ACCOUNTANCY NEWSLETTER

ACCOUNTANCY

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Board Collection of Civil Penalties and Costs

The CPA Law authorizes the State Board of Accountancy to take disciplinary action against a licensee who has committed any of certain actions specified in this practice act. In addition to suspending or revoking the licensee's license, disciplinary action may include levying a civil penalty of up to $10,000 per violation. The Board is one of 29 professional licensing boards within the Bureau of Professional and Occupational Affairs (BPOA) of the Department of State. Act 48 of 1993 has long provided that a civil penalty imposed by a BPOA board is a judgment in favor of BPOA against the respondent licensee or his property and that the Office of Attorney General (OAG) may enforce such a judgment in the courts of common pleas. Whenever a licensee failed to pay a previously-imposed civil penalty, a BPOA board would suspend the licensee's license until the civil penalty has been paid. The board would also refer the matter to the OAG for collection.

By Act 6 of 2014, the General Assembly provided BPOA with greater tools to enforce its boards' civil penalties. BPOA boards have clear statutory authority to deny, suspend or revoke a license, registration or certification or permit for failure to pay any penalty, fee, interest or cost assessed as a result of a disciplinary proceeding before the board. Act 6 also provides that the judgment is against any property of the licensee, whether personal property or real property and whether already owned or later acquired.

Act 6 set up a procedure to enforce these judgments. Within 60 months of the final disposition of a matter where unpaid civil penalties and costs total $1,000 or more, a BPOA board or its agent may transmit a copy of the final disposition to the Prothonotary of the court of common pleas in the county where the licensee or property is located. The Prothonotary is to enter judgment without requiring payment of any costs for the total amount as judgment upon the licensee whether or not installment payment is permitted. This lien will maintain its priority indefinitely, as contrasted with other liens that must be revived every five years. Unlike other matters, no preliminary proceedings are required to proceed to a sheriff's sale, except for appropriate notice to the licensee. Within 90 days of payment in full, the BPOA board is required to notify the Prothonotary and request that the judgment be noted as satisfied in full.

Not only does imposition of a civil penalty and assessment of costs (or the risk of such action) deter licensees from violating the practice act and board regulations, but collection of such monies shifts more of the cost of policing the professions to those licensees who violate the law. Thanks to Act 6, BPOA boards now have greater teeth in enforcing collection of unpaid civil penalties and costs.

Certificates Issued by Domestic Reciprocity

The Board may issue a certificate to a candidate with appropriate education and experience who passes the required examination. In addition to this licensure by examination, the Board may issue a certificate by domestic reciprocity. Licensure by domestic reciprocity authorizes a CPA to become licensed in Pennsylvania and practice to the full extent authorized here without restrictions.

There are two alternative paths to receive a certificate from the Board by domestic reciprocity. The Board may issue a certificate to an out-of-state CPA who is at least 18 years of age and of good moral character if the CPA holds a certificate of certified public accountant then in full force, has passed the examination required to practice under the laws of the other state, meets the Board's continuing education requirements, and has the experience required to receive a certificate in this Commonwealth. Within the preceding five years, a candidate must have at least one year of verified experience of a caliber acceptable to the Board that included providing any type of service or advice involving the use of accounting, attest, compilation, management advisory, financial advisory, tax or consulting skills. Alternatively, the Board may issue a certificate to an out-of-state CPA if the CPA has passed the examination required to practice under the laws of the other state and has held a certificate to practice public accounting for the immediately preceding five years in another state.

Licensure by domestic reciprocity depends on the candidate's qualifications and not the standards for certification in the other state. As a result, an out-of-state CPA might not be eligible for licensure by domestic reciprocity even though able to practice in Pennsylvania as permitted under principles of substantial equivalency.