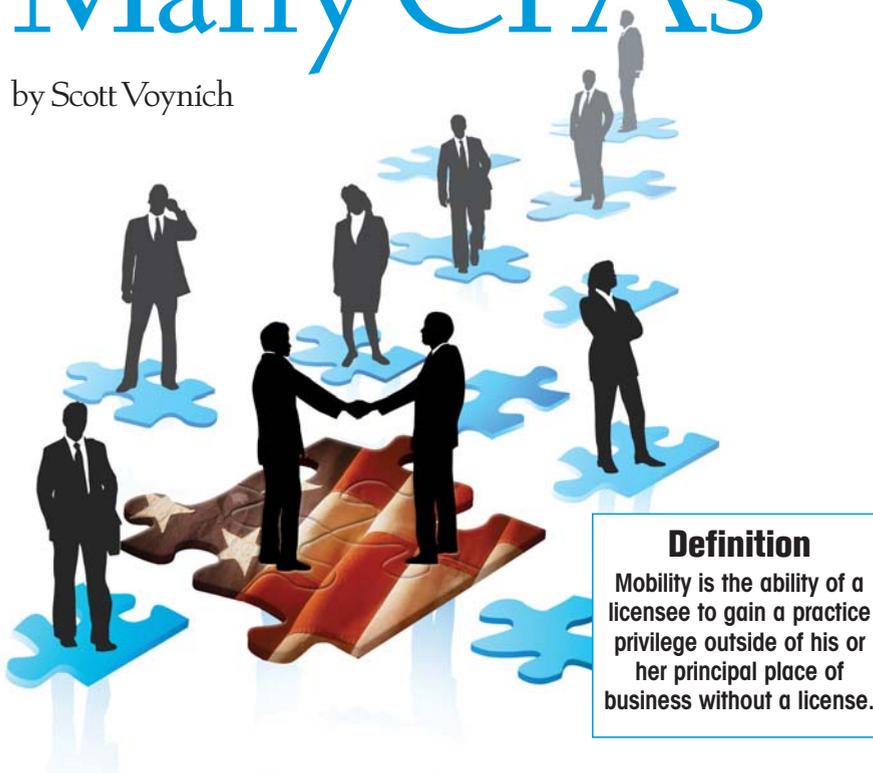


Barriers to Mobility: A Crisis for Many CPAs

by Scott Voynich



The chair of the AICPA's Special Committee on Mobility outlines the mobility problem facing the CPA profession and the Institute's recommended solution.

Out-of-state CPAs who want to temporarily serve a client in South Carolina must register and pay a variety of fees. In California and Illinois, there are multiple registration requirements whether or not the CPA even enters the state. In Washington state, registration is required only if the out-of-state CPA doesn't have an office in Washington and doesn't perform any attest work. In other states, CPAs preparing multistate tax returns must obtain a temporary license or practice privilege in all states in which their clients filed a tax return.

You get the picture. No two states have identical rules, so CPAs who want to operate in other jurisdictions face a dizzying array of regulations.

The problem affects CPAs in firms of all sizes. Smaller firms don't have the resources to be certain they are in compliance with every state's requirements. They must either pass the costs on to their clients or absorb them in their overhead. Or, since many states require registration before even making a proposal to a prospective client, many small firms don't even bother trying to get work in another state.

Larger firms, which tend to have clients with complex corporate structures, cope by creating departments devoted exclusively to compliance with the various state rules and registrations. Even so, these firms still find it difficult to be certain that each CPA on each engagement is properly registered.

As the Internet and other drivers of a dynamic marketplace have increasingly erased geographic boundaries, the mobility problem has reached a tipping point. Many CPAs simply throw up their hands when confronted with the paperwork and complications of practicing in a neighboring state and either refuse the work or perform it under the radar. Some CPAs attempt to avoid the issue by omitting their CPA designation altogether when marketing or doing business out of state. Obviously, none of these actions can be considered "solutions."

SUBSTANTIAL EQUIVALENCY

For many years the CPA profession has tried to solve our mobility problem by promoting the concept of *substantial equivalency*, developed by the AICPA and the National Association of State Boards of Accountancy as part of the Uniform Accountancy Act (UAA). Substantial equivalency is commonly described as the states requiring the "Three E's"—examination (passage of the Uniform CPA Examination), experience (the one-year experience requirement), and education (the 150-hour education requirement). Even more important is the implementation language within section 23 of the UAA that allows one state to extend practice privileges to an individual from another substantially equivalent state. Section 23 states that a CPA

with a valid license from a state with CPA licensing criteria “substantially equivalent” to those outlined in the UAA can practice in another state without obtaining another license.

As a practical matter, however, substantial equivalency is not working. In the first place, only 34 of the 55 jurisdictions have adopted substantial equivalency. And in the second place, the UAA is a model act, and no one state has adopted it in its entirety and no two states have adopted it identically. This lack of uniformity has caused exactly what the UAA was intended to prevent—a confusing set of different standards in all 55 jurisdictions as to what constitutes interstate practice, when a practice privilege is required, how registration is to occur, and what costs are required.

The problem received national attention last year when the boards of accountancy in more than one state began requiring all CPAs in the United States to register and pay for practice privileges if their clients had economic and business interests in the state, even if the CPA was never going to physically enter the state. It became apparent that many CPAs are not aware of the various requirements necessary to serve their clients in other states, and those who are find them to be confusing, inconsistent and expensive.

SPECIAL COMMITTEE

In recognition of this growing problem, last April the AICPA created the Special Com-

mittee on Mobility to consider the barriers to mobility and to recommend solutions. The committee was made up of a diverse group of experienced leaders, with backgrounds in state regulatory matters and perspectives from firms of all sizes. We spent several months considering the UAA, the history of the mobility issue, the regulatory environment, and how other professions addressed doing business in more than one state.

The first thing we did was survey AICPA Council members to document the problem for ourselves. The results were eye-opening. Fifty-eight percent of respondents told us that the current mobility system is a barrier to their practice, and 48% said they had spent significant time in the last year complying with out-of-state requirements for temporary certification. We found these results particularly alarming considering that many council members work outside of public practice in government, industry or academia, where the mobility problem is not as relevant.

As we began our discussions, the committee agreed that any new solution should satisfy six overarching principles. It would have to:

- Be in the public interest.
- Ensure uniform practice privileges in all jurisdictions.
- Maintain the credibility and value of the CPA certificate.

- Enable a credible enforcement process.
- Be administratively efficient.
- Be responsive to the changing business environment.

IMPACT ON BUSINESS

In addition to compliance issues, the committee was also concerned that whatever mobility system we came up with serves the needs of clients by giving them access to the best-qualified CPA or firm—regardless of geographic location. In today’s dynamic business world of increased globalization, business does not limit services to geographic boundaries, and neither should the CPAs who serve them.

The committee supported the concept that allowing a client to have ease of access to its trusted business adviser and to be able to select the CPA firm best suited to its particular need or niche was crucial to the protection of the public interest. The committee also concluded that the current system is an impediment to robust competition from qualified service providers. Moreover, the committee expressed a concern that the imposition of multiple notification and practice privilege requirements was not serving to enhance public protection for clients or any other third parties. The CPAs own state licensing provisions, combined with the CPAs automatic consent to jurisdiction, is what protects the public.



Collaboration is the Key to Success

As with any undertaking of this magnitude, collaboration and cooperation are essential to success. The AICPA Uniform Accountancy Act Committee and the NASBA Uniform Accountancy Act Committee worked together on the proposed revisions to the UAA statutory provisions, specifically to the areas of mobility (substantial equivalency) and enforcement. The exposure draft and a comprehensive white paper that provides rationale for the revisions can be found at www.aicpa.org/download/states/UAA_Section_23_Exposure_Draft_2006.pdf. We encourage members to review the proposed language and submit comments via e-mail (sbango@aicpa.org) no later than May 15. In the end, it will be up to each state to implement the necessary revisions that will provide for a uniform mobility system. Continuation of cooperative efforts is imperative to achieving this goal.

For more information about the mobility issue, go to www.aicpa.org/Legislative+Activities+and+State+Licensing+Issues/State+News+and+Info/States.

The exposure draft for the removal of the notification provision can be found at www.aicpa.org/download/states/UAA_Section_23_Exposure_Draft_2006.pdf.

THE COMMITTEE'S RECOMMENDATION

The committee felt strongly that any new mobility system should eliminate the artificial barriers to interstate practice, but at the same time maintain the basic tenets of the regulatory system that for many decades has ensured that the public is adequately protected.

In the end, our committee unanimously recommended a federally mandated state-based mobility provision that would allow any CPA with a valid state license to obtain practice privileges in any other state. Perhaps most importantly, no notification or fees would be required, and each state board would maintain the ability to discipline CPAs.

It is the notification requirements of many states that have been the single most burdensome barrier to mobility. The committee's solution would achieve all six of its principles going in and would retain the jurisdiction and core responsibilities of each state board of accountancy.

While the committee strongly supports this solution, it recognizes that it would require Congress to enact a new federal law regarding the mobility of CPAs. We understand this is a significant undertaking and that passage of such a law will not come easily or quickly.

With this in mind, the committee also took note of an important change that had occurred since the committee began its work in April 2006. Not only has there been renewed interest by state societies and state boards of accountancy to implement a uniform section 23 provision of the UAA, but the leadership of both the AICPA and NASBA have agreed to remove the notification requirement. Language

proposing the removal of the notification provision is currently being exposed for public comment through May 15. This is an extremely important change, which if adopted by both organizations at the end of the exposure period, could solve the problem once and for all without the need for a new federal law. Each of the 55 jurisdictions, however, will still need to individually enact and implement the requirement for it to be effective.

Accordingly, at its December 2006 meeting the AICPA Board of Directors adopted our recommendation for a federally mandated state-based mobility law as the best alternative to the current state-by-state approach to mobility. At the same time, it agreed to delay implementation of the recommendation until it determines that the newly proposed revisions to section 23 of the UAA cannot be implemented in a uniform manner. Toward that end, the board authorized an education campaign that will include a significant ef-

fort by the AICPA to implement a state-by-state policy of substantial equivalency without notification.

Under the current system as adopted by state licensing agencies across the country, CPAs today have to comply with a multitude of different requirements to practice, even temporarily, in another state. While the Special Committee on Mobility, as well as the AICPA, is committed to a state-based regulatory system, we need to eliminate the artificial barriers to interstate practice. At the same time, we need to ensure that the public is adequately protected. Either substantial equivalency, or a federally mandated state-based mobility law, would achieve these goals and help not only CPAs across the country, but the many thousands of businesses they serve. ❖

Scott Voynich, a former chair of the AICPA Board of Directors, is chair of the Special Committee on Mobility.