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Accountants Alert

Long awaited revisions to the education law mean additional obligations and opportunities for the New York accountant

Governor David A. Paterson signed a bill on January 27, 2009, that imposes significant additional regulations upon accountants practicing in the State of New York. The bill amends the Education Law of New York applicable to the practice of accountancy in the state and becomes law six months from now. The new amendments will impact nearly all who practice within New York and, potentially, open the door for reciprocity with other states.

The stated purpose of the changes to the Education Law is to enhance public protection and the appearance of the profession. No doubt, recent stories of accounting failures have led to increased calls for additional regulation of the accounting industry. As a result, the law will be changed to impose Mandatory Quality Reviews for firms providing attestation services, additional registration requirements and other changes impacting the practice of accountancy in New York.

The new regulations establish procedures for registration of out-of-state professionals who are temporarily providing accounting services within New York. The temporary practice permit would be valid for 180 days and be subject to renewal up to three times. However, the professional may not practice in New York for more than four out of any five years. This revision signals a shift from the current requirement that the professional and/or firm become formally licensed in each state it provides services, to a more fluid dynamic where temporary licenses are granted on an as needed basis. Assuming other states react in kind, a firm's potential practice can be nationwide without the need for formal licensing.

Arguably, the change with the heaviest impact is the new requirement that firms registered in New York that provide attestation services undergo mandatory quality review assessment once every three years. This review (the detailed requirements of which are yet to be determined) includes a verification that individuals signing any attestation report on behalf of the firm meet the competency requirements set forth in the professional standards for such services. Moreover, firms that provide attestation services required by New York State law must be reviewed in accordance with federal regulations in conformity with the government audit standards of the Comptroller General of the United States. Sole proprietorships and firms with two or fewer accounting professionals are exempted from this requirement.

Many firms servicing publicly held companies are already familiar with "quality reviews." Based upon the impact of the existing quality review programs, this new state requirement will likely consume more than incidental time and expense for the average firm. On the other hand, the regulations create a new business opportunity for the ambitious firm. For those inclined to develop a practice niche performing Mandatory Quality Reviews, special attention should be paid to the regulations as they are promulgated by the Commissioner of Education. Indeed, the regulations specifically contemplate that the Department of Education will maintain a list of "qualified reviewers" for just this purpose.

Finally, the new provisions require that all firms, regardless of size, must file with the Department of Education, at least annually, notice of any admission of a partner, member or shareholder; any termination of a partner, member or shareholder; and any change in the number or location of offices within the state, including any change in the identity of the person in charge of such office. As before, the specific regulations are yet to be determined. Regardless of any changes that may occur in the interim, every licensed firm must register triennially.

Although the revised regulations appear to change the administration of the accounting profession rather than the substance of the practice, failure to abide by these new regulations could render that distinction moot as failure to abide by the new regulations may cost some unwary professional his or her license. Nonetheless, the new regulations may also provide some firms with expanded practice opportunities.

For further information concerning the foregoing, please contact Thomas R. Manisero at thomas.manisero@wilsonelser.com, Peter J. Larkin at peter.larkin@wilsonelser.com, or William J. Kelly at william.kelly@wilsonelser.com, who are members of the Accountants Professional Liability Practice Team at Wilson Elser.

Contact us at alerts@wilsonelser.com.