

SENATE THIRD READING

SB 788 (Niello)

As Amended April 30, 2025

Majority vote

SUMMARY

Exempts out-of-state certified public accountants (CPAs) practicing in California under this state's mobility laws, and owners, partners, shareholders, and employees of an accounting firm licensed by the California Board of Accountancy (CBA), from the requirement to register with the California Tax Education Council (CTEC) prior to signing tax returns for paying clients.

Major Provisions

- 1) Exempts the following from the Tax Preparation Act:
 - a) An individual authorized to practice public accountancy in California under this state's mobility laws.
 - b) A firm, including the firm's partners, shareholders, owners, or employees, provided the firm has a current and valid license issued by the Board of Accountancy.
- 2) Specifies that the new exemptions apply to tax returns prepared for taxable years beginning on or after January 1, 2025.

COMMENTS

In California, any person who charges a fee to assist with or prepare a state or federal income tax return, with a few exceptions, must register with CTEC, a nonprofit entity responsible for registering tax preparers and enforcing the Act. CPAs with a current and active license issued by the CBA, attorneys who are active members of the State Bar of California, and Internal Revenue Service enrolled agents are exempt from the Act and therefore not required to register with CTEC. Employees of those individuals are also exempt if a CPA, attorney, or enrolled agent supervises the employee, and reviews the tax return, signs it, and is responsible for its content. Certain trust companies, financial institutions, and their employees are also exempt from the Act.

California's mobility law for CPAs allows any CPA whose principal place of business is located outside California and who holds a valid and current license, certificate, or permit to practice public accountancy from another state, to practice public accountancy in California under a practice privilege without giving notice or paying a fee, under specified conditions. Any individual who provides accounting services under a practice privilege is subject to the CBA's oversight and must comply with the laws, regulations, and professional standards applicable to the practice of public accountancy by CPAs licensed by the CBA and any other laws and regulations applicable to individuals practicing under a practice privilege in California. This bill would extend the exemption for California CPAs to those working in this state under mobility.

Accounting firms (i.e., corporations or partnerships) wishing to provide accounting services in California are required to obtain a license from CBA before providing or advertising accounting services. The majority of owners of a corporation must be CPA licensees, except that a firm with only two shareholders may have one shareholder who is not a CPA. Out-of-state CPA shareholders or employees of an accounting firm wanting to practice in California must obtain a

license. Partnerships must have at least two partners, with at least one of the partners licensed as a CPA in California. If there are more than two partners, the majority must be licensed CPAs. Out-of-state partners are required to obtain a license to practice public accountancy in California. Partnership and corporation licenses are subject to renewal every two years. The CBA may revoke, suspend, or refuse to renew a firm's license for unprofessional conduct, which includes but is not limited to dishonesty, fraud, and gross negligence. Accounting firms are required to undergo a peer review of their accounting and auditing practice every three years. There are approximately 5,500 partnerships and corporations licensed by CBA.

Under the current regulatory framework, some individuals associated with accounting firms licensed by the CBA are also required to register with the CTEC. This bill would exempt firm owners, partners, shareholders, and employees in California from the additional requirement to register with the CTEC. It is unclear how many people would become exempt under this bill.

According to the Author

"[This bill] improves access for Californians to services by CPAs or accounting firms headquartered out of state by clarifying that duplicative regulations are not required for CPAs who come to California from outside of the state to provide services when those CPAs are under oversight of the California Board of Accountancy. This bill will reduce barriers while ensuring that existing consumer protections are and oversight are still intact."

Arguments in Support

As the sponsor of this bill, the *California Society of CPAs* writes in support:

While most states that regulate tax return preparers broadly exempt active CPAs and other licensed professionals—regardless of where they are licensed or reside—California takes a more limited approach. With respect to CPAs, the Tax Preparation Act only exempts CPAs who are licensed in California.

This creates confusion and the potential for duplicative regulation, especially for CPAs licensed in other states, but are authorized under the Accountancy Act to practice in California, as well as professionals working in a CPA firm licensed and regulated by the CBA. These individuals are already under CBA oversight, yet the overlapping requirements of the Tax Preparation Act introduce unnecessary complexity and compliance burdens for CPAs and firms working to serve consumer needs effectively and efficiently.

To address this, [this bill] updates the CPA exemption under the Tax Preparation Act to clarify that the following are all exempt from the Tax Preparation Act and CTEC registration requirements: CPAs holding a current and valid license issued by the CBA; CPAs authorized to practice public accountancy in California; and employees of CPA firms licensed by the CBA, when services are performed under the firm's license.

Arguments in Opposition

The *California Tax Education Council*, which opposes the bill unless it is amended, writes:

CTEC opposes the language in Business and Professions Code section 22258(a)(2), which exempts from CTEC registration, "[A] firm, including the firm's partners, shareholders, owners, or employees, provided the firm has a current and valid license issued by the California Board of Accountancy" because this language is overbroad and would allow any individual who is employed by a licensed accountancy firm but is neither a CPA nor an

Enrolled Agent to prepare tax returns without receiving the education required for CTEC registration, placing California consumers in danger.

CTEC believes that the exemption in section 22258(a)(2), when paired with the exemption in section 22258(a)(7), (which states, "(7) Any employee of any person described in paragraph (1), (2), (3), (4), (5), or (6), while functioning within the scope of that employment, insofar that the employee is supervised by a person exempt under this subdivision who reviews the return, signs it, and is responsible for its content.") would allow individuals who are neither CPAs nor IRS Enrolled Agents to review and sign tax returns.

We do not believe that it is the intent of the legislature to allow any owner of, or employee employed by, a licensed accountancy firm (such as the receptionist) to prepare and sign tax returns merely because of their employment or ownership status, however the language as currently drafted would allow that to occur. The exemptions in the Tax Preparers Act have always been applicable to specific individuals who meet certain stated qualifications, not to firms as a whole.

FISCAL COMMENTS

According to the Assembly Appropriations Committee:

- 1) The CBA anticipates no costs as a result of this bill.
- 2) The CTEC is a nonprofit regulating entity outside of state government and is not supported by state funds.

VOTES

SENATE FLOOR: 38-0-2

YES: Allen, Alvarado-Gil, Archuleta, Arreguín, Ashby, Becker, Blakespear, Cabaldon, Caballero, Cervantes, Choi, Cortese, Dahle, Durazo, Gonzalez, Grayson, Grove, Jones, Laird, Limón, McGuire, McNerney, Menjivar, Niello, Ochoa Bogh, Padilla, Pérez, Richardson, Rubio, Seyarto, Smallwood-Cuevas, Stern, Strickland, Umberg, Valladares, Wahab, Weber Pierson, Wiener

ABS, ABST OR NV: Hurtado, Reyes

ASM BUSINESS AND PROFESSIONS: 16-0-2

YES: Berman, Flora, Ahrens, Alanis, Caloza, Chen, Elhawary, Hadwick, Haney, Irwin, Jackson, Krell, Lowenthal, Ellis, Nguyen, Pellerin

ABS, ABST OR NV: Bains, Bauer-Kahan

ASM APPROPRIATIONS: 15-0-0

YES: Wicks, Sanchez, Arambula, Calderon, Caloza, Dixon, Elhawary, Fong, Mark González, Hart, Pacheco, Pellerin, Solache, Ta, Tangipa

UPDATED

VERSION: April 30, 2025

CONSULTANT: Kaitlin Curry / B. & P. / (916) 319-3301

FN: 0001094