us) and Texas (House Bill No. 2144 can be found at www.legis.state.tx.us).

The AICPA/NASBA Uniform Accountancy Act Committee met on May 24 in Washington, DC, to review the comments received on the exposure drafts for both the UAA Statute and Model Rules and make modifications to the drafts as appropriate. The NASBA Board of Directors will vote on the final versions of both the revised statute and Model Rules at their July 27 meeting. The members of the AICPA Board of Directors are scheduled to vote on the finalized statute changes when they meet on July 12. ♦

UK POB's Director Meets With IQAB

Paul George, Director of the United Kingdom's Public Oversight Board (POB) , outlined the responsibilities of his group at the May 4, 2007 meeting of the NASBA/AICPA International Qualifications Appraisal Board (IQAB) in Washington, DC. Asked to address the meeting by IQAB Chair William Treacy, Mr. George explained the aim of the UK's Financial Reporting Council, which includes the POB, is to promote confidence in corporate reporting and governance. Mr. George believes Section 1221 of the Companies Act of 2006 might provide an avenue for recognition of US CPAs in the United Kingdom. He told IQAB Chair Treacy that he would confer with the professional accounting bodies in the UK to assess their current interest in seeking a mutual recognition agreement.

Unlike the strict division between regulators and professionals established for the PCAOB in the Sarbanes-Oxley Act, the United Kingdom's POB brings the two together. Mr. George explained that his salary as director of the POB is partially paid by the government, partially by the profession and partially by business. While the POB has standard-setting authority, the five UK professional bodies are members of the International Federation of Accountants (IFAC) and they have accepted IFAC's standards, including those for professional ethics.

Todd Nissen of the Office of the US Trade Representative also addressed the May IQAB meeting, focusing on the recent trade agreement that was signed with the Republic of Korea on April 1, 2007. The United States-Korea Free Trade Agreement (KORUS FTA) expands market access and investment opportunities in a number of service sectors, including accounting. Upon the date of entry into force of the Agreement, US-licensed accountants may establish accounting consultancy firms. Five years after the date of entry into force of the agreement, US-licensed accountants will be able to own up to 50 percent of Korean accounting firms without obtaining a Korean accounting license. (Note: US citizens can presently invest in Korean accounting firms; however, they must first become fully licensed in Korea.)

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Call for Awards Nominees

NASBA's 100th Annual Meeting, to be held in Maui, HI, promises to be a very special event – including the presentation of the 2007 William H. Van Rensselaer Public Service Award and the NASBA Distinguished Service Award. Awards Committee Chair Janice B. Wilson-Marcum is now requesting state boards submit their nominations for both of these honors by July 13.

The William H. Van Rensselaer Award, created in 1988 in memory of NASBA's first full-time executive director, is awarded to an individual who has earned recognition through his or her contributions to the development of a program for boards of accountancy. The Distinguished Service Award, inaugurated in 1999, recognizes an individual who has demonstrated unswerving commitment and dedication to enhancing the mission of NASBA. To obtain further information about the awards' criteria, contact Kim Ellis at kellis@nasba.org. ♦

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Paulson Committee to Study Auditors

US Treasury Secretary Henry M. Paulson, Jr., has inaugurated a non-partisan, public federal advisory committee to develop proposals for creating a stronger, sustainable auditing profession. In an op-ed piece in the May 17 *Wall Street Journal*, Secretary Paulson announced he had asked former SEC Chairman Arthur Levitt and former SEC Chief Accountant Donald Nicolaisen to co-chair the group.

The new advisory committee will focus on three areas: (1) audit market competition and concentration, (2) human capital and (3) financial resources. It is expected to develop recommendations on how these relate to the profession.

"We will solicit a broad range of individuals representing views from the auditing profession, public companies, investor community, and other financial market participants," Under Secretary for Domestic Finance Robert K. Steel told the Council on Competitiveness. "We intend to solidify membership this summer and anticipate a first meeting in the fall."

Under Secretary Steel said the Treasury Department favors a regulatory system that balances both rules and principles: "We need a new, modernized approach to regulation – one that is risk-based, globally oriented and flexible in scope. A prudent approach recognizes that we should be guided by principles at an overarching level. But regulation at the retail level will require some focus on rules, particularly to protect less sophisticated market participants, where investor protection must be a paramount focus."

For more information about the Treasury Secretary's initiatives see www.ustreas.gov/press/releases/hp408.htm. ♦

PCAOB Focuses on Small Business

Concerns that independent oversight might deter smaller CPA firms from continuing to audit public companies have not been borne out, PCAOB Chairman Mark Olson testified before the US Senate Committee on Small Business & Entrepreneurship on April 18, and on June 5 before the House Small Business Committee's hearing on "Sarbanes-Oxley Section 404: Will the SEC's and PCAOB's New Standards Lower Compliance Costs for Small Companies?" There are about 1,000 domestic audit firms currently registered with the PCAOB, and only about 125 of them had more than five public company clients at the time they registered, he noted. Chairman Olson pointed out that more than 450 of those domestic firms registered even though they were not the auditor of record for a public company at the time they registered.

At the June 5 hearing, Chairman Olson said Auditing Standard No. 5 ("An Audit of Internal Control Over Financial Reporting that Is Integrated with an Audit of Financial Statements") had been approved by the PCAOB on May 24, and would replace Auditing Standard No. 2 in its entirety if approved by the SEC. Chairman Olson told the Senators: "A priority concern that triggered our current efforts is the desire to assure that the audit standard mandated by the [Sarbanes-Oxley] Act can be conducted in a manner consistent with the size and complexity of America's small publicly traded companies."

Auditing Standard No. 5 focuses on the matters most important to internal control, eliminates unnecessary procedures and simplifies the requirements, Mr. Olson explained. "These

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E&Y Partners Indicted for Tax Shelter Fraud

Four current and former Ernst & Young partners were indicted for tax fraud conspiracy and related crimes arising out of tax shelters promoted by the firm, the Department of Justice announced on May 30. The named individuals were Robert Coplan of Plano, TX; Martin Nissenbaum of Brooklyn, NY; Richard Shapiro of Rye Brook, NY; and Brian Vaughn, CPA, of Calhoun, LA. The *Wall Street Journal* reported that the allegedly bogus tax shelter transactions resulted in $120 million in fees for E&Y and the *Journal* learned the government is discussing monetary sanctions against the firm, but not indictment. The allegedly fraudulent tax shelter transactions were called CDS (Contingent Deferred Swap), COBRA (Currency Options Bring Reward Alternatives), CDS Add-On, and PICO (Personal Investment Corporation) and were typically offered to individuals with taxable income in excess of $10 million.

The Department of Justice explained in its release: "In order to maximize the appearance that the tax shelters were investments undertaken to generate profits, and to minimize the likelihood that the IRS would learn the transactions were actually designed to create tax losses and deductions, the defendants and their co-conspirators created and assisted in creating transactional documents and other materials containing false and fraudulent descriptions of the clients' motivations for entering into the transactions, and their motivations for taking the various steps that would yield the tax benefits. The conspirators also carefully protected internal documents and promotional materials that set forth the tax benefits and pricing schedules of the various shelters against disclosure to the IRS."

Mr. Coplan was also charged with corruptly endeavoring to impede the due administration of Internal Revenue laws by telling E&Y employees to destroy documents related to the tax shelter transaction when an IRS audit of the transaction was pending.

US Attorney for the Southern District of New York Michael J. Garcia stated: "This prosecution further demonstrates our commitment to hold accountable tax professionals whose deceit costs this country untold millions in tax revenues. The conduct charged in this indictment far exceeds the bounds of legitimate tax planning and reflects flagrant disregard of the law." ♦

Ethics: A Time to Stand-Up

David A. Costello, CPA

A preacher, doctor and lawyer were called to the deathbed of a rich friend. The wealthy man said they were the only three people he could trust to send him off to his reward with some of his money on him, as he was sure he would have need of money in the afterlife. All three men agreed to each put an envelope with $100,000 of the old man's savings in the casket with him when the time came. At his funeral, the three men each put an envelope into the casket, as they had been asked to do.

A month later the preacher called a meeting with his other two friends and confessed that he had only included $20,000 of the old man's money in the envelope and had given the other $80,000 to a missionary in Africa for his ministry there.

The doctor broke down and admitted he had only included $30,000 of the old man's money in his envelope and had sent the other $70,000 to a medical missionary in South America.

The lawyer was incensed and told his friends how ashamed he was of their dishonesty toward their old friend -- and assured them that he had put his own personal check for the entire $100,000 in the casket.

Boards of accountancy deal with many significant issues including mobility of their licensees, consumer access to quality services, examination challenges, education requirements and effective enforcement. But it could be argued that there is no issue more significant or more pervasive than ethics. Within "ethics" we attempt to describe and identify the scope of doing and being right. Some claim ethics can't be taught; others assert that ethics is what laws and rules are based upon; and still others believe ethics is simply a moral mooring. But most would agree that ethics is a term which should describe generally "who we are" and "what we do."

Ninety-five percent of the Fortune 500 companies now have an ethics code; over 3,000 companies employ ethics compliance officers. NASBA and member boards spend much time and resources on trying to develop and maintain an environment and culture predicated on being and doing right for the public at large. Board Web sites displaying statutes and rules, NASBA's committees on Ethics, the Uniform Accountancy Act, Communication, Education, Regulatory Structures and Issues, and Strategic Initiatives and the NASBA Center for the Public Trust are all involved directly in promoting individual and corporate responsibility and accountability.

Some think that NASBA, boards of accountancy and Congress have overreacted to ethical dilemmas and failures. Nonsense! Just because we're not currently reading about Enron, Worldcom and Parmalot doesn't imply that all of a sudden there is no risk of significant failures related to bad behavior. Consider the website, www.defeatschool.com. The first two paragraphs read as follows:

"Learn how to cheat in school and not get caught. These pages will show you exactly what to do in order to successfully take the backdoors to education and cheat in school by giving you the most comprehensive library of cheating techniques.

"Education is a journey we must all pursue—a journey in which we must take all the paths, all the corners, and all the forks we encounter to reach our ultimate goal: Graduation. Throughout the journey however, it is essential to understand the concept of reaching these goals with minimum effort and accepting maximum merit for them. One must be cheating in school to make the journey easier and worthwhile."

Can you believe that? It's clear what we must do in a positive, powerful, passionate way to hopefully negate this type information that is so recklessly disseminated by the "defeatschools" in our land: We must continue to keep ethics at the core of our education, training and practices. Any diminution of effort with respect to ethics gives too much leeway to the rationalizations and outright noncompliance with both the letter and the spirit of our state and federal laws and regulations. It's time to "stand-up." It's time to put on parade our strong belief in a values and trust dynamic which will begin to influence not only the currently licensed CPAs but also the younger generations looking for leadership. NASBA and the boards will continue to lead efforts to promote and encourage a culture of sensible, responsible and accountable behavior on the part of all licensees.

Ad astra,
Per aspera.

David A. Costello, CPA
President and CEO

POB Director Meets With IQAB

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The revised IQEX (International Uniform Certified Public Accountant Qualification Examination) was administered for the first time in November 2006 and the passing rate remained at about 60 percent, Patricia Hartman, NASBA Director of CPA Examination Services, reported. The new examination focuses on tax and law, those subjects most peculiar to US practice. IQEX is available to professionals with non-US designations that are covered under mutual recognition agreements adopted by the state boards. IQEX is given during November each year. This past November, 321 individuals took the IQEX. Information about IQEX can be found on the NASBA Web site.

IQAB Chair Treacy has appointed a new task force to review IQAB's procedures and examine its charge to ensure they are meeting the needs of current international practice. He explained, "Just as we have had to re-examine how we determine substantial equivalency among the states, we need to reconsider how we determine substantial equivalency among international designations." Gerald Burns (OR) was appointed to chair the new task force studying IQAB's procedures and charge.

Charles Calhoun, III, brought the IQAB members up-to-date on IFAC's current projects, including the distribution of an Ethics Education Toolkit, which includes PowerPoint presentations, video clips and other teaching materials of practical use to those developing and delivering ethics education programs. The International Accounting Education Standards Board expects to adopt the final version of its International Education Practice Statement "Approaches to Developing and Maintaining Professional Values, Ethics and Attitudes" at its June 2007 meeting.

Professor Calhoun recommended to the IQAB members a comprehensive article outlining how the US-Canada-Mexico mutual recognition agreement has been implemented. It can be found in *Global Perspectives in Accounting Education*, Volume 4, 2007, "NAFTA Professional Mutual Recognition Agreements: Comparative Analysis of Accountancy Certification and Licensure," by Lucia Peek, Maria Roxas, Georg Peek, Egbert McGraw, Yves Robichaud and Jorge Castillo Villarreal, academicians from the US, Canada and Mexico. (See http://gpae.bryant.edu.) ♦

PCAOB Focuses on Small Business

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steps are designed to provide a sound audit that gives auditors of small companies the flexibility they need to design and perform cost-effective audits that are tailored to the unique attributes of small business."

The PCAOB expects to publish guidance later this year using examples of how the internal control audit process should be scaled to fit the relative sizes of small companies, Chairman Olson told the hearing. Chairman Olson's comments to the Senate Committee can be found on www.pcaobus.org. ♦

WV Added to ADL

West Virginia is the latest state to be participating in NASBA's US Accountancy Licensee Database. This brings the total up to 13 (West Virginia joining Alaska, Idaho, Indiana, Louisiana, Missouri, Nevada, New Mexico, Oklahoma, Puerto Rico, Tennessee, Texas and Wyoming) with other jurisdictions soon to follow. NASBA staff continues to work with state boards to facilitate bringing their licensees' information on to the database. ♦

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