



May 10, 2019

Ms. Toni Lee-Andrews
Ethics Team
AICPA
220 Leigh Farm Road
Durham, NC 27707

Re: PEEC Hosting Interpretation

Dear Ms. Lee-Andrews:

One of the objectives that the Council of the American Institute of Certified Public Accountants (AICPA) established for the PCPS Executive Committee is to speak on behalf of local and regional firms and represent those firms' interests on professional issues in keeping with the public interest, primarily through the Technical Issues Committee (TIC). This communication is in accordance with that objective.

TIC believes that fatal flaws remain in the Hosting Interpretation (Interpretation) that is scheduled to be effective July 1, 2019.

The initial exposure draft was **limited in scope to only when the Member was engaged to provide hosting services**. TIC did not provide a comment letter on the initial ED as TIC believed adding this disclaimer language at the top of the Interpretation properly addressed any concerns related to unintended consequences when the Member was providing services other than hosting and the scope of the original ED was appropriate. TIC believes that removal of the scope language significantly changes the applicability of this Interpretation and results in additional unintended complexities for practitioners. Therefore, TIC believes this interpretation should be re-exposed or delayed pending an assessment of re-exposing the Interpretation and/or adding additional FAQs.

Based on this logic, some Member firms believe that they will need to provide a copy of underlying calculations of a tax return to make a client "whole" in order to comply with the Interpretation, which is a significant change in practice for many practitioners. TIC believes that this understanding of the Interpretation is in direct conflict with other sections of the AICPA Code of Professional Conduct and the related FAQs, thus creating the need for additional clarification.

TIC also does not believe most firms, third-party vendors, and software providers will be ready to comply with this Interpretation by July 1, 2019.

Some specific examples of issues that TIC believes need to be resolved prior to the effective date of the Interpretation include:

- Extant Electronic Records Question 1 (FAQ #1) issued in August 2015^[1] related to electronic records clarifies various types of records that are relevant in the service of preparing a tax return. FAQ #1 identifies that, when requested by the client, client provided records and Member prepared records (such as a tax return grouping schedule, schedule M adjustments, and depreciation schedules) are required to make a client whole with respect to their own records. More importantly, the FAQ defines notes to files and calculations as a component of the Member's work product. Calculations that are part of the Member work product as defined by the extant FAQ #1 are not required to make the client whole because existing guidance clarifies that a Member's calculations are not part of the client records but, rather, the Member work product. Therefore, TIC believes an FAQ should be provided to address the conflict between existing guidance and the Interpretation when making a client whole to ensure there is not a significant change in practice.
- TIC believes that the existence of portals should not automatically result in a threat to independence that cannot be reduced to an acceptable level. Rather, TIC believes the existence of portals should be defined as a potential threat to independence that requires a written threats and safeguards assessment. For example, the guidance could be amended to indicate that potential safeguards might include: the expiration of portal access, additional engagement letter wording or additional management representations. This would keep the conceptual risk to independence impairment intact, but it would allow for other safeguards to be put in place other than defaulting to a prescriptive safeguard of portal expiration/termination for which the time period isn't clearly defined in the Interpretation.
- TIC has concerns regarding the conceptual risk of Members becoming de facto hosts of client records via the use of secure portals. TIC has received feedback from other PCPS member firms that, due to the wording of the Interpretation, they are moving toward less secure methods of delivery in order to ensure compliance. Examples include sending emails and attaching weak password-protected PDF documents that might use the TIN as the password, sending unencrypted USB drives or DVDs/CDs to the client, etc.
- There are very strict statutory and regulatory measures for privacy that already exist in addition to the AICPA's own Code of Professional Conduct related to client confidential records, such as guidance issued by the Internal Revenue Service, HIPAA, and GDPR. TIC believes the conceptual/theoretical risk to independence that this Interpretation attempts to address with respect to portals creates a real potential violation of release of client confidential information and other privacy rules/laws/best practices due to Members reverting to less secure methods of exchanging information. TIC does not believe that was the intent of the Interpretation, but we believe this is a real risk and is already starting to occur in practice as firms struggle with adoption of this Interpretation.

^[1] <https://www.aicpa.org/InterestAreas/ProfessionalEthics/Resources/Tools/DownloadableDocuments/Ethics-General-FAQs.pdf>

TIC believes that, if PEEC decides not to delay the effective date of the Interpretation or not to re-open the Interpretation and make revisions to address these issues, PEEC should, at a minimum, provide additional FAQs with implementation guidance at the time the Interpretation becomes effective.

TIC appreciates the opportunity to present these comments on behalf of PCPS Member firms. We would be pleased to discuss our comments with you at your convenience.

Sincerely,

A handwritten signature in black ink that reads "Michael A. Westervelt". The signature is written in a cursive style with a large initial 'M' and 'W'.

Michael A. Westervelt, Chair
PCPS Technical Issues Committee
cc: PCPS Executive and Technical Issues Committees