



California Society of Enrolled Agents

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August 16, 2011

Ms. Patti Bowers, Executive Officer
Members of the California Board of Accountancy
Department of Consumer Affairs
California Board of Accountancy
2000 Evergreen St., Suite 250
Sacramento, CA 95815-3832

Submitted by Email:
mstanley@cba.ca.gov

RE: Safe Harbor Language – California Code of Regulations Section 4

Dear Ms. Bowers and Members of the California Board of Accountancy:

We are writing in response to the California Board of Accountancy's (CBA) proposed regulatory changes to California Code of Regulations, Title 16, Division 1, Section 4 – the safe harbor language used by non-licensees when preparing financial statements.

We are strong advocates of consumer protection and believe consumers have a right to understand the difference between a CPA and non-CPA financial statement preparer. We also support clear disclosure of independence impairment to third-party users of financial statements.

However, the proposed change, designed to better inform the public when preparers of financial statements are not licensed by the CBA, potentially has the result of causing greater confusion among consumers. The use of the phrase "not licensed," although accurate, in the proposed addition to the safe harbor language, without further explanation, may lead the consumer to question the quality of services and even whether the financial statement preparer is legally allowed to perform the services. The potential confusion and damage to the reputation of non-CPA preparers resulting from the incomplete information in the proposed language is not beneficial to the consumer. With this proposed change, non-CPAs would be required to indicate that they are not licensed by the CBA for a service that we are not required to be licensed by the CBA to perform.

In *Moore vs. State Board of Accountancy*, the California Supreme Court described Ms. Moore's accounting services as being work which does not require licensure by the state. The court upheld Ms. Moore's right to perform certain audit and report writing functions and said she could continue to call herself an accountant as long as she described her accounting services as being work which does not require licensure by the state. The reason for the modifier was to reduce the likelihood of the public mistaking her for a licensed accountant.



The Tax Professionals

If the CBA is intent on adding clarifying language to the safe harbor letter, we believe that the higher level of accuracy in our proposed alternative will provide consumers with the best available information about the preparer of their financial statements. We suggest one of the following:

1. No change to the current language that was negotiated and agreed upon in good faith with the CBA and that has served us well for a decade, or
2. Addition to current language: (underline is intended for emphasis in this response only)
“We [I] are [am] not required to be licensed by the California Board of Accountancy (CBA). If reviewed or audited financial statements are desired for greater assurance, the services of someone licensed by the CBA would be required.”

We appreciate the opportunity to respond to the CBA’s proposed changes to the safe harbor language used by non-licensees. We trust our shared goal of providing consumers with clarity about the services they engage will result in mutually agreeable language.

Please don’t hesitate to contact me at (916) 366-6646 or svanyi@csea.org if further clarification is needed.

Sincerely,



Scarlett D. Vanyi, CAE
Executive Vice President