

**CALIFORNIA BOARD OF ACCOUNTANCY**

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DEPARTMENT OF CONSUMER AFFAIRS
 CALIFORNIA BOARD OF ACCOUNTANCY

FINAL

**MINUTES OF THE
 December 1, 2006
 BOARD MEETING**

Hilton San Diego Airport
 1960 Harbor Island Drive
 San Diego, CA 92101
 Telephone: (619) 291-6700
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I. Call to Order.

President Ronald Blanc called the meeting to order at 9:00 a.m. on Friday, December 1, 2006, at the Hilton San Diego Airport, and the Board convened into closed session at 9:05 a.m. to consider Agenda Items XII.A-K. The meeting reconvened into open session at 9:35 a.m. and adjourned at 2:25 p.m.

Board MembersDecember 1, 2006

Ronald Blanc, President	9:00 a.m. to 2:25 p.m.
David Swartz, Vice President	9:00 a.m. to 2:25 p.m.
Ruben Davila, Secretary-Treasurer	9:00 a.m. to 2:25 p.m.
Richard Charney	9:00 a.m. to 2:25 p.m.
Angela Chi	9:00 a.m. to 2:25 p.m.
Donald Driftmier	9:00 a.m. to 2:25 p.m.
Sally Flowers	9:00 a.m. to 2:25 p.m.
Thomas Iino	9:00 a.m. to 2:25 p.m.
Clifton Johnson	9:00 a.m. to 2:25 p.m.
Bill MacAloney	9:00 a.m. to 2:25 p.m.
Robert Petersen	9:00 a.m. to 2:25 p.m.
Stuart Waldman	9:05 a.m. to 2:25 p.m.

Staff and Legal Counsel

Alice Delvey-Williams, Exam and RCC Manager
Patti Franz, Chief, Licensing Division
Michael Granen, Deputy Attorney General, Board Liaison
Greg Newington, Chief, Enforcement Program
Dan Rich, Assistant Executive Officer
George Ritter, Legal Counsel
Theresa Siepert, Manager, Administrative Division
Carol Sigmann, Executive Officer
Aronna Wong, Regulation/Legislation Analyst

Committee Chairs and Members

Roger Bulosan, Chair, Qualifications Committee
Harish Khanna, Chair, Administrative Committee

Other Participants

Courtney Bolin Nash, Center for Public Interest (CPIL)
Julie D'Angelo Fellmeth, Center for Public Interest (CPIL)
Mike Duffey, Ernst & Young LLP
Stephen Friedman, Society of California Accountants (SCA)
Ken Hansen, KPMG LLP
Richard Robinson, E&Y, DT, PWC, KPMG
Hal Schultz, California Society of Certified Public Accountants (CalCPA)
Jeannie Tindel, California Society of Certified Public Accountants (CalCPA)
David Tolken, Society of California Accountants (SCA)
Charlene Zettel, Director, Department of Consumer Affairs

II. Board Minutes.

A. Draft Board Minutes of the September 14-15, 2006, Board Meeting.

The draft Board minutes of the September 14-15, Board meeting were adopted on the Consent Agenda. (See Agenda Item XIII.B.)

III. Report of the President.

Mr. Blanc reported that Ms. Sos had requested that he read the following letter into the record at this meeting.

voiced by Mr. Schultz. Mr. Peterson expressed concern that the language was overly broad and that a false report could result in impugning a CPA's reputation with no danger to the person making a false report. Others also voiced concern that the language may be too broad. Mr. Waldman expressed support for the proposed amendments and expressed his trust in the Board as a judicial body to appropriately apply the provision.

After further discussion, it was moved by Mr. Swartz, seconded by Ms. Flowers, and carried to refer the proposed amendments to Section 99 to EPOC to revise the language to more clearly reflect the Board's intent. Mr. Waldman was opposed.

4. Proposed Amendments to Section 70 of Title 16 of the California Code of Regulations Regarding Practice Privilege Fees.

After discussion, it was moved by Mr. Driftmier, seconded by Mr. Swartz, and unanimously carried to adopt the proposed amendments to Section 70.

IX. Committee and Task Force Reports.

A. Administrative Committee (AC).

1. Minutes of the August 24, 2006, AC Meeting.

The Minutes of the August 24, 2006, AC Meeting were Adopted on the Consent Agenda. (See Agenda Item XIII.B.)

2. Report on the November 2, 2006, AC Meeting.

Mr. Khanna reported that the AC met on November 2, 2006, in Burbank and he was pleased to have Mr. MacAloney at the meeting. He indicated that the AC reviewed 11 cases that were previously closed by staff and he was pleased to report that the AC concurred with all of staff's decisions. In addition, the AC participated in several probationary hearings. With the appointment of Ms. Gerhardt, the AC now totals 11 members. Mr. Khanna reported that the next AC meeting would be February 8, 2007, in Oakland. He would appreciate any Board member attendance. Mr. Khanna reported that there had been a change to the AC 2007 calendar – the meeting date for August had been changed to August 30, 2007.

under both “Of Importance to the CPA” and “Of Importance to the Consumer”.

6. Discussion Regarding Cross Border Practice Issues.

Mr. Swartz reported that the CPC discussed and expressed support for the “Next Steps” and time frame provided in Attachment 1 of this agenda item. **(See Attachment 9.)** One addition would be to request that an AICPA representative come to the March 2007 Board meeting to discuss the Mobility Committee’s recommendations. He added that while all of these new developments are being considered, staff would like to have a generic e-mail to send in response to inquiries regarding California practice privilege. The language for that e-mail that was recommended by the CPC was distributed this morning for consideration and Board approval. **(See Attachment 10).** The CPC also considered a staff request that one or two Board members work with staff to review and analyze these e-mailed inquiries and provide feedback to the CPC and the Board.

It was moved by Mr. Petersen, seconded by Dr. Charney, and unanimously approved to approve the generic email in response to inquiries regarding practice privilege.

7. NASBA’s Comment Letter on the AICPA’s Omnibus Proposal of Professional Ethics Division Interpretations and Rulings Exposure Draft.

Mr. Swartz reported that the CPC considered an Exposure Draft proposed by the AICPA Professional Ethics Executive Committee along with a NASBA comment letter. The CPC noted that the time provided was not sufficient for a thorough deliberation on the complex issues in the Exposure Draft, and therefore the CPC recommended that the Board take no action on the matter.

It was moved by Mr. MacAloney, seconded by Mr. Driftmier, and unanimously carried not to comment on the Exposure Draft due to lack of time.

D. Legislative Committee.

1. Update on Legislation.

Mr. Waldman reported that the Legislature is no longer in session. He indicated that since the Board's last meeting, the two bills that relate directly to this Board, AB 1868 and SB 503, were both signed by the Governor.

Mr. Waldman added that among the other bills the Board was tracking, AB 2927 was the only one that had passed the Legislature. It contained a number of requirements for state agency Web sites related to public record requests. The Governor vetoed AB 2927. In his veto message, the Governor indicated that he believed his Executive Order related to public records requests had already addressed the problems this bill was intended to fix.

Mr. Waldman reported that the Legislature reconvenes on December 4, 2006, to address organizational matters for the 2007-2008 session. The session itself will get underway in January 2007, and the deadline for introducing bills is February 23, 2007. Based on these time frames, the Board plans to have its next Legislative Committee meeting in conjunction with the March Board meeting.

- E. Enforcement Program Oversight Committee (EPOC).

1. Draft Minutes of the September 14, 2006, EPOC Meeting.

The minutes of the September 14, 2006, EPOC meeting were adopted on the Consent Agenda. (See Agenda Item XIII.B.)

- X. Appeals – Personal/Written.

- A. Personal Appeal – None.

- XI. Recommendations of CPA Qualifications Committee.

- A. Personal / Written Appeals – None.

- XII. Petitions, Stipulations and Proposed Decisions [Closed Session Government Code Section 11126(c)(3) *Petition Hearings are Public Before the Board with a Subsequent Closed Session.

TITLE 16. CALIFORNIA BOARD OF ACCOUNTANCY

NOTICE IS HEREBY GIVEN that the California Board of Accountancy is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the Hilton San Diego Airport, 1960 Harbor Island Drive San Diego, CA 92101 at 11:10 a.m. on December 1, 2006. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the California Board of Accountancy at its office no later than 5:00 p.m. on November 30, 2006, or must be received by the California Board of Accountancy at the hearing. If submitted at the hearing, it is requested, although not required, that 25 copies be made available for distribution to Board members and staff. The California Board of Accountancy, upon its own motion or at the instance of any interested party, may thereafter adopt the proposal substantially as described below or may modify such proposal if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as the Contact Person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Sections 5010, 5018, and 5096.15 of the Business and Professions Code and to implement, interpret or make specific Sections 122, 163, 5096, 5096.15 and 5134 of the Business and Professions Code, the California Board of Accountancy is considering changes to Division 1 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Amend Section 70 of Title 16 of the California Code of Regulations.

Section 5010 of the Business and Professions Code authorizes the California Board of Accountancy to adopt regulations for the orderly administration of the Accountancy Act. Business and Professions Code Section 5096 requires a fee to be charged for practice privilege. Section 5096.15, added to the Business and Professions Code by Assembly Bill 1868 of the 2005-06 Regular Session, directs the Board to provide for a lower fee for practice privilege without an authorization to sign attest reports. Business and Professions Code Section 5134, as amended by Assembly Bill 1868 of the 2005-06 Regular Session, provides for a maximum amount for the fee for practice privilege with the authorization to sign attest reports and for a lower fee for practice privilege without authorization to sign attest reports.

Current Section 70 sets the fee for submission of a practice privilege notification at \$100. This proposal would amend Section 70 to set the fee for submission of a practice

privilege notification with an authorization to sign attest reports at \$100, and would set the fee for submission of the practice privilege notification without an authorization to sign attest reports at \$50. The objective of this proposal is to comply with the legislative directive that the Board adopt regulations providing for a lower fee for practice privilege holders who do not sign attest reports.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: In spite of reduced revenue under this proposal, it is anticipated that the revenue generated by the Practice Privilege Program will be sufficient to allow the program to continue to be self-supporting.

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None.

Business Impact:

The California Board of Accountancy has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

AND

The following studies were relied upon in making that determination: None.

Impact on Jobs/New Businesses:

The California Board of Accountancy has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business:

The California Board of Accountancy has made a determination that the proposed regulatory action will result in a cost savings for some practice privilege holders.

Effect on Housing Costs: None.

EFFECT ON SMALL BUSINESS

The California Board of Accountancy has determined that the proposed regulations would affect small businesses.

CONSIDERATION OF ALTERNATIVES

The California Board of Accountancy must determine that no reasonable alternative which it considered or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The California Board of Accountancy has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the California Board of Accountancy at 2000 Evergreen Street, Suite 250, Sacramento, California 95815.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file that is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared by making a written request to the contact person named below or by accessing the Web site listed below.

CONTACT PERSON

Inquiries or comments concerning the proposed administrative action may be addressed to:

Name:	Aronna Wong
Address:	California Board of Accountancy 2000 Evergreen Street, Suite 250 Sacramento, CA 95815

Telephone No.: (916) 561-1788
Fax No.: (916) 263-3675
E-Mail Address: awong@cba.ca.gov

The backup contact person is:

Name: Carol Sigmann
Address: California Board of Accountancy
2000 Evergreen Street, Suite 250
Sacramento, CA 95815

Telephone No.: (916) 561-1718
Fax No.: (916) 263-3675
E-Mail Address: csigmann@cba.ca.gov

Inquiries concerning the substance of the proposed regulations may be directed to Aronna Wong at (916) 561-1788.

Web site Access: Materials regarding this proposal can be found at www.dca.ca.gov/cba.

TEXT OF PROPOSAL

70. Fees.

(a) Commencing January 23, 2004, the fee to be charged each California applicant for the computer-based Uniform Certified Public Accountant Examination, shall be an application fee of \$100 for issuance of the Authorization to Test to first-time applicants and an application fee of \$50 for issuance of the Authorization to Test to repeat applicants.

(b) Commencing July 1, 2001, the fee to be charged each applicant for issuance of a certified public accountant certificate shall be \$250.

(c) The fee to be charged each applicant for registration, including applicant for registration under a new name as a partnership or as a corporation, shall be \$150.

(d) Commencing July 1, 2000, the fee to be charged each applicant for the initial permit to practice as a partnership, a corporation, or a certified public accountant shall be \$200.

(e) Commencing July 1, 2000, the fee to be charged each applicant for renewal of a permit to practice as a partnership, a corporation, a public accountant, or a certified public accountant shall be \$200.

(f) The fee for the processing and issuance of a duplicate copy of a certificate of licensure or registration shall be \$10.

(g) The fee for processing and issuance of a duplicate copy of a registration, or permit or other form evidencing licensure or renewal of licensure shall be \$2.

(h) ~~(1) Commencing January 1, 2006, the~~ The fee to be charged an individual for submission of a Practice Privilege Notification Form pursuant to Business and Professions Code Section 5096 with an authorization to sign attest reports shall be \$100.

(2) The fee to be charged an individual for submission of a Practice Privilege Notification Form pursuant to Business and Professions Code Section 5096 without an authorization to sign attest reports shall be \$50.

NOTE: Authority cited: Sections 5010 and 5018, Business and Professions Code.

Reference: Sections 122, 163, 5096, 5096.15, and 5134 Business and Professions Code.

BOARD OF ACCOUNTANCY
INITIAL STATEMENT OF REASONS

Hearing Date: December 1, 2006.

Subject Matter of Proposed Regulation: Fees.

Amend Section 70 of Title 16 of the California Code of Regulations.

Specific Purpose:

This proposal would amend Section 70 to set the fee for submission of a practice privilege notification with an authorization to sign attest reports at \$100 and the fee for submission of the practice privilege notification without an authorization to sign attest reports at \$50.

Factual Basis/Rationale:

Business and Professions Code Section 5096.15 enacted by AB 1868 (Bermudez, Chapter 458, Statutes of 2006, Attachment 1) declares that it is the intent of the Legislature that the Board adopt regulations providing for a lower fee, or no fee, for out-of-state accountants who do not sign attest reports. Also amendments to Business and Professions Code Section 5134 contained in AB 1868 and SB 503 (Figueroa, Chapter 458, Statutes of 2006, Attachment 2) provide for two fee levels for practice privilege holders.

Current Section 70 provides for only one fee for submission of a practice privilege notification and sets that fee at \$100. Amendments to Section 70 are necessary to comply with the legislative intent that there be a lower fee for submission of the practice privilege notification without an authorization to sign attest reports.

Setting the fees at a lower level for practice privilege holders who do not sign attest reports and at a higher level for practice privilege holders who sign attest reports reflects the greater consumer risk involved in attest services and the possibility that more Board oversight might be required in this area.

It is estimated that establishing the fees at the levels provided for by this proposal will allow the Practice Privilege Program to continue to be self-supporting. Any lower fee would result in Practice Privilege Program costs being subsidized by renewal fees.

Underlying Data:

Technical, theoretical or empirical studies or reports relied upon (if any): None

Business Impact:

This regulation will not have a significant adverse economic impact on businesses.

This proposal provides for a lower fee for the submission of a practice privilege notification without an authorization to sign attest reports. Practice Privilege holders who do not sign attest reports (approximately 64% of all practice privilege holders) provide many critical accounting services such as the preparation of tax returns for businesses. Charging a lower fee for these accounting professionals will encourage them to participate in the Practice Privilege Program. This will help to ensure that California consumers and businesses have a broad range of choices and can receive the services they need from accounting professionals anywhere in the country.

Specific Technologies or Equipment

This regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives

No reasonable alternative which was considered or that has otherwise been identified and brought to the attention of the Board would be either more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation.

The Board considered, in concept, setting the fee at less than \$50 for practice privilege holders who do not sign attest reports. This alternative was rejected because it was estimated that setting the fees as provided for in this proposal would allow the practice privilege program to continue to be self-supporting, while a lower fee would not enable the program to be self-supporting and would require that program costs be subsidized by renewal fees paid by California licensees.

Assembly Bill No. 1868

CHAPTER 458

An act to amend Sections 5050 and 5134 of, to add Sections 5035.3, 5050.1, 5050.2, 5096.13, 5096.14, and 5096.15 to, and to add and repeal Section 5096.12 of, the Business and Professions Code, relating to accountancy, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 2006. Filed with
Secretary of State September 25, 2006.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1868, Bermudez. Accountancy: licensure.

Existing law provides for the licensing and regulation of accountants by the California Board of Accountancy in the Department of Consumer Affairs. Existing law prohibits a person from engaging in the practice of public accountancy in this state unless he or she holds either a valid permit issued by the board or a practice privilege, as specified. A violation of this provision is a crime.

This bill would provide that the prohibition against practicing accountancy in California without a license does not apply to a person who holds a valid and current license, registration, certificate, permit, or other authority to practice public accountancy from a foreign country to the extent that he or she is temporarily practicing in this state incident to an engagement in that country, provided that the temporary practice is regulated by the foreign country and performed under the accounting or auditing standards of that country and that the person does not hold himself or herself out as being the holder of a California license or practice privilege. The bill would also, until January 1, 2011, provide that the prohibition against practicing accountancy in California without a license does not apply to a certified public accountant, a public accountant, or a public accounting firm lawfully practicing in another state to the extent that the practice is temporary and incident to practice in that state, provided that the person or firm does not solicit clients in California, does not assert or imply licensure in California, and does not engage in the development, implementation, or marketing to California consumers of any abusive tax avoidance transaction.

Existing law authorizes an individual whose principal place of business is not in California and who has a valid and current license, certificate, or permit to practice public accountancy from another state to engage in the practice of public accountancy in California under a practice privilege if certain conditions are met, including notification to the board of intent to practice.

This bill would, until January 1, 2011, permit a certified public accounting firm authorized to practice in another state that does not have an office in this state to practice public accountancy in California through the holder of a practice privilege if certain conditions are met. The bill would require a notification of intent to practice under a practice privilege to include the name of the firm, its address and telephone number, and its federal taxpayer identification number.

This bill would provide that a person who engages in accountancy in California is deemed to have consented to the jurisdiction of the board and is deemed to have appointed the regulatory agency of his or her state or foreign jurisdiction as the person's agent for a service of process in actions or proceedings by or before the board. The bill would, until January 1, 2011, authorize the board to revoke, suspend, issue a fine, or otherwise restrict an authorization to practice granted to a foreign accounting firm or discipline the holder of that authorization for any act that would be a violation of, or would be grounds for discipline against a licensee or holder of a practice privilege or denial of an accountancy license or practice privilege under, the Business and Professions Code. The bill would allow an application for reinstatement to practice, as specified, and would allow the board to administratively suspend an authorization to practice. The bill would also require the board to amend certain regulations, as specified.

Existing law sets specified fees to be charged by the board, including an annual fee for a practice privilege to be fixed by the board at up to 50% of the biennial renewal fee for an accountant.

This bill would instead require an annual fee for a practice privilege with an authorization to sign attest reports to be set by the board at up to \$125, and for a practice privilege without an authorization to sign attest reports at up to 80% of that fee. The bill would declare the intent of the Legislature that the board adopt emergency regulations providing for a lower fee or no fee for out-of-state accountants who do not sign attest reports for California clients under the practice privilege, as long as the practice privilege program is adequately funded.

Because this bill may increase fees deposited into the Accountancy Fund, a continuously appropriated fund, it would make an appropriation.

Because this bill would subject additional persons to requirements within the accountancy licensing provisions, the violation of which are a crime, and because the bill would create new requirements and prohibitions within the licensing provisions, the violation of which would be a crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would declare that it is to take effect immediately as an urgency statute.

This bill would incorporate additional changes in Section 5134 of the Business and Professions Code proposed by SB 503, to be operative only if SB 503 and this bill are both chaptered and become effective on or before January 1, 2007, but this bill becomes operative first, both bills amend Section 5134 of the Business and Professions Code, and this bill is chaptered last.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 5035.3 is added to the Business and Professions Code, to read:

5035.3. For purposes of subdivision (b) of Section 5050 and Sections 5054 and 5096.12, "firm" includes any entity that is authorized or permitted to practice public accountancy as a firm under the laws of another state.

SEC. 2. Section 5050 of the Business and Professions Code is amended to read:

5050. (a) Except as provided in subdivisions (b) and (c) of this section, in subdivision (a) of Section 5054, and in Section 5096.12, no person shall engage in the practice of public accountancy in this state unless the person is the holder of a valid permit to practice public accountancy issued by the board or a holder of a practice privilege pursuant to Article 5.1 (commencing with Section 5096).

(b) Nothing in this chapter shall prohibit a certified public accountant, a public accountant, or a public accounting firm lawfully practicing in another state from temporarily practicing in this state incident to practice in another state, provided that an individual providing services under this subdivision may not solicit California clients, may not assert or imply that the individual is licensed to practice public accountancy in California, and may not engage in the development, implementation, or marketing to California consumers of any abusive tax avoidance transaction, as defined in subdivision (c) of Section 19753 of the Revenue and Taxation Code. A firm providing services under this subdivision that is not registered to practice public accountancy in California may not solicit California clients, may not assert or imply that the firm is licensed to practice public accountancy in California, and may not engage in the development, implementation, or marketing to California consumers of any abusive tax avoidance transaction, as defined in subdivision (c) of Section 19753 of the Revenue and Taxation Code. This subdivision shall become inoperative on January 1, 2011.

(c) Nothing in this chapter shall prohibit a person who holds a valid and current license, registration, certificate, permit, or other authority to practice public accountancy from a foreign country, and lawfully practicing therein, from temporarily engaging in the practice of public

accountancy in this state incident to an engagement in that country, provided that:

(1) The temporary practice is regulated by the foreign country and is performed under accounting or auditing standards of that country.

(2) The person does not hold himself or herself out as being the holder of a valid California permit to practice public accountancy or the holder of a practice privilege pursuant to Article 5.1 (commencing with Section 5096).

SEC. 3. Section 5050.1 is added to the Business and Professions Code, to read:

5050.1. (a) Any person that engages in any act that is the practice of public accountancy in this state consents to the personal, subject matter, and disciplinary jurisdiction of the board. This subdivision is declarative of existing law.

(b) Any person engaged in the practice of public accountancy under subdivision (a) is deemed to have appointed the regulatory authority of the state or foreign jurisdiction that issued the person's permit, certificate, license or other authorization to practice as the person's agent on whom notice, subpoenas, or other process may be served in any action or proceeding by or before the board against or involving that person.

SEC. 4. Section 5050.2 is added to the Business and Professions Code, to read:

5050.2. (a) The board may revoke, suspend, issue a fine pursuant to Article 6.5 (commencing with Section 5116), or otherwise restrict or discipline the holder of an authorization to practice under subdivision (b) or (c) of Section 5050, subdivision (a) of Section 5054, or Section 5096.12 for any act that would be a violation of this code or grounds for discipline against a licensee or holder of a practice privilege, or ground for denial of a license or practice privilege under this code. The provisions of the Administrative Procedure Act, including, but not limited to, the commencement of a disciplinary proceeding by the filing of an accusation by the board shall apply to this section. Any person whose authorization to practice under subdivision (b) or (c) of Section 5050, subdivision (a) of Section 5054, or Section 5096.12 has been revoked may apply for reinstatement of the authorization to practice under subdivision (b) or (c) of Section 5050, subdivision (b) of Section 5054, or Section 5096.12 not less than one year after the effective date of the board's decision revoking the authorization to practice unless a longer time, not to exceed three years, is specified in the board's decision revoking the authorization to practice.

(b) The board may administratively suspend the authorization of any person to practice under subdivision (b) or (c) of Section 5050, subdivision (a) of Section 5054, or Section 5096.12 for any act that would be grounds for administrative suspension under Section 5096.4 utilizing the procedures set forth in that section.

SEC. 5. Section 5096.12 is added to the Business and Professions Code, to read:

5096.12. (a) A certified public accounting firm that is authorized to practice in another state and that does not have an office in this state may engage in the practice of public accountancy in this state through the holder of a practice privilege provided that:

(1) The practice of public accountancy by the firm is limited to authorized practice by the holder of the practice privilege.

(2) A firm that engages in practice under this section is deemed to consent to the personal, subject matter, and disciplinary jurisdiction of the board with respect to any practice under this section.

(b) The board may revoke, suspend, issue a fine pursuant to Article 6.5 (commencing with Section 5116), or otherwise restrict or discipline the firm for any act that would be grounds for discipline against a holder of a practice privilege through which the firm practices.

(c) This section shall become inoperative on January 1, 2011, and as of that date is repealed.

SEC. 6. Section 5096.13 is added to the Business and Professions Code, to read:

5096.13. The notification of intent to practice under a practice privilege pursuant to Section 5096 shall include the name of the firm, its address and telephone number, and its federal taxpayer identification number.

SEC. 7. Section 5096.14 is added to the Business and Professions Code, to read:

5096.14. The board shall amend Section 30 of Article 4 of Division 1 of Title 16 of the California Code of Regulations to extend the current "safe harbor" period from December 31, 2007, to December 31, 2010.

SEC. 8. Section 5096.15 is added to the Business and Professions Code, to read:

5096.15. It is the intent of the Legislature that the board adopt regulations providing for a lower fee or no fee for out-of-state accountants who do not sign attest reports for California clients under the practice privilege. These regulations shall ensure that the practice privilege program is adequately funded. These regulations shall be adopted as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code and, for purposes of that chapter, the adoption of the regulations shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health and safety, and general welfare.

SEC. 9. Section 5134 of the Business and Professions Code is amended to read:

5134. The amount of fees prescribed by this chapter is as follows:

(a) The fee to be charged to each applicant for the certified public accountant examination shall be fixed by the board at an amount to equal the actual cost to the board of the purchase or development of the examination, plus the estimated cost to the board of administering the examination and shall not exceed six hundred dollars (\$600). The board

may charge a reexamination fee equal to the actual cost to the board of the purchase or development of the examination or any of its component parts, plus the estimated cost to the board of administering the examination and not to exceed seventy-five dollars (\$75) for each part that is subject to reexamination.

(b) The fee to be charged to out-of-state candidates for the certified public accountant examination shall be fixed by the board at an amount equal to the estimated cost to the board of administering the examination and shall not exceed six hundred dollars (\$600) per candidate.

(c) The application fee to be charged to each applicant for issuance of a certified public accountant certificate shall be fixed by the board at an amount equal to the estimated administrative cost to the board of processing and issuing the certificate and shall not exceed two hundred fifty dollars (\$250).

(d) The application fee to be charged to each applicant for issuance of a certified public accountant certificate by waiver of examination shall be fixed by the board at an amount equal to the estimated administrative cost to the board of processing and issuing the certificate and shall not exceed two hundred fifty dollars (\$250).

(e) The fee to be charged to each applicant for registration as a partnership or professional corporation shall be fixed by the board at an amount equal to the estimated administrative cost to the board of processing and issuing the registration and shall not exceed two hundred fifty dollars (\$250).

(f) The board shall fix the biennial renewal fee so that, together with the estimated amount from revenue other than that generated by subdivisions (a) to (e), inclusive, the reserve balance in the board's contingent fund shall be equal to approximately nine months of annual authorized expenditures. Any increase in the renewal fee made after July 1, 1990, shall be effective upon a determination by the board, by regulation adopted pursuant to subdivision (k), that additional moneys are required to fund authorized expenditures other than those specified in subdivisions (a) to (e), inclusive, and maintain the board's contingent fund reserve balance equal to nine months of estimated annual authorized expenditures in the fiscal year in which the expenditures will occur. The biennial fee for the renewal of each of the permits to engage in the practice of public accountancy specified in Section 5070 shall not exceed two hundred fifty dollars (\$250).

(g) The delinquency fee shall be 50 percent of the accrued renewal fee.

(h) The initial permit fee is an amount equal to the renewal fee in effect on the last regular renewal date before the date on which the permit is issued, except that, if the permit is issued one year or less before it will expire, then the initial permit fee is an amount equal to 50 percent of the renewal fee in effect on the last regular renewal date before the date on which the permit is issued. The board may, by regulation, provide for the waiver or refund of the initial permit fee where the permit is issued less than 45 days before the date on which it will expire.

(i) (1) On and after the enactment of Assembly Bill 1868 of the 2005-06 Regular Session, the annual fee to be charged an individual for a practice privilege pursuant to Section 5096 with an authorization to sign attest reports shall be fixed by the board at an amount not to exceed one hundred twenty-five dollars (\$125).

(2) On and after enactment of Assembly Bill 1868 of the 2005-06 Regular Session, the annual fee to be charged an individual for a practice privilege pursuant to Section 5096 without an authorization to sign attest reports shall be fixed by the board at an amount not to exceed 80 percent of the fee authorized under paragraph (1).

(j) The fee to be charged for the certification of documents evidencing passage of the certified public accountant examination, the certification of documents evidencing the grades received on the certified public accountant examination, or the certification of documents evidencing licensure shall be twenty-five dollars (\$25).

(k) The actual and estimated costs referred to in this section shall be calculated every two years using a survey of all costs attributable to the applicable subdivision.

(l) Upon the effective date of this section the board shall fix the fees in accordance with the limits of this section and, on and after July 1, 1990, any increase in any fee fixed by the board shall be pursuant to regulation duly adopted by the board in accordance with the limits of this section.

(m) Fees collected pursuant to subdivisions (a) to (e), inclusive, shall be fixed by the board in amounts necessary to recover the actual costs of providing the service for which the fee is assessed, as projected for the fiscal year commencing on the date the fees become effective.

SEC. 10. Section 5134 of the Business and Professions Code is amended to read:

5134. The amount of fees prescribed by this chapter is as follows:

(a) The fee to be charged to each applicant for the certified public accountant examination shall be fixed by the board at an amount not to exceed six hundred dollars (\$600). The board may charge a reexamination fee not to exceed seventy-five dollars (\$75) for each part that is subject to reexamination.

(b) The fee to be charged to out-of-state candidates for the certified public accountant examination shall be fixed by the board at an amount not to exceed six hundred dollars (\$600) per candidate.

(c) The application fee to be charged to each applicant for issuance of a certified public accountant certificate shall be fixed by the board at an amount not to exceed two hundred fifty dollars (\$250).

(d) The application fee to be charged to each applicant for issuance of a certified public accountant certificate by waiver of examination shall be fixed by the board at an amount not to exceed two hundred fifty dollars (\$250).

(e) The fee to be charged to each applicant for registration as a partnership or professional corporation shall be fixed by the board at an amount not to exceed two hundred fifty dollars (\$250).

(f) The board shall fix the biennial renewal fee so that, together with the estimated amount from revenue other than that generated by subdivisions (a) to (e), inclusive, the reserve balance in the board's contingent fund shall be equal to approximately nine months of annual authorized expenditures. Any increase in the renewal fee shall be made by regulation upon a determination by the board that additional moneys are required to fund authorized expenditures and maintain the board's contingent fund reserve balance equal to nine months of estimated annual authorized expenditures in the fiscal year in which the expenditures will occur. The biennial fee for the renewal of each of the permits to engage in the practice of public accountancy specified in Section 5070 shall not exceed two hundred fifty dollars (\$250).

(g) The delinquency fee shall be 50 percent of the accrued renewal fee.

(h) The initial permit fee is an amount equal to the renewal fee in effect on the last regular renewal date before the date on which the permit is issued, except that, if the permit is issued one year or less before it will expire, then the initial permit fee is an amount equal to 50 percent of the renewal fee in effect on the last regular renewal date before the date on which the permit is issued. The board may, by regulation, provide for the waiver or refund of the initial permit fee where the permit is issued less than 45 days before the date on which it will expire.

(i) (1) On and after the enactment of Assembly Bill 1868 of the 2005-06 Regular Session, the annual fee to be charged an individual for a practice privilege pursuant to Section 5096 with an authorization to sign attest reports shall be fixed by the board at an amount not to exceed one hundred twenty-five dollars (\$125).

(2) On and after enactment of Assembly Bill 1868 of the 2005-06 Regular Session, the annual fee to be charged an individual for a practice privilege pursuant to Section 5096 without an authorization to sign attest reports shall be fixed by the board at an amount not to exceed 80 percent of the fee authorized under paragraph (1).

(j) The fee to be charged for the certification of documents evidencing passage of the certified public accountant examination, the certification of documents evidencing the grades received on the certified public accountant examination, or the certification of documents evidencing licensure shall be twenty-five dollars (\$25).

(k) The board shall fix the fees in accordance with the limits of this section and, on and after July 1, 1990, any increase in a fee fixed by the board shall be pursuant to regulation duly adopted by the board in accordance with the limits of this section.

(l) It is the intent of the Legislature that, to ease entry into the public accounting profession in California, any administrative cost to the board related to the certified public accountant examination or issuance of the certified public accountant certificate that exceeds the maximum fees authorized by this section shall be covered by the fees charged for the biennial renewal of the permit to practice.

SEC. 11. Section 10 of this bill incorporates amendments to Section 5134 of the Business and Professions Code proposed by both this bill and SB 503. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2007, but this bill becomes operative first, (2) each bill amends Section 5134 of the Business and Professions Code, and (3) this bill is enacted after SB 503, in which case Section 5134 of the Business and Professions Code, as amended by Section 9 of this bill, shall remain operative only until the operative date of SB 503, at which time Section 10 of this bill shall become operative.

SEC. 12. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 13. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that accountants licensed by another jurisdiction be permitted to lawfully provide services to their clients in California as soon as possible, it is necessary that this bill take effect immediately.

Senate Bill No. 503

CHAPTER 447

An act to amend Sections 5076 and 5134 of the Business and Professions Code, relating to accountants, and making an appropriation therefor.

[Approved by Governor September 25, 2006. Filed with
Secretary of State September 25, 2006.]

LEGISLATIVE COUNSEL'S DIGEST

SB 503, Figueroa. Accountants: peer review: fees.

Existing law provides for the licensure and regulation of accountants by the California Board of Accountancy, in the Department of Consumer Affairs. Existing law requires a firm that provides attest services, as defined, other than a sole proprietor or a small firm, to meet specified peer review requirements prior to the first registration expiration date after July 1, 2008. Existing law requires the board to review whether to implement the peer review program in light of changes in federal and state law or regulations or professional standards, and to report its findings to the Legislature by September 1, 2005. Existing law sets specified fees to be charged by the board.

This bill would require those firms to meet the peer review requirements within 3 years of the commencement of the peer review program, rather than prior to the first registration expiration date after July 1, 2008. The bill would revise the board's review and reporting requirement to instead require the board to review and evaluate whether to implement the program and to report its findings and recommendations to the Legislature and the department no later than September 1, 2011. The bill would require the board, if it determines that the peer review program should be implemented, to identify the resources necessary for implementation and to recommend a date for commencement of the program. The bill would revise the fees to be charged by the board.

Because this bill may increase fees deposited into the Accountancy Fund, a continuously appropriated fund, it would make an appropriation.

This bill would incorporate additional changes to Section 5134 of the Business and Professions Code proposed by AB 1868, to be operative only if AB 1868 and this bill are both chaptered and become effective on or before January 1, 2007, each bill amends Section 5134 of the Business and Professions Code, and this bill is chaptered last.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 5076 of the Business and Professions Code is amended to read:

5076. (a) In order to renew its registration, a firm providing attest services, other than a sole proprietor or a small firm as defined in Section 5000, shall complete a peer review within three years of the commencement of the peer review program and no less frequently than every three years thereafter.

(b) For purposes of this article, the following definitions apply:

(1) "Peer review" means a study, appraisal, or review conducted in accordance with professional standards of the professional work of a licensee or registered firm by another licensee unaffiliated with the licensee or registered firm being reviewed. The peer review shall include, but not be limited to, a review of at least one attest engagement representing the highest level of service performed by the firm and may include an evaluation of other factors in accordance with requirements specified by the board in regulations.

(2) "Attest services" include an audit, a review of financial statements, or an examination of prospective financial information, provided, however, "attest services" shall not include the issuance of compiled financial statements.

(c) The board shall adopt regulations as necessary to implement, interpret, and make specific the peer review requirements in this section, including, but not limited to, regulations specifying the requirements for the approval of peer review providers, and regulations establishing a peer review oversight committee.

(d) The board shall review and evaluate whether to implement the program specified in this section, and shall report its findings and recommendations to the Legislature and the department no later than September 1, 2011. If the board determines that the program specified in this section should be implemented, the board shall identify the resources necessary for implementation and recommend a date when the program shall commence.

SEC. 2. Section 5134 of the Business and Professions Code is amended to read:

5134. The amount of fees prescribed by this chapter is as follows:

(a) The fee to be charged to each applicant for the certified public accountant examination shall be fixed by the board at an amount not to exceed six hundred dollars (\$600). The board may charge a reexamination fee not to exceed seventy-five dollars (\$75) for each part that is subject to reexamination.

(b) The fee to be charged to out-of-state candidates for the certified public accountant examination shall be fixed by the board at an amount not to exceed six hundred dollars (\$600) per candidate.

(c) The application fee to be charged to each applicant for issuance of a certified public accountant certificate shall be fixed by the board at an amount not to exceed two hundred fifty dollars (\$250).

(d) The application fee to be charged to each applicant for issuance of a certified public accountant certificate by waiver of examination shall be fixed by the board at an amount not to exceed two hundred fifty dollars (\$250).

(e) The fee to be charged to each applicant for registration as a partnership or professional corporation shall be fixed by the board at an amount not to exceed two hundred fifty dollars (\$250).

(f) The board shall fix the biennial renewal fee so that, together with the estimated amount from revenue other than that generated by subdivisions (a) to (e), inclusive, the reserve balance in the board's contingent fund shall be equal to approximately nine months of annual authorized expenditures. Any increase in the renewal fee shall be made by regulation upon a determination by the board that additional moneys are required to fund authorized expenditures and maintain the board's contingent fund reserve balance equal to nine months of estimated annual authorized expenditures in the fiscal year in which the expenditures will occur. The biennial fee for the renewal of each of the permits to engage in the practice of public accountancy specified in Section 5070 shall not exceed two hundred fifty dollars (\$250).

(g) The delinquency fee shall be 50 percent of the accrued renewal fee.

(h) The initial permit fee is an amount equal to the renewal fee in effect on the last regular renewal date before the date on which the permit is issued, except that, if the permit is issued one year or less before it will expire, then the initial permit fee is an amount equal to 50 percent of the renewal fee in effect on the last regular renewal date before the date on which the permit is issued. The board may, by regulation, provide for the waiver or refund of the initial permit fee where the permit is issued less than 45 days before the date on which it will expire.

(i) (1) On and after January 1, 2007, the annual fee to be charged an individual for a practice privilege pursuant to Section 5096 with an authorization to sign attest reports shall be fixed by the board at an amount not to exceed one hundred twenty-five dollars (\$125).

(2) On and after January 1, 2007, the annual fee to be charged an individual for a practice privilege pursuant to Section 5096 without an authorization to sign attest reports shall be fixed by the board at an amount not to exceed 80 percent of the fee authorized under paragraph (1).

(j) The fee to be charged for the certification of documents evidencing passage of the certified public accountant examination, the certification of documents evidencing the grades received on the certified public accountant examination, or the certification of documents evidencing licensure shall be twenty-five dollars (\$25).

(k) The board shall fix the fees in accordance with the limits of this section and, on and after July 1, 1990, any increase in a fee fixed by the

Memorandum

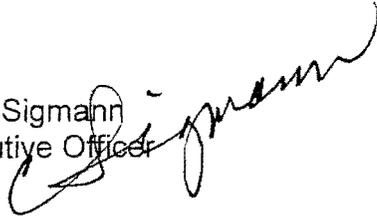
CPC Agenda Item V
November 30, 2006

Board Agenda Item IX.C.6
December 1, 2006

To : CPC Members
Board Members

Date: November 22, 2006
Telephone : (916) 561-1718
Facsimile : (916) 263-3674
E-mail: csigmann@cba.ca.gov

From : Carol Sigmann
Executive Officer



Subject : Planning Document for Discussion of Cross-Border Practice Issues

At the September 14, 2006, meeting of the Board's Committee on Professional Conduct (CPC), a discussion was held related to defining temporary/incidental practice. During that discussion, it became apparent that the real concern was the overarching issue of "How can the Board continue to protect consumers and at the same time facilitate cross-border practice?" It was the CPC's consensus at the meeting that it would be impractical to attempt to define temporary/incidental practice until this overarching issue was more fully addressed and, further, once that issue was addressed, there might be no need for a temporary/incidental practice provision. Based on this consensus, it is anticipated that this critical overarching question will continue to be the focus of discussions by the CPC at future meetings.

With this in mind, this memo provides an overview of key sources of information related to cross-border practice that will be available for CPC consideration at future meetings. Because these critical sources of information are not yet available, President Blanc and CPC Chair David Swartz have suggested that the CPC delay any in-depth deliberations until upcoming meetings. This memo includes suggested timeframes for these discussions, and the timeframes are summarized in **Attachment 1**, "Summary of Next Steps for the Consideration of Cross-Border Practice."

- One source of information that will soon be available is a revised version of Section 23, the cross-border provision in the Uniform Accountancy Act (UAA). It was noted at the meeting of September 14, 2006, that Section 23 of the UAA was being revised, and that the Exposure Draft would be available shortly. The National Association of State Boards of Accountancy (NASBA) has indicated that the comment period on this Exposure Draft will begin when it is issued in December 2006 and will extend to May 15, 2007. Because of the importance of this Exposure Draft to a comprehensive consideration of cross-border practice issues, Board President Ron Blanc has invited a representative from NASBA to present it in person to the CPC and the Board. Scheduling constraints prevent this presentation from occurring at the January 2007 meeting; therefore, it has instead been scheduled to take place in March 2007.

These timeframes should allow time for the Board to complete its discussion at the May 10-11, 2007, meeting. President Blanc also indicated that there was considerable discussion related to Section 23 at the NASBA National meeting that he and Deputy Attorney General Michael Granen attended on October 31-November 1, 2006. It is anticipated that they will be available at this CPC meeting to provide a report.

- A second important source of information would be the recommendations that will be provided by the AICPA's Committee on Mobility. At the CPC's meeting of September 14, 2006, Mike Ueltzen reported that the AICPA has formed a Committee on Mobility and has targeted December 2006 to put forward its recommendations. Even though these recommendations may be available in time for the January 18, 2007, CPC meeting, it is suggested that a review and in-depth discussion be scheduled for the March 2007 meeting, so that these recommendations can be considered in the context of the discussion of the proposed revisions to UAA Section 23.
- In addition, NASBA has issued an Exposure Draft proposing revisions to the UAA Rules including a new proposed Model Code of Conduct. Although this Exposure Draft is not directly related to cross-border practice, because of the UAA's role in shaping uniform requirements among boards of accountancy nationwide, this Exposure Draft could have a bearing on the discussion of cross-border practice. The deadline for comments is April 30, 2007. It is suggested that this document be the focus of discussion at the January 2007 CPC meeting and that the discussion conclude at the March 2007 meeting.

In the meantime, in spite of the Web site posting "Special Message Regarding Temporary/Incidental Practice" that the Board approved in July 2006 (**Attachment 2**), Practice Privilege staff continue to receive e-mailed inquiries asking if specified activities fall within the scope of the temporary/incidental practice provision. Attached for your review and approval is a proposed e-mail communication that would be sent in response to these inquiries while the Board continues its deliberations on the underlying policy issues (**Attachment 3**). In addition, **Attachment 4** provides a summary of some of the kinds of questions staff have been receiving. Staff could benefit from further input from Board members regarding these inquiries. One possibility is that one or two CPC members be appointed by the Chair to work with staff between meetings to review and analyze these e-mails and provide feedback to the CPC as to policy areas that might need to be addressed.

Attachments:

1. Summary of Next Steps for the Consideration of Cross-Border Practice.
2. Web Site Posting "Special Message Regarding Temporary/Incidental Practice."
3. Proposed E-Mail Response to Temporary/Incidental Practice Inquiries.
4. Summary of Questions Received by Staff Related to Temporary/Incidental Practice.

Attachment 1

SUMMARY OF NEXT STEPS FOR THE CONSIDERATION OF CROSS-BORDER PRACTICE

November 30, 2006:

- Report on NASBA Annual Meeting by Ronald Blanc and Michael Granen.
- Identification of CPC members to work with staff to review and analyze e-mails related to temporary/incidental practice.

January 18, 2007:

- Review and discussion of the NASBA Exposure Draft: Uniform Accountancy Act (UAA) Model Rules, dated October 2006. Development of proposed comments.
- Status report from CPC members working with staff on inquiries related to temporary/incidental practice.

March 22, 2007:

- Final review and approval of recommendations to the Board specific to proposed comments on the NASBA Exposure Draft: UAA Model Rules, dated October 2006 (Deadline for Response: April 30, 2007).
- Identification of policy issues related to the Exposure Draft on the UAA Rules that may require changes in California law. Development of recommendations.
- NASBA presentation on proposed revisions to UAA Section 23. Consideration of the proposal and development of proposed comments.
- Consideration of AICPA Mobility Committee recommendations (if available).
- Status report and any recommendations from CPC members working with staff on inquiries related to temporary/incidental practice.
- Discussion of policy implications of information provided at this meeting, and development of recommendations for changes in California's requirements to resolve cross-border practice concerns.

May 10, 2007:

- Final review and approval of recommendations to the Board specific to comments on the proposed revisions to Section 23 of the UAA (Deadline for Response: May 15, 2007).
- Final review and approval of any recommendations to the Board related to policy issues identified during consideration of the NASBA Exposure Draft: UAA Model Rules, dated October 2006.
- Final review and approval of recommendations to the Board resulting from the CPC's deliberations on the proposed revisions to Section 23 of the UAA, the recommendations of the AICPA Mobility Committee, and other information relevant to cross-border practice concerns. Any recommendations for statutory changes to include proposed statutory language.



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**SPECIAL MESSAGE REGARDING
TEMPORARY/INCIDENTAL PRACTICE
FOLLOWING THE ENACTMENT OF AB 1868
Effective September 25, 2006**

AB 1868 (Bermudez, Chapter 458, Statutes of 2006) institutes a limited form of temporary/incidental practice that is subject to certain important conditions. This provision, subdivision (b) of California Business and Professions Code Section 5050, reads as follows:

Nothing in this chapter shall prohibit a certified public accountant, a public accountant, or a public accounting firm lawfully practicing in another state from temporarily practicing in this state incident to practice in another state, provided that an individual providing services under this subdivision may not solicit California clients, may not assert or imply that the individual is licensed to practice public accountancy in California, and may not engage in the development, implementation, or marketing to California consumers of any abusive tax avoidance transaction, as defined in subdivision (c) of Section 19753 of the Revenue and Taxation Code. A firm providing services under this subdivision that is not registered to practice public accountancy in California may not solicit California clients, may not assert or imply that the firm is licensed to practice public accountancy in California, and may not engage in the development, implementation, or marketing to California consumers of any abusive tax avoidance transaction, as defined in subdivision (c) of Section 19753 of the Revenue and Taxation Code. This subdivision shall become inoperative on January 1, 2011.

Individuals not licensed, and firms not registered, in California that provide services under this provision may not solicit California clients, may not assert or imply that they are authorized to practice public accountancy in California, and may not engage in the development, implementation, or marketing to California consumers of any abusive tax avoidance transaction.

If the practitioner has concerns about whether the services he or she provides fit within the scope of the "temporary/incidental" practice provision, then the option of obtaining a practice privilege should be considered.

The Board is in the process of developing regulations to clarify the meaning of the phrase "temporarily practicing in this state incident to practice in another state" in subdivision (b) of Section 5050 above.

(continue to page 2)

During the remainder of this year and the first part of next year, the Board will be discussing this matter and preparing a proposed regulation for public comment and adoption. The text of the proposed regulation will be posted on this Web site and, during the comment period, there will be ample opportunity for all interested parties to provide input regarding the proposed definition. We anticipate that the rulemaking process will be completed so that the regulation can become operative sometime in the summer or fall of 2007.

9/25/06

Proposed E-Mail Response to Temporary/Incidental Practice Inquiries

Thank you for your e-mail. Here is some information to help you and/or your firm determine if any California registration requirements have to be met in order to practice public accountancy in California.

To practice public accountancy in California as defined in Section 5051 of the California Accountancy Act, a practitioner must hold a California Practice Privilege or a California CPA license. In addition, if the practitioner is practicing on behalf of a public accounting firm, the firm must be licensed in California.

There are specific exceptions when the individual and/or the accounting firm may not need to meet California registration requirements to practice public accountancy in California. These exceptions are summarized below:

1. A foreign accountant may engage in temporary and incidental practice related to an engagement in the foreign country, provided that this practice is regulated by the foreign country and performed under the accounting or auditing standards of that country, and the accountant does not hold out as a holder of a California CPA license or a California Practice Privilege. Additional details are located in Section 5050(c) of the California Accountancy Act.
2. CPAs, PAs, and public accounting firms authorized to practice public accountancy in another state may prepare tax returns for natural persons who are California residents or estate tax returns for the estates of natural persons who were clients at the time of death, provided that the individual or out-of-state firm does not solicit California clients, does not assert or imply that the practitioner or firm is licensed or registered to practice public accountancy in California, and does not physically enter California. Additional details are located in Section 5054 of the California Accountancy Act.
3. A holder of a current and valid California Practice Privilege may sign in the name of his/her out-of-state firm even if the firm is not California registered. Additional details are located in Section 5096.12 of the California Accountancy Act.
4. Out-of-state CPAs, PAs, and public accounting firms lawfully practicing in another state may temporarily practice in California incident to practice in another state, provided that the individual or out-of-state firm does not solicit California clients, does not assert or imply that the practitioner or firm is licensed or registered to practice public accountancy in California, and does not engage in the development, implementation or marketing to California consumers of any abusive tax avoidance transaction. Additional details are located in Section 5050(b) of the California Accountancy Act.

The 15-member California Board of Accountancy (Board) makes all policy decisions and it is currently reviewing the Practice Privilege statutory and regulatory provisions. The substance of your inquiry has been included in information that the Board will consider during its review process. The text of any proposed changes to the Board's statutes and/or regulations will be posted on the Board's Web site, and there will be ample opportunity for all interested parties to provide input regarding such proposals.

Until these policy issues are fully considered by the Board, our staff is unable to respond to questions regarding specific scenarios. In the meantime, the option of obtaining a California Practice Privilege or a California CPA license is available. Also, if you are not already aware, recent legislation provided for a reduced fee of \$50 for Practice Privilege holders who do not sign attest reports. The \$100 fee for Practice Privilege holders who wish to have the authority to sign attest reports is unchanged.

Attachment 4

SUMMARY OF QUESTIONS RECEIVED BY STAFF RELATED TO TEMPORARY/INCIDENTAL PRACTICE

Tax Preparation:

- a. Number of returns – Is preparing only one return for a California client considered temporary/incidental?
- b. Clientele – Is registration required only when preparing returns for California clients? If I do work for an out-of-state client and the client has a small percentage of income from California, thus requiring me to prepare a non-resident California return, does this now require me to obtain practice privilege or a California CPA license?
- c. When is registration required for a trust? Is it any California trust return or does it make a difference whether the beneficiary, trustee, trustor, etc. are California residents?
- d. If I prepare a California return for a client, and I know I am going to be preparing his/her return every subsequent year, can I still qualify under the temporary exception referenced in Section 5050(b)? If not, then suppose I only plan to prepare his/her return for two more years. At what point do I stop counting this as temporary practice?

Audits:

- a. I perform an audit of a California client. I don't physically enter California to perform any of the work. Is registration required?
- b. I perform an audit of an out-of-state client. A small percentage of the client's operations are in California. I never enter California; I only enter the principal state where my client is located. Due to the small connection to California, is registration required?
- c. I perform an audit of a client that has operations in multiple states, California being one of them. I physically enter California to obtain some information needed for completion of the audit. Does this qualify under the temporary exception referenced in Section 5050(b)?

Miscellaneous:

- a. I am a California CPA of an out-of-state firm. My out-of-state firm is not licensed in California. Can I utilize the 5096.12 exception from firm registration even though this only refers to California Practice Privilege holders? If not, then should I allow my California CPA license to lapse and obtain practice privilege?