NASBA
STATE♦BOARD♦REPORT
A Digest of Current Developments Affecting State Accountancy Regulation

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Appeals Court Rules Against IRS

The IRS voluntary tax preparer Record of Completion program was pushed back by an October 30 decision of an appeals court in the case of *American Institute of CPAs v. Internal Revenue Service and John Koskinen*. Tax preparers who took the IRS required prerequisites to obtain a Record of Completion would not be able to use the terms "certified," "enrolled" or "licensed"; however, the U.S. District Court for the District of Columbia concluded competition with CPAs could occur as "participating preparers remain free to tell potential clients that they have a Record of Completion demonstrating that they satisfied the Program's educational requirements and passed the test. Indeed, that is the very purpose of the Program. Moreover, participating preparers' names will appear in the Directory of Federal Tax Return Preparers alongside the names of CPAs and other credentialed preparers."

The District Court decided not to voice an opinion on whether or not the Record of Completion would confuse the public, but the Court did agree with "the allegation that CPAs and their firms are more likely to lose business to an unenrolled preparer with a Record of Completion and a listing in the government directory than to an unenrolled preparer with no credentials at all."

NASBA Outside Legal Counsel Noel L. Allen, whose firm had filed an *amicus curiae* brief on NASBA's behalf in the AICPA v. IRS case, had addressed the NASBA Annual Meeting on October 27 and, at that time, identified three current major legal topics that Accountancy Board members should be following: marijuana legalization; use of title and deceptive credentials; and the impact of the *North Carolina State Board of Dental Examiners v. FTC* Supreme Court decision. An outline of his presentation can be found on www.nasba.org. In addition, State Boards are being sent information on the implications of the North Carolina Dental Board case decision to be reviewed with their own legal counsel.

The NASBA *amicus* brief had stated that the lower court erred because it "held as a matter of law that consumer confusion is unlikely to result from a tax return preparer's use of an Annual Filing Season Program Record of Completion credential." The Court of Appeals did not sustain the lower court's finding about public confusion. "Unless the IRS seeks Supreme Court review, the case will go back to the District Court for further proceedings," Mr. Allen explained. ♦

SEC Commissioner Supports IFRS Test

Dr. Piwowar

As a way for determining whether or not there is investor demand for IFRS (International Financial Reporting Standards) reporting, SEC Commissioner Michael S. Piwowar believes the Commission should consider allowing such financial reporting as a supplement without reconciliation to GAAP. Making his remarks at a November conference in New York, the Commissioner said this idea of the SEC's allowing IFRS, rather than mandating it, was first suggested by SEC Chief Accountant Jim Schnurr almost a year ago.

"Foremost, I believe that any requirement for IFRS financial reporting should be investor-driven, not regulator-driven," Dr. Piwowar stated. Acknowledging his background as a financial economist, he observed: "It is difficult to gauge investor demand for financial reporting under IFRS by U.S. domestic issuers. How does one predict investor demand for IFRS reporting when it is largely not available in the domestic context?"

He summarized three observations made by Chief Accountant Schnurr in September: "First, there is 'virtually no support' for the Commission to mandate IFRS reporting for all issuers. Second, there is 'little support' for optional IFRS reporting for domestic issuers. Third, there is continued support for a single set of high-quality, globally accepted accounting standards."

Commissioner Piwowar believes allowing IFRS reporting as a supplement would provide "useful data on investor demand" for the SEC to analyze, and would also encourage the IASB and FASB to continue to work collaboratively on standards convergence projects.♦

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Relationships Key in Strategic Plan

NASBA is continuing its regular cycle of strategic and operational planning that ensures the organization stays focused on its core mission to "enhance the effectiveness and advance the common interests of the Boards of Accountancy." In late 2014, then NASBA Chair Walter C. Davenport, appointed a 14-member task force to review and revise NASBA's strategic plan. The goal was to ensure the strategic plan reflects the current priorities and objectives of the organization and its member boards. The task force consisted of four members of the Board of Directors, four sitting State Board members, two State Board executive directors and four members of the NASBA staff. In early October 2015, the Strategic Planning Task Force completed its work, and the revised plan was presented to the NASBA Board of Directors. It was approved at the Board's October 23, 2015 meeting in Dana Point, CA.

The updated plan adds several new areas of emphasis for NASBA. Key changes include:

- Increased emphasis on the importance of building strong relationships with the member Boards as well as other stakeholders and business partners,
- More focus on NASBA's advocacy role on behalf of the Boards of Accountancy,
- Addition of diversity and inclusion among NASBA leadership, volunteers and member Boards as a key organizational objective,
- Expanded legislative and regulatory support,
- Addition of support for the CPA candidate pipeline,
- Addition of leadership development as a critical element in developing NASBA volunteers and member Boards,
- Emphasis on identifying and responding to emerging issues that impact the regulatory work of the boards, and the profession.

"The new strategic plan, which covers the 2016-2019 period, will guide NASBA's internal planning efforts," President and CEO Ken L. Bishop stated. Each year NASBA engages in an operational planning program that aligns the organization's business units efforts with the strategic plan.

As each business unit builds its annual plan it must demonstrate how its goals align with the broader mission of NASBA and the strategic priorities defined in the current strategic plan. "This planning work helps NASBA continue to be 'mission driven – member focused,'" Mr. Bishop commented.

The Strategic Plan is available at www.nasba.org/about. ♦

Dept. of Ed. Focuses on Accreditors

Post-secondary school closures and their effects on students have prompted the U.S. Department of Education to strive to work more closely with accreditors and states in order to strengthen the integrity of its Title IV student aid programs. On November 5, Education Secretary Arne Duncan announced steps under current law to increase transparency and promote outcomes-driven accountability of higher education. They included:

- Publishing each accreditor's standards for evaluating student outcomes.
- Increasing transparency in the accreditation process and in institutional oversight.
- Increasing coordination within the Department of Education and among accreditors, other agencies and states to improve oversight.
- Publishing key student and institutional metrics for postsecondary institutions arranged by accreditors.
- Promoting greater attention to outcomes within current accreditor review processes.

The Department of Education is recommending that Congress provide for differentiated recognition of accreditors based on student outcomes and other risk-based criteria. This would allow the Department to provide more rigorous processes for low-performing accreditors and to fast-track recognition for high-performing accreditors. "This critical reform would provide an incentive for accreditors to scrutinize the student outcomes of the schools in their portfolios and focus their time and attention on lower-performing schools," the Department explains.

Information on accreditation is available on the Department of Education's accreditation homepage (http://www.ed.gov/accreditation). This includes a listing of "programmatic accreditors." Among them are the Accreditation Commission for Education in Nursing, Accreditation Council for Education in Nutrition and Dietetics, American Bar Association, Accreditation Council on Optometric Education and other professional groups that consider as "specific outcomes" the licensure examination pass rate of the schools' students. Most of these programmatic accreditors require an accreditation review at least once every seven years.

At the 2015 NASBA Annual Meeting, speakers included Dr. Robert D. Reid, Executive Vice President and Chief Accreditation Officer of the AACSB, which accredits 745 business schools, from which approximately 40 percent of CPA candidates come. NASBA received information on CPA candidates coming from 2,013 schools in 2014. NASBA and the AICPA are sponsoring a meeting with accreditation agencies early in 2016. ♦

President Ken Bishop and Executive Vice President Colleen Conrad met with the China Finance Ministry delegation in New Jersey on November, 2, 2015.

Focus on What's in Front of You

Ken L. Bishop
President & CEO

A few weeks ago I watched the NASCAR championship race which was won by Kyle Busch. I don't often have the opportunity to watch stock car races, but I do enjoy them when I do. This year's final race of the season was particularly exciting because of the closeness of points of several competitors at the end of the racing year, giving several drivers the opportunity to win the coveted Chase Sprint Cup. For those who don't follow stock car racing, you may not know that the Chase for the NASCAR Sprint Cup playoff format introduced in 2014 to make racing even more exciting has brought in some raucous behavior, including several instances of drivers intentionally wrecking their competitors' cars. This practice was of such real concern to the drivers who were finalists that they spent a significant amount of time looking in their rearview mirrors. As the final race was getting close to the end, one of the announcers commented: "If Kyle is going to win this race, he needs to flip up his rearview mirror and focus on what's in front of him." As I listened to those words, it struck me that the advice given by the announcer might be applicable to much more than just stock car racing.

In my role as President and CEO, I am often on the leading edge of trying to implement change. The "change" may be significantly different from what we have done in the past. It may actually require us to trust others, both individuals and groups, with whom we have justifiably disagreed in the past. Often when I speak to stakeholders about embracing change, I am reminded of some past event as a reason, or excuse, for not moving forward. Similarly, I frequently hear some variation of: "We have always done it this way." Or, given the stock car analogy, we often find ourselves looking in the rearview mirror.

As 2015 comes to an end and we begin a new and exciting year, we can reflect on the significant successes of this year, but there remains an inventory of changes that will be carried over into 2016. We need to remain focused on this inventory, which includes: CPA firm mobility, changes to the definition of "attest", adoption of a uniform Code of Professional Conduct, jurisdictional CPE acceptance and development of effective peer review oversight committees. Plus we know there are new recommendations and proposals such as the use of "retired CPA" status, updated CPE standards and rule changes that may be required for a smooth transition to the revised Uniform CPA Examination.

Whether in writing or in conversations, when I enter into these proactive discussions, I always need to preface my remarks with an acknowledgment of the fact that NASBA, and I, will always ultimately support states' rights. I also think it important to remind everyone that the legislative or policy change recommendations in the Uniform Accountancy Act and Model Rules were developed by volunteer CPA and public members from across the country with the assistance of legal counsel, then exposed to all stakeholders for comments, which were duly considered, revisions made as needed and then ultimately approved by the Board of Directors of both NASBA and the AICPA. The process is open, transparent and all comments and concerns are taken seriously. Upon completion of that process, however, it is important that we work toward implementation. Otherwise, we are just "spinning our wheels," and not addressing the changes needed to regulate an ever-changing, dynamic profession.

As I often state, I am a "bottom line" guy. I like to finish what we start, and to me a "win" is not a "win" until we have reached our goal. As you plan for your Board's new year, I ask that you consider flipping up your rearview mirror and "focusing on what's in front of you," and we can get these important changes accomplished in 2016.

On behalf of the entire NASBA staff, I would like to take the opportunity to wish each of you and your families the happiest and safest of holiday seasons, and a great and prosperous new year!

Semper ad meliora (Always toward better things).

Ken L. Bishop

— Ken L. Bishop
President & CEO

Peer Review ED Released

An exposure draft of proposed changes to the AICPA Peer Review Program that are aimed at improving the program's transparency and effectiveness has been released by the AICPA Peer Review Board. Comments on the document should be sent to PR _expdraft@aicpa.org by January 31, 2016. The proposed changes in standards place on the reviewed firm the ultimate responsibility for identifying and implementing appropriate remediation of system issues and nonconforming engagements. Under the proposed standards, the peer reviewer would be expected to perform enhanced procedures to identify systemic causes and assess the firm's remediation plans. In addition, the AICPA states: "The proposals provide the public with more transparent reporting of engagements selected, linkage between nonconformng engagements and report rating, industries impacted by the deficiencies and the firm's remediation plans. The proposals also clarify what information can be provided to third parties about the progress and results of a review."

If approved by the Peer Review Board, the revisions to the Standards and Interpretations would become effective for reviews commencing on or after January 1, 2017 except for those related to transparency of review status. Standards paragraphs .133 and .146 and Interpretations 133a-1 and 146-3 would be effective upon approval by the Peer Review Board. ♦

Hansen on Board of Kurdistan School


Gaylen Hansen

Gaylen R. Hansen (CO), NASBA Chair 2012-2013, has been named a Trustee of the American University of Iraq, Sulaimani, in Kurdistan. The school's mission is to bring American-style, liberal arts higher education to Iraq and "has set American regional accreditation as a key institutional goal." CEA (the Commission on English Language Program Accreditation) has granted the University's Academic Preparation Program a five-year accreditation (April 2015-2020). The University offers, among other programs, a Bachelor of Science in Business Administration, covering accounting, finance, economics, management, law and ethics, and quantitative analysis.

"The coolest thing about all of this is that the school has about 2,000 Sunnis, Shites and Kurds -- and they all seem to get along," Mr. Hansen observed. "In particular, the fact that young women are getting an education for the first time in this part of the world is incredibly important. And they are all being given a liberal arts style of U.S. education that includes learning about democracy and governance principles." ♦

EDs and Legal NASBA Meetings

Board Executive Directors and staff, and legal counsel, make plans to attend the Annual Conference for Executive Directors and Board Staff, and the Conference for Board Legal Counsel March 15-17 in Tucson, AZ. Check www.nasba.org for details.

State Board Report
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