



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 02-052

AN ORDER to create Accy 1.408, relating to the definition of "ownership" for the purpose of determining eligibility of firms for a license as a certified public accounting firm.

Submitted by **DEPARTMENT OF REGULATION AND LICENSING**

04-15-02 RECEIVED BY LEGISLATIVE COUNCIL.

05-10-02 REPORT SENT TO AGENCY.

RNS:DD:ksm;flu

indication be made that the presumption is rebuttable or, stated differently, that the ownership requirement is not automatically met. See, generally, s. 903.01, Stats. If rebuttable, under what circumstances might the presumption be questioned? Could the applicant provide additional information to show the ownership requirement is satisfied?

b. In s. Accy 1.408 (3) (b), should "held by individuals who are" be inserted after "are" for consistency with pars. (c) to (e)?

STATE OF WISCONSIN
ACCOUNTING EXAMINING BOARD

IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : ACCOUNTING EXAMINING BOARD
ACCOUNTING EXAMINING BOARD : ADOPTING RULES
: (CLEARINGHOUSE RULE 02-)

PROPOSED ORDER

An order of the Accounting Examining Board to create Accy 1.408, relating to the definition of "ownership" for the purpose of determining eligibility of firms for a license as a certified public accounting firm.

Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

Statutes authorizing promulgation: Secs. 15.08 (5) (b) and 227.11 (2), Wis. Stats., and sec. 442.08 (3), Wis. Stats., as amended by 2001 Wisconsin Act 16.

Statutes interpreted: Sec. 442.08 (2) and (3), Wis. Stats.

This proposed rule-making order of the Accounting Examining Board addresses the requirement in Wis. Stat. s. 442.08 (3), as amended by 2001 Wisconsin Act 16, that the board shall promulgate rules that define "ownership interest" for the purposes of determining eligibility for a license as a certified public accounting firm.

Under Wis. Stats. Ch. 442, as amended by 2001 Wisconsin Act 16, an applicant for a license as a certified public accounting firm must demonstrate that more than 50% of the ownership interest of the firm is held by individuals who hold certificates or licenses to practice as a certified public accountant issued under the laws of any state or foreign country. Wis. Stat. s. 442.08 (2) (c) 2.

If any person who holds an ownership interest in the firm is not licensed as a certified public accountant, the firm is required to designate an individual who is licensed as the individual responsible for the firm's compliance with Wis. Stat. ch. 442. Wis. Stat. s. 442.08 (2) (b).

The law requires that each person who holds an ownership interest in the firm, and who does not hold a certificate or license to practice as a certified public accountant, be an individual who actively participates in the firm or an affiliated entity. Wis. Stat. s. 442.08 (2) (c) 3.

In promulgating these rules, the board considered the financial interests and voting rights of all members of a firm.

*See Act 16
promulgation
attached*

*2 fails to
summarize
the rule*

cf. Accy 1.062, Subch I of ch. 1

TEXT OF RULE

SECTION 1. Accy 1.408 is created to read:

applic. - in this sec.

Accy 1.408 Ownership requirements. (1) "Ownership interest" means any equity or voting interest in a business organization. - use "firm" of 442.001(4)

(2) An applicant for a license as a certified public accounting firm shall demonstrate that more than 50% of the ownership interest of the firm is held by individuals who hold certificates or licenses to practice as a certified public accountant issued under the laws of any state or foreign country.

(3) A firm applying for licensure is presumed to meet the ownership requirement under sub. (2) in the following circumstances:

(a) If the applicant is a sole proprietorship and the owner holds a certificate and license to practice as a certified public accountant issued under the laws of this state.

held by individuals who are

(b) If the applicant is organized as a service corporation and more than 50% of the voting rights are certified public accountants.

"certified PA"

(c) If the applicant is organized as a business corporation and more than 50% of the voting rights are held by individuals who are certified public accountants.

(d) If the applicant is organized as a partnership or limited liability partnership and more than 50% of the voting rights are held by individuals who are certified public accountants.

see 442.02

(e) If the applicant is organized as a limited liability company and more than 50% of the voting rights are held by individuals who are certified public accountants.

cf. 442.001(5)

(4) An applicant firm with ownership characteristics other than those identified in sub. (3) may submit information about the financial interests and voting rights of all shareholders, partners and members of the firm to the board. The board may determine that more than 50% of the ownership interest of the firm is held by individuals who hold certificates or licenses to practice as a certified public accountant. In making this determination the board shall consider whether both equity interests and voting rights of all members of the firm result in control and management of the firm by individuals who hold certificates or licenses to practice as a certified public accountant.

(END OF TEXT OF RULE)

cf. def. of "ownership interest"

The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register, pursuant to s. 227.22 (2) (intro.), Wis. Stats., or 60 days after its adoption by the Accounting Examining Board, pursuant to s. 442.01 (2), Wis. Stat., whichever is later.

Dated _____

Agency _____

Chairperson
Accounting Examining Board

FISCAL ESTIMATE

1. The anticipated fiscal effect on the fiscal liability and revenues of any local unit of government of the proposed rule is: \$0.00.
2. The projected anticipated state fiscal effect during the current biennium of the proposed rule is: \$0.00.
3. The projected net annualized fiscal impact on state funds of the proposed rule is: \$0.00.

INITIAL REGULATORY FLEXIBILITY ANALYSIS

These proposed rules will be reviewed by the department through its Small Business Review Advisory Committee to determine whether there will be an economic impact on a substantial number of small businesses, as defined in s. 227.114 (1) (a), Wis. Stat.

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(Ownership)
4/15/02

**STATE OF WISCONSIN
ACCOUNTING EXAMINING BOARD**

**IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : ACCOUNTING EXAMINING BOARD
ACCOUNTING EXAMINING BOARD : ADOPTING RULES
: (CLEARINGHOUSE RULE 02-052)**

TO: Senator Judy Robson, Senate Co-Chairperson
Joint Committee for the Review of Administrative Rules
Room 15 South, State Capitol
Madison, Wisconsin 53702

PLEASE TAKE NOTICE that the ACCOUNTING EXAMINING BOARD is submitting in final draft form rules relating to the definition of "ownership interest" for the purpose of determining eligibility of firms for a license as a certified public accounting firm.

Please stamp or sign a copy of this letter to acknowledge receipt. If you have any questions concerning the final draft form or desire additional information, please contact Pamela Haack at 266-0495.

**STATE OF WISCONSIN
ACCOUNTING EXAMINING BOARD**

**IN THE MATTER OF RULE-MAKING : REPORT TO THE LEGISLATURE
PROCEEDINGS BEFORE THE : ON CLEARINGHOUSE RULE 02-052
ACCOUNTING EXAMINING BOARD : (s. 227.19 (3), Stats.)**

I. THE PROPOSED RULE:

The proposed rule, including the analysis and text, is attached.

II. REFERENCE TO APPLICABLE FORMS:

No new or revised forms are required by these rules.

III. FISCAL ESTIMATES:

These rules will have no significant impact upon state or local units of government.

IV. STATEMENT EXPLAINING NEED:

This proposed rule-making order of the Accounting Examining Board addresses the requirement in Wis. Stat. s. 442.08 (3), as amended by 2001 Wisconsin Act 16, that the board shall promulgate rules that define "ownership interest" for the purposes of determining eligibility for a license as a certified public accounting firm.

Under Wis. Stats. Ch. 442, as amended by 2001 Wisconsin Act 16, an applicant for a license as a certified public accounting firm must demonstrate that more than 50% of the ownership interest of the firm is held by individuals who hold certificates or licenses to practice as a certified public accountant issued under the laws of any state or foreign country. Wis. Stat. s. 442.08 (2) (c) 2.

V. NOTICE OF PUBLIC HEARING:

A public hearing was held on May 17, 2002. There were no appearances at the public hearing, nor were any written comments received.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

All of the recommendations suggested in the Clearinghouse Report were accepted in whole.

VII. FINAL REGULATORY FLEXIBILITY ANALYSIS:

The rules will have no significant economic impact on small businesses, as defined in s. 227.114 (1) (a), Stats.

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8/2/02

STATE OF WISCONSIN
ACCOUNTING EXAMINING BOARD

IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : ACCOUNTING EXAMINING BOARD
ACCOUNTING EXAMINING BOARD : ADOPTING RULES
: (CLEARINGHOUSE RULE 02-052)

PROPOSED ORDER

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Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

Statutes authorizing promulgation: Secs. 15.08 (5) (b) and 227.11 (2), Wis. Stats., and sec. 442.08 (3), Wis. Stats., as amended by 2001 Wisconsin Act 16.

Statutes interpreted: Sec. 442.08 (2) and (3), Wis. Stats.

This proposed rule-making order of the Accounting Examining Board addresses the requirement in Wis. Stat. s. 442.08 (3), as amended by 2001 Wisconsin Act 16, that the board shall promulgate rules that define "ownership interest" for the purposes of determining eligibility for a license as a certified public accounting firm.

Under Wis. Stats. Ch. 442, as amended by 2001 Wisconsin Act 16, an applicant for a license as a certified public accounting firm must demonstrate that more than 50% of the ownership interest of the firm is held by individuals who hold certificates or licenses to practice as a certified public accountant issued under the laws of any state or foreign country. Wis. Stat. s. 442.08 (2) (c) 2.

The proposed rule defines "ownership interest" as any equity or voting interest in a firm. The term "firm" is defined in Wis. Stat. §442.001 (4) as "... a proprietorship, partnership, limited liability partnership, corporation, service corporation, or limited liability company." The rule requires an applicant for a license as a certified public accounting firm to demonstrate that more than 50% of the ownership interest of the firm is held by certified public accountants.

If any person who holds an ownership interest in the firm is not licensed as a certified public accountant, the firm is required to designate an individual who is licensed as the individual responsible for the firm's compliance with Wis. Stat. ch. 442. Wis. Stat. s. 442.08 (2) (b).

The law requires that each person who holds an ownership interest in the firm, and who does not hold a certificate or license to practice as a certified public accountant, be an individual who actively participates in the firm or an affiliated entity. Wis. Stat. s. 442.08 (2) (c) 3.

In promulgating these rules, the board considered the financial interests and voting rights of all members of a firm.

TEXT OF RULE

SECTION 1. Accy 1.408 is created to read:

Accy 1.408 Ownership requirements. (1) In this section "ownership interest" means any equity or voting interest in a firm.

(2) An applicant for a license as a certified public accounting firm shall demonstrate that more than 50% of the ownership interest of the firm is held by individuals who hold certificates or licenses to practice as a certified public accountant issued under the laws of any state or foreign country.

(3) A firm applying for licensure meets the ownership requirement under sub. (2) in the following circumstances:

(a) If the applicant is a sole proprietorship and the owner holds a certificate and license to practice as a certified public accountant issued under the laws of this state.

(b) If the applicant is organized as a service corporation and more than 50% of the voting rights are held by individuals who are certified public accountants.

(c) If the applicant is organized as a business corporation and more than 50% of the voting rights are held by individuals who are certified public accountants.

(d) If the applicant is organized as a partnership or limited liability partnership and more than 50% of the voting rights are held by individuals who are certified public accountants.

(e) If the applicant is organized as a limited liability company and more than 50% of the voting rights are held by individuals who are certified public accountants.

(4) An applicant firm with ownership characteristics other than those identified in sub. (3) may submit information about the ownership interests of all members of the firm to the board. The board may determine that more than 50% of the ownership interest of the firm is held by individuals who hold certificates or licenses to practice as a certified public accountant. In making this determination the board shall consider whether ownership interest of all members of the firm results in control and management of the firm by individuals who hold certificates or licenses to practice as a certified public accountant.

(END OF TEXT OF RULE)

The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register, pursuant to s. 227.22 (2) (intro.), Wis. Stats., or 60 days after its adoption by the Accounting Examining Board, pursuant to s. 442.01 (2), Wis. Stat., whichever is later.

Dated _____ Agency _____
Chairperson
Accounting Examining Board

FISCAL ESTIMATE

1. The anticipated fiscal effect on the fiscal liability and revenues of any local unit of government of the proposed rule is: \$0.00.
2. The projected anticipated state fiscal effect during the current biennium of the proposed rule is: \$0.00.
3. The projected net annualized fiscal impact on state funds of the proposed rule is: \$0.00.

FINAL REGULATORY FLEXIBILITY ANALYSIS

These rules will have no significant economic impact on a substantial number of small businesses, as defined in s. 227.114 (1) (a), Wis. Stat.

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(Ownership interest)
8/1/02