



DEPARTMENT OF CONSUMER AFFAIRS
CALIFORNIA BOARD OF ACCOUNTANCY
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August 1, 2011

California Society of Enrolled Agents
3200 Ramos Circle
Sacramento, CA 95827-2513

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

Dear Stakeholder:

The California Board of Accountancy (CBA) is considering changes to California Code of Regulations, Title 16, Division 1, Section 4 – the safe harbor language used by non-licensees when preparing financial statements. Section 4 was placed in regulation in 2002 with the intent of providing assurance to non-licensees that financial statements accompanied by this safe harbor language would not be deemed to be the unlicensed practice of public accountancy.

The changes to the safe harbor language are being proposed in the interest of consumer protection. The CBA believes that consumers may not be aware of the differences between financial statements prepared by non-licensees and compilations prepared by Certified Public Accountants (CPA). Financial statements prepared by non-licensees are not subject to the standards and controls as those prepared by licensed CPAs. However, the current safe harbor language does not advise consumers that the preparer is not licensed by the CBA.

The proposed revisions are enclosed in underline format. They are designed to more clearly disclose independence impairment. Disclosure of independence impairment would create greater transparency for third-party users of the financial statements. In addition they specify that the preparer of the financial statements is not licensed to practice public accountancy in California.

Because your organization collaborated with the CBA in drafting the current safe harbor language, we invite you to review the proposed revisions. If you wish to comment, please submit your written comments to Matthew Stanley, Regulation Analyst, at the letterhead address above or via email, at mstanley@cba.ca.gov, by August 19, 2011. Your comments will be presented to the CBA for consideration at its September, 2011, meeting; alternatively, you may wish to attend the meeting to present your comments in person.

Sincerely,

Patti Bowers
Executive Officer

Enclosure

PROPOSED REGULATORY LANGUAGE

Section 4. Safe Harbor Language.

(a) A person who is not licensed by the California Board of Accountancy, and who prepares a financial report in a form substantially the same as that set forth in ~~subsection (a) or (b)~~ paragraph (1) or (2) below, shall not be deemed to be engaged in the practice of public accountancy as defined in Section 5051 of the Business and Professions Code.

(a)(1) "I [we] have prepared the accompanying financial statements of [name of entity] as of [time period] for the [period] then ended. This presentation is limited to preparing in the form of financial statements information that is the representation of management [owners].

I [we] have not audited or reviewed the accompanying financial statements and accordingly do not express an opinion or any other form of assurance on them.

I [We] am [are] not licensed by the California Board of Accountancy.

I [We] am [are] not independent with respect to [name of entity]."

(b)(2) "We [I] have prepared the accompanying statement of assets, liabilities and equity for [name of company] as of [month-day-year], together with the related statements of revenue, expense, [and cash flow] for the year [or month] then ended on the income tax basis of accounting.

The preparation of financial statements on the income tax basis of accounting is limited to presenting information that is the representation of management [the owners]. We [I] have not audited nor reviewed the accompanying statements. Accordingly, we [I] do not express an opinion or any other form of assurance on them.

Management has [The owners have] elected to omit substantially all of the disclosures ordinarily included in financial statements prepared on the income tax basis of accounting. If the omitted disclosures were included in the financial statements, they might influence the user's conclusions about the company's assets, liabilities, equity, revenues, expenses [and cash flow]. Accordingly, these financial statements are not designed for those who are not informed about such matters.

We [I] are [am] not licensed by the California Board of Accountancy.

We [I] are [am] not independent with respect to [name of entity]."

(b) A person who is not licensed by the California Board of Accountancy, and who prepares a financial report in a form substantially the same as that set forth in subsection (a)(1) or (2) shall include the final sentence of subsection (a)(1) or (2) as appropriate.

Note: Authority cited: Sections 5010, Business and Professions Code. Reference: Sections 5051 and 5052, Business and Professions Code.