



National Conference of CPA Practitioners

185 Froehlich Farm Blvd.
Woodbury, NY 11797

(516) 333-8282
FAX: (516) 333-4099

May 15, 2023

Via IESBA Portal

Re: Proposed Revisions to the Code Addressing Tax Planning and Related Services

Dear Sir/Madam:

The National Conference of CPA Practitioners (NCCPAP) is comprised of members from across the United States. Most of our members are a part of small local firms and in many cases are single member firms. Our governing board and committees consist of volunteers from our membership that take time from their busy practices to help insure the quality and integrity of our profession.

NCCPAP's Issues Committee discussed the above referenced document at our quarterly meeting on May 11, 2023. We are forwarding our attached comments for your consideration. We are prepared to continue the discussion with you and your committee should you so desire. We truly appreciate the opportunity afforded us to comment on these proposals.

Very truly yours,

Mark A. Stewart Jr.

Mark A. Stewart Jr.
Past President
Chair – Issues Committee

Comments on the Proposed Revisions to the Code Addressing Tax Planning and Related Services

With respect to the specific requests of respondents, we offer the following:

PROPOSED GUIDANCE IN PARAGRAPH 380.22 A1

Guidance is being proposed whereby a PA (professional accountant) refers a client to a third-party provider of TP (tax planning) products or arrangements, or where a client approaches a PA (professional accountant) for advice on a TP (tax planning) product or arrangement developed by a third party, the provisions in Section 380 apply. In both situations according to this proposed guidance, the responsibilities of the PA (professional accountant) are no different than if the PA (professional accountant) were the creator of the TP (tax planning) product or arrangement.

We have several concerns with this proposed provision. Professional Accountants have an ethical responsibility when they do not have expertise in a particular subject matter, to refer a client to a third party who does have such expertise. Guidance such as the above discourages such ethical behavior for fears of being made responsible for work beyond their control. This forces a Professional Accountant in such a situation to consider taking such an engagement on themselves, when it is not in the best interest of the client.

Further, this proposed provision places a burden that is biased against small firm and solo practitioners. Larger firms have in house staff that can provide these services. The small firm and solo practitioners, typically, do not have such staff in place. Making referrals to third parties much more commonplace in the small and solo firm arenas.

The guidance is also nebulous as to what is considered a referral to a third party. Tax planning can cover a wide range of potential professional expertise. Although we disagree with this provision in general, should it stay in the final version of the guidance, there needs to be clearer explanations on what professional expertise falls under this proposed guidance.

When referring to a third party, it is common practice for a Professional Accountant to provide several different third party referrals with the same professional tax planning expertise. This allows a client to decide for themselves whom to choose. Does such guidance deem a Professional Accountant responsible for any and all of those referrals, regardless of whom the client may pick?

We also see nothing in the guidance as to what time period this may cover. It is common practice for a Professional Accountant to give a third party referral in the tax planning arena. The client might hold the referral for months, perhaps years, before deciding to engage that professional. That professional might have had all manner of staff or practice changeover in the intervening period of time. Does this guidance contemplate then that a Professional Accountant is responsible in perpetuity for the work of a third party referral given to a client?