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## **Commissions and Contingent Fees**

### **Information For Consumers**

#### **Commissions.**

A licensee may accept commissions in limited situations. Per Section 5061 of the California Accountancy Act, a licensee may accept commission-based compensation for defined services - as long as the fees are disclosed in writing and various prohibited services are not performed.

However, a licensee still is prohibited from accepting any fee or commission solely for referral of a client to a third party.

This provision is similar to the American Institute of Certified Public Accountants' (AICPA) [Rule 503](#), but has significant exceptions. California's disclosure rules are more stringent for consumer protection and must be in detailed written form.

The disclosure must:

- Be in writing and be clear and conspicuous.
- Be signed by the recipient of the product of service.
- State the amount of the commission or the basis on which it is computed.
- Identify the source of the payment.
- Identify the relationship between the source and the person receiving the payment.

#### **Contingent Fees.**

As specified in Section 62 of the Accountancy Regulations, a licensee shall not:

- Perform for a contingent fee any professional services for a client for whom the licensee or his or her firm performs:
  - An audit or review of a financial statement; or

- A compilation of a financial statement when the licensee expects or reasonably should expect that a third party will use the financial statement and the licensee's compilation report does not disclose a lack of independence; or
  - An examination of prospective financial information; or
  - Any other attest engagement when the licensee expects or reasonably should expect that a third party will use the related attestation report; or
  - Any other services requiring independence.
- Prepare an original tax return for a contingent fee.
  - Prepare an amended tax return, claim for tax refund, or perform other similar tax services for a contingent fee.
  - Perform an engagement as a testifying expert for a contingent fee.

A contingent fee is a fee established for the performance of any service pursuant to an arrangement in which no fee will be charged unless a specific finding or result is attained.

Fees are not contingent if fixed by courts or governmental entities acting in a judicial or regulatory capacity.