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CPAs Bound by Law to Keep Client Information Confidential

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January 2010

In Michigan, Certified Public Accountants have a duty to keep their clients' financial information confidential. Michigan law states:

Except by written permission of the client...to whom the information pertains [a CPA] shall not disclose or divulge and shall not be required to disclose or divulge information...that the [CPA]...was employed to make...information derived from or as a result of professional service rendered by a [CPA] is confidential and privileged.

CPAs are required to obtain written permission before producing information gained in the course of an engagement, regardless of their client's previous conduct. **This is true even if a CPA is served a court issued subpoena to produce privileged information.** Without the client's written permission, the only course of action is to appear as the subpoena requires, but decline to produce records or give testimony. On the other hand, a court can compel the *client* to disclose information held by their CPA. While the information is privileged in the hands of a CPA, it is not privileged in the hands of the client.

There are two notable exceptions to the CPA's privilege. First, if the clients are a husband and wife who file joint tax returns or the client is an entity owned 50-50 by two people, both of whom were actively involved and worked with the CPA, then neither individual can invoke the CPA's privilege against the other. The CPA would be required to comply with a subpoena in a lawsuit involving the two clients, such as a divorce action.

The second exception is referred to as the "crime-fraud exception." If otherwise privileged information constitutes evidence of a present, ongoing crime or an act of criminal fraud, a court may hold that the CPA privilege does not apply. However, a CPA's information regarding past misconduct is still covered by privilege.

Finally, it is important to keep in mind that this is a Michigan statute and may not be applicable in federal court or in federal matters such as a dispute with the IRS.

Every situation presents a unique set of circumstances and it may not be clear when a CPA is allowed to disclose and/or withhold information. Contact our office if you have questions.