

**THE 2009 NEW YORK ACCOUNTANCY LAW'S  
PARADOXICAL IMPACT ON FACULTY:  
NON-CPAS VERSUS INACTIVE CPAS**

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**Abstract**

This essay was borne out of the personal experience of one of the authors (Fischer), who was an inactive CPA in Maryland for many years and had just accepted a position as an accounting professor at a New York-based college. Upon accepting the offer, Fischer was told that he must not only reactivate his Maryland license, but must also transfer it to New York State. In researching the law, we found that New York indeed requires professors to hold an active NY CPA license if they were previously licensed in any state. On the other hand, individuals who have never been licensed may continue to teach without a license.

**OVERVIEW**

In the past several years, New York State has revolutionized the scope of activities covered under the CPA

license. Since 1897, New York has required a CPA for audit and attestation (O’Leary et al. 2009). To this day, audit and attestation remain the only services that require a CPA’s services. However, changes in the law passed in 2008 and adopted in 2009 affect CPAs who choose to provide other accounting, business, and finance services. While non-CPAs may continue to provide such services, CPAs must maintain continuing-education and registration to practice in those areas. In effect, New York no longer allows CPAs to maintain inactive status while working in non-auditing areas.

The focus of this article is how the law affects prospective full-time accounting professors who wish to teach in New York. Under current New York law, teaching accounting may require an active New York CPA registration, depending on whether the prospective professor was previously licensed or not. Individuals who were licensed in New York or any other state, regardless of whether they are currently active or inactive, must maintain an active New York license if New York-based teaching represents their principal professional activity (Chapter 651 of the Laws of 2008).<sup>1</sup>

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<sup>1</sup> State of New York, Chapter 651 of the Laws of 2008, retrieved on 1/25/13 from <http://nysscpa.org/pdfs/A11696.pdf>. The document contains the text of the bill (begins on pg.18). It also includes a statement in support of the bill (pg.17): “The [previous] Education Law exempts from mandatory continuing education licensees who are not engaged in public practice (including licensees who are employed in private industry, government and academia). This bill would require all CPAs and PAs to participate in mandatory continuing education as part of the continuum of learning throughout their career, unless they are not engaged in the practice of public accountancy.” The current bill defines the practice of public accountancy very broadly as “any or all matters relating to accounting concepts and to the recording, presentation, or certification of financial information or data ... management advisory, financial advisory, and tax.” As for who falls under the scope of the bill “CPA means any person who has received a license from the department or any other state as a certified public accountant for the practice of public accountancy.” See also New York State Education Department’s Public Accountancy Law, Article 149. §7401 retrieved on 10/8/13 from <http://www.op.nysed.gov/prof/cpa/article149.htm>.

On the other hand, individuals who have never been licensed as a CPA in New York or in any other state may teach accounting in New York without obtaining a license. This rule paradoxically puts inactive CPAs in an inferior position vis-à-vis non-CPAs when it comes to teaching accounting.

### **IMPLICATIONS FOR FACULTY**

The implications for accounting faculty can be far-reaching. Many accounting faculty have in the past maintained inactive-status CPA licenses, which freed them from formal continuing-education requirements associated with active-CPA status. Consider a hypothetical inactive CPA from out-of-state who wishes to move to New York to teach accounting. On the positive side, obtaining a New York “license by endorsement” is easier than it was before 2009. All that is required is a \$377 fee, certification from the endorsing state, and several notarized forms certifying four years of professional accounting experience (including teaching experience).<sup>2</sup> On the negative side, an inactive CPA in another state contemplating a move to New York will first need to reactivate her original license by completing any required continuing education requirements. Only after she has reactivated in her original state can she endorse her license to obtain New York licensure.<sup>3</sup>

As mentioned, the irony of the law is that the active-CPA requirement for professors only applies to those who have at some point been licensed, in New York or elsewhere. On the other hand, those who have never held a license are under no obligation to

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<sup>2</sup> New York State Education Department, Office of the Professions, 2013, “NYS Public Accountancy – Licensure by Endorsement” retrieved on 1/25/13 from <http://www.op.nysed.gov/prof/cpa/cpaendorse.htm>.

<sup>3</sup> Ibid, “CPA Form 4E, Applicant Endorsement Record for Endorsement Applicants”

obtain one. The teaching of accounting is treated like any non-auditing, professional business service as far as the Accountancy Law is concerned. It falls under the practice of accountancy for past and present CPAs (from New York or elsewhere) but outside the scope of accountancy for those who have never obtained CPA status. The logic behind this irony is that New York views the act of becoming a CPA as a lifetime commitment to maintain professional expertise and ethics in the practice of all areas of accounting and business, not just in auditing (O'Leary et al.).

In essence, New York provides a disincentive for prospective accounting professors to become CPAs in the first place. As a practical matter, prospective accounting academics should carefully consider their career goals before taking the step to become a CPA. In the world of accounting academia, the CPA qualification is viewed as an asset and even a requirement by teaching-intensive universities but not at the most prestigious research universities (e.g. Columbia, NYU and Cornell). Consider a hypothetical doctoral student in accounting with a potential placement at a prestigious New York-based research university. The hypothetical student may be well advised to *avoid* obtaining a CPA license, in New York or elsewhere. This is because her license certificate comes along with a lifetime commitment to maintain formal continuing education and official registration so long as she wishes to teach in New York.

### **IMPLICATIONS FOR STUDENTS**

While the focus of this essay has been on prospective and current accounting professors, the same considerations also apply to students who anticipate careers in areas of accounting outside of auditing. Such students may very well be on the verge of obtaining a professional albatross in the form of a CPA license, if they ever decide that maintaining active CPA status is not worth the investment in time and money. If they choose to give up their state license, they would be precluded even from preparing tax returns

for friends and family.<sup>4</sup> Buchholz and Kass (2011) surveyed accounting undergraduates at Brooklyn College and found that over 50 percent planned to take the CPA exam but many prefer to work in areas such as forensic accounting, tax, and consulting. Such students need to be informed of the potential *drawbacks* of obtaining New York CPA licensure.

## CONCLUSION

According to the “capture theory” in political economy, professions capture their regulators and legislatures by inducing them to implement laws that protect the interests of the profession rather than the public (Roberts and Kurtenbach, 1998). Capture Theory can explain the 2008-2009 Accountancy Law as a power grab by the profession’s leaders for control over the inactive-CPA community - in a bid to provide this captive market with continuing-education services. Regardless of whether such a sinister view is correct or not, the law of un-intended consequences may cause far-seeing students to opt out of the CPA route in favor of alternative qualifications such as Certified Fraud Examiner (CFE) or Certified Financial Analyst (CFA), which are rigorous and prestigious but come without the onerous legal strings of the CPA.

In the past, students and professionals viewed the CPA designation as both a license and a mark of educational achievement, with virtually no downside. Today, however, a licensed CPA in New York who does not maintain formal continuing education is in a considerably worse professional position than his colleague who was never licensed in the first place. Unfortunately, the New York CPA license has turned into the Hotel California: “You can check-out any time you like, But you can never leave!” (The Eagles, 1976).

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<sup>4</sup> New York State Education Department, Office of the Professions, 2013, “NYS Public Accountancy – Mandatory Continuing Education Questions & Answers,” retrieved on 10/30/13 from <http://www.op.nysed.gov/prof/cpa/cpace.htm>.

## REFERENCES

- Buchholz, A.K., and Kass-Shraibman, F., 2011. "A study of accounting students' perception of changes in requirements of Certified Public Accountant (CPA) licensure in New York State" *Journal of Business and Accounting* 4 No.1 (Fall): 179-188.  
[http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2028673](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2028673).
- Eagles, the, 1976. "Hotel California" Asylum Records.
- New York State Education Department's Public Accountancy Law, 2009, Article 149. §7401 retrieved on 10/8/13 from <http://www.op.nysed.gov/prof/cpa/article149.htm>.
- O'Leary, D., Grumet, L, and Barry, J., 2009. "The long arm of the law: The regulatory reach of New York's accountancy reform" *The CPA Journal* 79, No.10 (October): 16-22.
- Roberts R. and Kurtenbach J., 1998. "State regulation and professional accounting educational reforms: An empirical test of regulatory capture theory" *Journal of Accounting and Public Policy* 17 No.3 (Autumn): 209-226.
- State of New York, Chapter 651 of the Laws of 2008, retrieved on 1/25/13 from <http://nysscpa.org/pdfs/A11696.pdf>.