



NATIONAL CONFERENCE OF CPA PRACTITIONERS

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January 20, 2003

Mr. Dan Dustin
Office of the Professions
New York State Department of Education
89 Washington Avenue
Albany, New York 12234

RE: Audit Standards for Non-Publicly Owned Companies

Dear Mr. Dustin:

As you know, the National Conference of CPA Practitioners (NCCPAP) represents practicing CPAs in the United States with a large concentration in the State of New York. As you also know, we fully endorse the Sarbanes-Oxley Federal Legislation regarding audit standards and registration issues for auditors of publicly owned companies and entities. NCCPAP is also supportive of strong independence rules for auditors of publicly and non-publicly owned companies and entities. We have never, and will never, support any legislation which dilutes the requirement that auditors adhere to only the strictest independence rules – either an auditor is independent or he or she is not. There is no middle ground when it comes to auditor independence.

Included in the provisions of the Sarbanes-Oxley legislation is the prohibition of some services which may be provided by auditors of publicly owned companies to that same publicly owned entity. NCCPAP was the first professional accounting association to endorse these concepts as originally proposed by then Chairman of the Securities and Exchange Commission, Arthur Levitt. Our endorsement is so noted in the Congressional Record as submitted by Mr. Levitt as part of his testimony to Congress. We agree with the curbs preventing auditors of publicly owned entities from providing “consulting services” to the entities that they audit. The Sarbanes-Oxley legislation provides for such prohibition and we are in agreement with the concept. We know that the provisions of Sarbanes-Oxley apply only to publicly owned entities. However, as the debate over the definition of what constitutes “consulting services” continues we remain concerned that if tax services, basic computer services, minor software installation assistance, etc are defined to be a prohibitive consulting service this could devastate the small and medium-sized non-publicly owned company and not-for-profit entity. We are, however, concerned that these same provisions will be adopted by the State for non-publicly owned entities and/or not-for-profit entities. We strongly believe that there needs to be a clear distinction between the definition of what are “consulting services” as the term relates to auditors of publicly owned companies and auditors of non-publicly owned companies and entities.


During your consideration of new legislation and/or regulations regarding auditor independence and registration to be supported by the State Education Department of New York, we encourage you to continue to consider the real needs of the owners of non-publicly owned entities – including not for profit entities. NCCPAP, as always, is ready, willing and able to assist you in developing legislation that will protect the residents of the State of New York and the owners of privately owned companies – as well as meeting the needs of creditors of the privately owned company.

In review of the proposed federal regulations we have noted, with concern, that some of the proposed regulations may cause a serious increase in the fees which will be incurred by privately-owned clients in order to have an audit performed of their financial statements. These costs, for the small and medium-sized entity could unnecessarily devastate their financial condition. The inability of a company, especially a small privately owned company, to seek advice (both tax and certain consulting services) and counsel of their CPA firm could severely impact the financial condition and stability of a privately owned company. The auditor is able to provide the company's management with expertise that the owners and managers do not possess. This expertise can be provided without jeopardizing the auditor's independence. It is very important to have a clear definition of what constitutes providing consulting services by an auditor to a client that he or she audits. We do not believe that providing tax preparation and computer services can or will impair an auditor's independence with regard to the client they are servicing. We encourage discussion in this area to define what services may or may not impair an auditor's independence and we would like to be involved in this discussion.

We have a great concern that when the State Legislature considers legislation relating to the audit of a privately owned company the legislators will not be concerned with the effects the legislation will have on the small and medium-sized company. We fear that the legislature may require a privately owned entity or a not-for-profit entity to engage one accounting firm to provide accounting and auditing services to a client and engage another accounting firm to provide tax services and possibly engage even a third accounting firm to perform computer services, including assistance in the installation of off-the-shelf accounting packages. If these provisions are enacted it would add such a significant amount of financial expense and administrative burden to the company that the entity would be unable to afford the services – not to mention the problems of coordination of the accounting firms to provide the myriad of services to the entity. The State could be guilty of transforming a perfectly running company into one that is unable to financially and operationally run smoothly or efficiently. The entity could possibly be forced to go out of business.

Thank you for your consideration of our concerns in this matter. We continue to be available to discuss this matter with you at your convenience.

Sincerely,


Robert L. Goldfarb, CPA
Chair, National Issues Committee