

NEW YORK'S MEASURED MOBILITY COMES WITH INCREASED ACCOUNTABILITY

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Because the electronic age makes conducting business across state borders an everyday occurrence, a national effort has been underway to adopt a uniform practice mobility system that would afford CPAs in one state the ability to provide services across state lines without obtaining an additional license in another state. And now that New York is on board, out-of-state CPAs must be careful to comply with all applicable rules and regulations, or they — along with their firms — may face disciplinary action by the New York State Board of Regents.

New York has historically opposed this effort, even as it gained momentum across the country and demonstrated success in approximately 40 states. For years New York opposed granting cross-border privileges to out-of-state CPAs on the grounds that it was a public protection issue. Recently, however, New York cracked open the door for qualified CPAs in other states to practice in the state on a limited basis. The accountancy reform law, which became effective on July 26, 2009, and the regulations that implement that law, are designed to provide out-of-state CPAs with measured mobility in New York without diminishing public protection.

Out-of-state CPAs practicing nonattest services in New York — including CPAs in industry, tax, government, consulting, or education — will now be allowed to practice without notifying the state, but will be subject to the disciplinary authority of the New York State Board of Regents. For out-of-state CPAs providing attest and compilation services in New York, the law is stricter because these services are viewed as invoking public protection issues. CPAs engaging in attest and compilation services provide the public with information on the financial health of, among others, state and local governments and public companies.

Although the new law requires an out-of-state CPA whose principal place of business is New York state to be licensed in New York, the regulations allow an out-of-state CPA who is licensed by a state with “significantly comparable” licensure requirements to New York’s, as recognized by a national professional accounting organization, to be licensed by endorsement if the applicant can demonstrate four years of professional experience in public accounting in the last 10 years immediately preceding the application for licensure by endorsement.

Out-of-state CPAs whose principal place of business is not in New York may now provide attest or compilation services in New York for a limited period of time by obtaining a temporary practice permit. The temporary practice permit allows



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individuals who are licensed as CPAs in good standing (again, in a state that has “significantly comparable” licensure requirements to New York’s) to apply for a permit that is good for up to 180 days during a 12-month period and would be renewable no more than three times, provided the applicant remains in good standing in his or her home state of licensure. New York would retain the authority to prosecute holders of a temporary practice certificate for unprofessional conduct and to refer back to the home state for disciplinary action.

There are three states that are not considered to have significantly comparable licensure requirements to New York’s: Vermont, New Hampshire, and Colorado. However, CPAs from these states who are seeking a temporary practice permit or New York license through endorsement may be able to meet the criteria of the law if their individual licensure qualifications are verified by the State Education Department to be significantly comparable to New York’s.

Temporary practice permits can be renewed a maximum of three times, and the applicant can practice with the permit for no more than four years within a five-year period. CPAs cannot have more than one temporary practice permit at any given time. However, if a CPA applies for licensure in New York on or before the expiration of his or her temporary practice permit, the law allows that individual to continue to practice under the temporary practice permit during the time the licensure application is pending.

Out-of-state CPAs who are practicing in New York with a temporary practice permit may use their title, “certified public accountant” or “CPA,” while practicing here, if that CPA identifies his or her principal place of business in parenthesis after his or her title or designation.

Compliance with the regulations detailed above is crucial. If an out-of-state CPA is deemed willful or grossly negligent in failing to comply with the new law or the regulations it sets forth, that will constitute “unprofessional conduct” by the CPA — and any firm that employs the CPA — in the eyes of New York’s State Board of Regents, and will subject the CPA and the firm to disciplinary action.