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FOR THE ATO'S
TROUBLED DIGITAL
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International politics have been anything but predictable, and arguably anything but stable, in the last two years. This is a lesson for stakeholders on the home front – make your voice heard to ensure your world isn't decided for you. As we outline in this issue, it's not as difficult as you may think.

We also delve into the long-running digital saga at the ATO. We explore where it's at, where it's headed and how you can have your say.

As we get into the guts of 2017, we also take a look at how your SME clients are likely feeling in terms of their economic spend and all-round business confidence.



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– Ravi Agarwal, MediQ Financial

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Another federal budget on the way



The second Tuesday in May is not far away so a lot of IPA attention will be on Canberra when the 2017-18 federal budget is handed down.

In January, the IPA team submitted its annual pre-budget submission, a comprehensive document that advocates on key policy issues and represents the interests of members, small business and the broader economy.

Some of the IPA policy recommendations – such as our push for a state-backed loan guarantee scheme and publicly supported venture capital funds – were carried over from last year. These recommendations will remain as we continue to lobby for the appropriate outcome.

This year's budget will no doubt include much talk of tax reform, which the IPA has been advocating for, for a long time. However, tax reform must be holistic and the entire tax mix put on the table for any chance of effectiveness.

Australia desperately needs large-scale tax reform if it is to address the fiscal issues we face. The IPA's pre-budget submission calls on the government to deliver on its commitment to a promised tax white paper. We believe the terms of reference for the white paper should be broad and include the GST. True reform will not be achieved if the total tax mix is not considered.

There are many other recommendations in the submission, including the IPA's push for the return of the loss carry back initiative that we successfully lobbied for and attained in 2012, only to have it removed 12 months later as a casualty of the repeal of the mineral resource rent tax.

The IPA is also arguing the case for the government to reinstate the superannuation concessional contribution cap for those over 50 to \$35,000. It was reduced to \$25,000 when the government's superannuation reforms passed in Parliament last November.

I encourage all our members to have a look at this year's submission on the IPA website.

Maintaining relevance is at the heart of the IPA's continuous professional development programs. Keeping members, not just up-to-date but ahead of the pack to meet the ever-changing environment and growing expectations of clients, is a focus of our state divisions which continue to hold excellent events with high-calibre presenters.

A number of key events were held in Victoria, Queensland and Western Australia last month and one in the Hunter Valley, NSW earlier this month. I had the pleasure of speaking at the Victoria Congress and it was great to catch up with our member delegates.

Next month will also be a busy time for the IPA's event coordinators, with the 2017 Tasmania Congress, the Darwin Professional Accounting Forum, and in a first for the Institute, the 2017 Tax Retreat in New Caledonia.

I am also pleased to be advised by the IPA team that there is significant interest from members here in Australia and the UK to attend this year's delegation to China which will take place in June.

Damien Moore FIPA FFA

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To find out when the Tax Agent Guide Roadshow will be in a city near you, or to register, visit publicaccountants.org.au/tag2017



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Finding our 'why'

Most organisations take time to deliberate over what their vision and mission statements should be. They ask questions like, “Does the vision reflect what we do? What are we striving for and will it stand the test of time?”

Unfortunately, many organisations' vision statements get etched somewhere in the corporate office and rolled out with every annual report, but quite often is forgotten, gathering dust until the next organisational review.

At the IPA, we constantly review our operations, in particular to innovate for ways to drive greater member value. However, while looking at what we do is important, understanding why we do what we do is even more important.

Understanding the *why* and realising the purpose of our existence gives the organisation a genuine foundation and underpins everything we do. Finding our *why* has been the subject of much dialogue throughout the organisation during our recent reviews.

As a result, we have defined our *raison d'être* – *To improve the quality of life of small business.*

This purpose – our *why* – rings true in all we do in terms of putting our members first. This includes the interests of their clients and the businesses they work with. I have often spoken of the critical role our

members play in the lives of small business owners. This goes well beyond the ledger. Our members play an integral part in the lives of small business people and their families.

It also goes beyond providing advice. It goes to the core values of people's lives and wellbeing. This latter point cannot be understated as our research tells us that many small businesses face significant challenges, not just in their financial positions but their mental wellbeing as well.

Following our exploration and consideration of what makes our organisation tick, we have recalibrated our vision to be something far more relevant and meaningful.

The IPA's revised and renewed vision is – ***For every small business owner to have a public accountant by their side.***

Our *why* and our repositioned vision have been ratified by the IPA board and the IPA team will intensify its focus on this vision and ensure we maintain its intent. As part of this work, and based on member research conducted in 2016, we will be looking at the IPA brand across the IPA Group and the regions it serves. We will be assuring a more consistent and fresh brand across our domestic and international jurisdictions.

I will have more news to share on this matter in coming weeks.

Andrew Conway FIPA FFA

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Marcus Leonard,
national leader – tax,
BDO

Corporate tax reform: Should Australia follow the US?

Donald Trump famously said, “We will make America great again”, promising corporate tax reforms that have the potential to reshape international capital markets

• • •

by Marcus Leonard

Donald Trump said the US corporate tax rate was viewed as the best in the industrialised world in the 1980s to where it is now, diminished and considered one of the worst rates in the industrialised world.

The proposed US corporate tax reforms would reduce the corporate income tax rate from 35 per cent to 15 per cent and eliminate most business tax subsidies to offset the benefits reaped by corporate taxpayers. There would also be significant marginal tax rate cuts for individuals, which would boost incentives to work, save and increase investment.

Trump's proposed changes have gained criticism from numerous commentators due to the rapid overhaul of rules and regulations, but they have been welcomed by businesses. The tax reforms have emphasised Trump's attitude regarding the way he will manage the economy – with a business mindset.

Trump's corporate tax reform is targeted at stopping the incentive for companies to establish their

headquarters abroad due to the tax concessions offered or due to being based in an overall lower corporate tax regime. He believes the US's inefficient and non-competitive tax regime is causing too many firms, start-ups in particular, to move offshore. He also emphasises that companies leaving the US is not the disease, but the symptom.

The question that comes to mind is whether it is time for Australia to follow suit and significantly reduce its corporate tax rate? The reduction of the corporate tax rate for Australian companies has been debated over the years. There is a growing need for the Australian tax system to support enterprises by encouraging businesses to invest in Australia and create more jobs for Australians.

The federal government has already implemented some tax relief for very small corporates from 1 July 2015 (28.5 per cent for less than \$2 million turnover). However, at the time of writing, it has proposed increasing this turnover threshold to less than \$10 million and reducing the tax rate to 27.5 per cent.

This would deliver a lower tax rate

for around 870,000 companies who employ more than 3.4 million workers. This proposal has not yet passed through Parliament.

Trump appears to be of the opinion that reducing the US individual and corporate tax rates would boost consumer spending, encourage savings and local investment, leading to economic growth. It is important that the reduction to the US corporate tax rate is not being implemented in isolation. There would also be marginal tax rate reductions for individuals. This would help small and medium businesses. Having a high income tax regime limits available capital for investment and growth.

Over the next ten years, the Australian government is proposing to encourage investment and higher-paid jobs by decreasing the corporate tax rate on all companies to 25 per cent by 2026–27.

The government has indicated that lowering the corporate tax rate is part of its overarching plans to promote economic growth and encourage investment by making Australia's corporate tax rate more internationally

competitive. At 30 per cent, Australia's corporate tax rate is well above the 23 per cent average for OECD member states.

In the past 15 years, Australia's headline corporate tax rate has remained constant while there has been a clear global trend to reduce corporate tax rates. However, will a reduction of the rate to 25 per cent over ten years be enough given the dramatic reductions proposed by the US?

The lowering of the corporate tax rate here could help Australia compete for more foreign investment as the risk of not following the US – with its proposed corporate tax reduction – is that from a global capital markets perspective, capital could be redirected back to the US to the detriment of Australia.

Attracting foreign direct investment is the primary goal of many who advocate reductions in statutory company tax rates. The potential benefits to Australia of greater foreign direct investment include greater labour income through increased

productivity, and possibly employment and positive externalities or spillovers associated with foreign direct investment which could improve labour and capital productivity.

The relatively high Australian corporate tax rate, even with the ten-year rate reduction proposal, can act as a significant roadblock for investment in Australia as the competition for highly mobile capital increases. There is a direct link between the level and allocation of cross-border investments and the corporate tax rate.

In contrast to the US proposals, there is no proposal as yet to reduce the individual tax rates here. The majority of company tax paid in Australia is rebated to shareholders via the distribution of franked dividends. The more tax paid by the company, the less to be paid in the hands of the Australian shareholder.

However, the overall tax paid equates to the individual's marginal tax rate.


By reducing the company tax rate, less tax would be paid by Australian

companies and more in the hands of Australian shareholders in the form of individual income tax.

The proposed US corporate tax changes are part of a comprehensive overhaul of many aspects of the US federal tax system, which is in stark contrast to Australia's standalone corporate tax rate reductions.

We consider any corporate tax reduction needs to be undertaken as part of an overarching tax reform of the Australian tax regime.

It is also worth noting that the higher Australian corporate tax rate could also impact on domestic investment and reduce the incentive to innovate and, in turn, have the consequences of reducing economic growth and productivity.

The decrease of the corporate tax rate will be an ongoing issue and the crux of the matter is the performance of the American economy once the proposed US tax changes have been implemented and begin changing the dynamics of the US and global economies. 



IPA in the media

The IPA has actively engaged with the media on a wide range of important and pressing issues such as the ATO's IT outage, tax reforms and trade



Export and trade

The government's done a lot of outreach work, a lot of it is around small business and SMEs utilising trade agreements because as a country we need to get more small businesses and SMEs involved in exporting to help our economy. ”

– Vicki Stylianou,
Public Accountant Hub

ATO outage

The Institute of Public Accountants lashed out at the agency over serial frustrations with its IT systems, claiming productivity loss, missed deadlines, irrecoverable costs and reputational damage. ”

– The Flinders News

Tax cuts

We don't oppose tax cuts for the larger entities, but not at the detriment of smaller ones. ”

– Andrew Conway,
Accountants Daily

Case for compensation

The IPA made its case for compensation clear to the federal government. “We've put it on the table, we've put it forward and if they are going to get compensation from their provider ... there's no question that the business world that has been affected should receive it.” ”

– Wayne Debernardi,
The Guardian Australia

Fixing the system

IPA chief executive Andrew Conway has made the call claiming accountants have been constantly reassured by the ATO that it will fix the system but these assurances are now falling on deaf ears. ”

– Money Management

Tax burden

It (FBT) has that unsavoury aspect of being the most cumbersome of all taxes and the one that drives most employers the biggest compliance burden relative to the amount of money it generates. ”

– Tony Greco,
Accountants Daily

Small business tax

The IPA has long held the aspiration of achieving the simplification of the small business taxation system through the application of a structure which eliminates the need for multiple structures. ”

– Andrew Conway,
My Business

CGT complexity

The small business capital gains tax (CGT) concessions are far too complex and eligibility rules need to be simplified, according to the Institute of Public Accountants. ”

– Business Acumen

Market power abuse

The IPA's chief executive officer Andrew Conway says the misuse of market power provision has failed to protect small businesses from “the predatory actions of companies with substantial market power”. ”

– Public Accountant Hub

SME tax relief

By removing these entities at this point of time, the bill could successfully progress through Parliament and provide much needed tax relief for SMEs. ”

– Andrew Conway,
Business Acumen

FBT inconsistencies

IPA chief executive officer Andrew Conway said that the loophole was a benefit for bus catchers, but did not bode well for workers who used other methods of public transport, and demonstrated the inconsistencies of the FBT. ”

– Money Management

Mandatory reporting

It is time to spread the mandatory reporting to other industry sectors. ”

– Andrew Conway,
Money Management

Large-scale tax reform

Australia desperately needs large-scale tax reform if it is to address the current fiscal issues we face and it's beyond time that the government delivered on its commitment for a promised tax white paper. We are not advocating for a change in the overall tax burden but rather a change in the mix to deliver a fairer, more effective, internationally competitive and less complex tax system. ”

– Andrew Conway,
Tax-News (Hong Kong)

Nuisance taxes

Nuisance taxes and termites have something in common – termites eat away at the family home while nuisance taxes erode the revenue base and economic stability. ”

– Andrew Conway,
Public Accountant Hub

Reporting regime

Mandatory reporting has shown to be a very effective mechanism for prompting taxpayers to re-join the tax system ahead of possible detection through data matching. ”

– Andrew Conway,
Public Accountant Hub

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IPA keeps up fight for loan guarantee scheme

The IPA is urging the federal government to introduce a state-backed loan guarantee scheme for small business.

“On average, 28,000 Australian businesses per annum face a binding finance constraint, whilst 118,000 face some access to finance issues,” IPA CEO Andrew Conway said.

“To help increase the availability of much-needed affordable loan finance to the small business sector, the federal government should introduce a state-backed loan guarantee scheme.”

The IPA notes that Australia is one of the only countries in the developed world without such a scheme.

“A limited state-backed guarantee would encourage banks and other commercial lenders to increase loan finance available to small business,” Mr Conway said.

“Evidence presented in the *Australian Small Business White Paper* suggests that by

international standards, the cost of debt for Australian small businesses is high and risk-adjusted lending is not the norm in Australia,” he said.

“There is a strong case for designing and implementing a loan guarantee program in Australia to help remedy the specific problems of smaller and younger start-ups unable to finance new investment opportunities through normal commercial channels.”

Mr Conway believes access to affordable finance will help many small businesses reinvest in their businesses and help create new ideas, new capacity and new jobs.

Talent shortage looms as offshoring takes off

As accounting firms increasingly look to offshore basic work in favour of recruiting graduates, a gap is beginning to emerge in the mid-level talent pool in Australia.

Planet Consulting founder Rob Pillans says firms are looking to offshore more than ever before.

“Many, many firms are choosing to have a lot of the basic work done offshore,” he said.

“Typically in the Philippines or India or Vietnam, the Philippines seems to be the choice for a lot of Australians now.”

While this is a genuine strategy to reduce costs, Mr Pillans said it could have damaging flow-on effects on recruitment.

“[Firms are] not hiring people as graduates and training them, which has been a traditional model in an accounting firm. That has been somewhat eroded by the fact that firms are saying, ‘Maybe I won’t take any graduates this year, I’ll just build my team in the Philippines,’” he said.

“It’s going to be interesting over the next few years to see what happens when accounting firms are looking to hire more people with three to five years’ experience because we’re going to find this big hole.”

Mr Pillans said the offshoring today may give rise to a scenario where the only people with that experience are in the countries Australian firms have been offshoring to.

Last year, Pitcher Partners

Sydney managing partner Rob Southwell also raised this issue, saying the slowdown in graduate recruitment was already causing issues.

“As an industry, we’ve probably hurt ourselves a little bit in the last couple of years, particularly the big four and the mid-tier firms. There was a big slowdown in graduate recruitment, maybe not in the last 18 months but prior to that,” Mr Southwell said.

“We’re really feeling that in the marketplace now that those qualified people with a couple of years’ experience are missing.”

Big four warns ATO homing in on new strategy

Accountants are being cautioned that the ATO will be monitoring instances of additional SMSF set-ups, as some attempt to offer solutions to clients to circumvent the new segregation rules.

PwC director of private clients Liz Westover says SMSF practitioners or trustees who are thinking about setting up two SMSFs to try and circumvent the segregation rules should be careful about the decision-making process around that.

“If you are doing it purely for tax purposes, you might have a part 4A issue,” Ms Westover said.

This does not mean a trustee cannot set up two funds, but there must be other reasons as to why they are doing so.

“Don’t set up two funds to try and have one \$1.6 million pension account and one other account,” Ms Westover advised.

“If it’s purely for tax, you might have a part 4A and the tax office will be looking at you.”

Tax officers ‘hit the streets’ for small business crackdown

The ATO is visiting more than 400 businesses on the east and west coast, in a fresh compliance crackdown.

Assistant commissioner Tom Wheeler says the ATO is focused on businesses operating in the cash and hidden economy.

“Our officers will be visiting restaurants and cafes, hair and beauty and other small businesses in Perth and Canberra to make sure their registration details are up-to-date. These industries are on our radar because they have ready access to cash, and this is a major risk indicator,” Mr Wheeler said.

“Visiting these businesses in person is about helping them to meet their obligations. Through the visits, we can quickly identify who needs extra support and make it easier for them to comply.

“We know that the majority of businesses get it right, so our first aim is to help businesses by checking they are properly registered and provide them with an opportunity to ask questions in person.

“We then work to protect honest businesses from unfair competition by taking action against those who do the wrong thing.”

Mr Wheeler added that the tax office takes community reports “very seriously”.

“The industries we’re visiting have some of the highest rates of concerns reported to us,” he said.

“We are taking the time to educate and support small businesses and their representatives who might not know how to meet their obligations. So far, we’ve met businesses in Sydney, Adelaide, Melbourne and the Gold Coast.”

Offshoring, outsourcing pushing for bookkeeper evolution

Local bookkeepers are being told they must either diversify their service offering or leverage the offshoring trend to ensure their commercial viability.

The Outperformer’s co-founder Brad Eisenhuth says bookkeeping, like every profession, is facing disruption and must evolve in order to stay relevant.

“Offshoring is an obvious current thing going on and accounting firms are either white labelling or utilising offshore services to allow them to focus on higher-value services to the client,” Mr Eisenhuth said.

“There’s the offshoring component and there’s the use of cloud that allows that to happen, so I think that goes hand in hand.”

Mr Eisenhuth said offshoring is only the beginning of the bookkeeping evolution.

“I do believe in the future, these processes in large companies, and from the small bookkeeping process point of view, will become more and more automated.

“Once that automation comes, you’ll start to see a heavier focus on things like forecasting tools and cash-flow management tools.”

Mr Eisenhuth said bookkeepers can utilise the knowledge they have and consider different ways to create value for their clients. He stressed that bookkeepers are not going to become redundant. Their role is simply changing.

“I do think, at the end of the day, a bookkeeping skill set is still going to be required because some organisations won’t have the confidence to offshore, but there is an opportunity to take advantage of that if it suits your appetite.”

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Vicki Stylianou,
executive general manager –
advocacy and technical, IPA

Addressing the confusion

It is not often that professional and ethical standards in the accounting profession cause so much controversy, confusion and concern. However, after six years of consultation with a wide range of global stakeholders and to be implemented in more than 100 countries, that is exactly what NOCLAR has caused

by Vicki Stylianou

What exactly is NOCLAR and what does it mean for accountants in Australia?

NOCLAR is the acronym for 'Responding to Non-compliance with Laws and Regulations'. The official line is that NOCLAR is a framework designed by the International Ethics Standards Board for Accountants (IESBA) to guide professional accountants in what actions to take in the public interest when they become aware of a potential illegal act committed by a client or employer. Some might call this a type of mandated whistleblowing. It has a start date of 15 July 2017.

NOCLAR is defined as any "act of omission or commission, intentional or unintentional, committed by a client or employer, including by management or by others working for or under the direction of the client or employer, which is contrary to prevailing laws or regulations". The laws and regulations covered, violations of which are acts

of NOCLAR, are those that directly affect the client's or the employing organisation's financial statements or its business in a material or fundamental way.

The standard applies to all categories of professional accountants, including auditors, professional accountants in public practice and professional accountants in organisations, including those in businesses, government, education and the not-for-profit sector. It addresses breaches of laws and regulations that deal with matters such as fraud, corruption and bribery, money laundering, financial products and services, securities markets, environmental protection, data protection, banking, proceeds of crime, securities trading, tax and pension liabilities, tax payments, terrorist financing, and public health and safety.

Among other matters, the new standard provides a clear pathway for professional accountants to disclose potential non-compliance situations

to appropriate public authorities in certain situations without being constrained by the ethical duty of confidentiality. It also places renewed emphasis on the role of senior-level accountants in business in promoting a culture of compliance with laws and regulations and prevention of non-compliance within their organisations. The standard will also directly affect those to whom professional accountants will raise NOCLAR including management, board of directors, those involved with governance, regulators and other public authorities. That is, to be effective, the standard needs to create a link in the financial reporting supply chain in preventing and raising potential acts of non-compliance.

In fact, this will be the first time that accountants will be permitted to set aside the duty of confidentiality under the code of ethics in order to disclose NOCLAR to appropriate public authorities in certain circumstances.

"The IPA believes that guidance will be needed as to how to implement and apply NOCLAR, how to interpret what constitutes 'non-compliance', the 'public interest' and other concepts, and to clarify the legal, regulatory and ethical responsibilities regarding how to respond to the standard"

Why is NOCLAR important?

The idea is that NOCLAR will encourage greater accountability among organisations. It will help to protect stakeholders and the general public from substantial harm resulting from violation of laws and regulations, and strengthen the reputation of the profession. NOCLAR also positions the

accounting profession to play a much greater role in the global fight against breaches of legislation and regulations, including financial fraud, money laundering and corruption. In a world where cybercrime is also on the rise, it is important that accountants realise the significant role that they can and should play.

The standard was also developed to clarify that, for professional accountants, it is not enough to simply turn a blind eye to breaches of the law, while also placing renewed emphasis on the roles of management and those charged with governance. It is also intended that earlier action by professional accountants and management will provide greater protection and reduce any adverse consequences for all stakeholders involved, including the general public. Overall, it is hoped that NOCLAR will lead to more trustworthy organisations and a healthier global financial system.

How is NOCLAR to be implemented?

The IPA believes that guidance will be needed as to how to implement and apply NOCLAR, how to interpret what constitutes 'non-compliance', the 'public interest' and other concepts, and to clarify the legal, regulatory and ethical responsibilities regarding how





to respond to the standard. There will be much ambiguity and greyiness in how NOCLAR is to be interpreted and applied, not just across Australia but also consistently across the world. It is also likely that stronger whistleblower protections will be needed in Australia in a broader and more general sense (as is currently proposed by the federal government – refer to the whistleblower article by Tony Greco in this edition of Public Accountant on page 66).

IESBA will also be providing more guidance including 'implementation support material' and answering questions such as how the standard will apply in countries that don't have safe harbour provisions for whistleblowers. IESBA currently has some material on implementing NOCLAR including a Q&A video series and you can follow developments on Twitter #NOCLAR and #IESBA.

What was the IPA's position on NOCLAR?

Usually, when new standards are proposed by the global body IESBA, they are adopted and adapted as necessary for the Australian environment by the Accounting and Professional Ethics Standards Board (APESB). The professional accounting bodies have the opportunity to provide

comment and are consulted on the work being undertaken by APESB. We also have the opportunity to comment on and are involved in consultations undertaken by IESBA. In the case of NOCLAR, the IPA made multiple submissions including supplementary commentary on how NOCLAR will impact other accounting and auditing standards, especially the International Standard on Auditing (ISA) 250, *Consideration of Laws and Regulations in an Audit of Financial Statements*.

The IPA broadly supports the proposals in relation to NOCLAR. The IPA in particular supported the explicit recognition of the responsibility for NOCLAR extending beyond professional accountants acting as auditors, to both accountants in practice providing non-audit services and accountants in business.

The IPA made two specific observations. Firstly, the category of 'professional accountants in public practice providing services other than the audit of financial statements' appears to include professional accountants providing other assurance including audits of information other than financial statements. The IPA is of the opinion that professional accountants performing any assurance


engagements should have the same responsibility in relation to NOCLAR. For example, review engagements are substituted in some jurisdictions for the audit of financial statements for certain types of entities. The IPA is of the view the same duty of care in relation to NOCLAR exists in such circumstances.

Similarly, engagements may exist which require audit level assurance in respect of individual balances or transactions. In relation to such engagements, NOCLAR obligations could arise and should be approached with a similar level of obligation consistent with the scope of an engagement to audit financial statements. Secondly, the IPA believes the proposed standard should include a requirement for professional accountants in practice to include an explicit paragraph as to their obligation in relation to NOCLAR in all engagement letters.

What have others said about NOCLAR?

Many stakeholders around the world were supportive of NOCLAR and the special position that accountants hold in business and the economy.

PwC was reflective of many views which supported the NOCLAR standard, which clarifies the mandate and responsibilities of professional accountants. It has been said that "it is aligned with various international treaties on corruption" and "if applied correctly, NOCLAR could be a giant step forward for society as a whole, as well as valuating the accountancy profession by demonstrating its relevance to the community".

In Canada, however, the conversation and debate continues as to whether the confidentiality rules as they stand are a barrier to auditors responding appropriately and whether auditors need to play a greater role in reporting NOCLAR. 

We welcome all comments and feedback on NOCLAR. Please send these to Vicki Stylianou at vicki.stylianou@publicaccountants.org.au.

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IPA INSTITUTE OF PUBLIC
ACCOUNTANTS



The latest on the IPA's advocacy work

The IPA's latest submissions to the government span external dispute resolution systems, auditing standards and corporate structures

Introducing design and distribution obligations for financial services and products, and giving ASIC product intervention powers

The IPA made a submission to the Treasury on the Proposals Paper 'Design and Distribution Obligations and Product Intervention Power'. The paper seeks answers to 34 questions dealing with legislative reform proposals to improve financial industry practice and regulation in four key areas:

1. The range of financial products covered by the measure;
2. The design and distribution obligations of issuers and distributors of financial products;
3. Granting ASIC the power to intervene in matters involving the issue and distribution of financial products; and
4. Enforcement of legislative proposals and consumer redress arising from breaches of the design and distribution obligations and contravention of interventions.

The IPA answered numerous questions. One answer was

that we agreed that all financial products, except for ordinary shares, should be subject to both the design and distribution obligations and the proposed product intervention power. We believe that financial products, which reflect complex design and/or distribution features, should not be excluded from the proposed measures even if these products are mass-customised (mass-produced).

The government needs to provide guidance, similar to guidance offered by Australian Financial Markets Association, about what constitutes good design and distribution principles in order to comply with the spirit of the law as well as proposed rules.

EDR review: Consideration of ASBFEO Small Business Loans Inquiry Report

The IPA made a further submission to the Treasury on the review of the external dispute resolution system, taking into consideration two particular recommendations made by the Australian Small Business and Family Enterprise Ombudsman's *Small Business Loans Inquiry Report*.

We noted that recommendation 11 of the report recommends that the banking industry fund a one-stop shop with a dedicated small business unit with the expertise to enable it to consider disputes relating to a credit facility limit up to \$5 million. The IPA agreed with this recommendation.

Further, we suggested that the one-stop shop should operate within the new merged entity and noted that the report does not make it clear where the one-stop shop should sit and whether it should be an entirely new entity

or operate within another entity or organisation. If the government decides against one merged entity, then we suggested it should operate within FOS (or the new FOS) as a specialised unit.

We also agreed that the one-stop shop, wherever it sits, should be funded by the banks. Also, the limit of \$5 million is appropriate given that this would capture 98 per cent of small business disputes.

Recommendation 13 of the report states that EDR should be expanded to include disputes with third parties that have been appointed by

the bank, such as valuers, investigative accountants, receivers and also to deal with farm mediation matters. While we had no objections to this recommendation in principle, we believe that it would need to be specifically drafted to ensure that these third parties are in fact captured in practice and that liability for any subsequent payment or settlement is made clear.

Some of the issues for consideration would include defining the third parties. Would it include a prescriptive list or be wide enough to capture anyone engaged

by a bank with respect to a loan arrangement? We would suggest that it needs to be widely drafted and not prescriptive (though a non-exhaustive list may be acceptable) in order to capture anyone engaged in almost any capacity by the bank relating to the loan facility.

Increasing transparency of the beneficial ownership of companies

The IPA made a submission to the Treasury which stated that greater transparency will not only ensure the ability to assist with law enforcement, but

would also enhance the amount and quality of information available for research on how corporate structures come to be and operate in Australia and elsewhere.

Researchers at the IPA-Deakin University SME Research Centre have found that the absence of various disclosures related to individuals who hold beneficial interests in companies has made it difficult, if not impossible, for them to piece together a complete picture of the size, scope and operations of a company or a conglomerate.

Moreover, they argue that it is extremely difficult to trace ownership and interlocking directorships, which is important for both compliance with relevant laws and for research. Prominent legal and finance researchers who have investigated ownership structures of companies in other jurisdictions have long argued that, until the beneficial owners of securities can be properly established, it would be difficult to determine what ownership disclosures are required under securities legislation and by whom.



We encourage the government to expedite reforms in this area to improve both the success of law enforcement and also the opportunities for thorough, comprehensive and insightful research. We note at the outset that the information collected should at all times be accessible by other agencies involved in complex investigations. This may include investigations by the Australian Taxation Office into corporate structuring used in part to evade taxation.

All steps must be taken to ensure the technology used to develop and store the proposed register of ownership is able to be accessed easily by investigators in various departments across government agencies.

Proposed Auditing Standard on ASA 2016-2 Amendments to Australian Auditing Standards (ED 07-16)

The IPA made a submission to the AUASB on this proposal. We understand the proposed amendments affect either ASA 700 *Forming an Opinion and Reporting on a Financial Report* (ASA 700) or ASA 701 *Communicating Key Audit Matters in the Independent Auditor's Report* (ASA 701). While we had no additional comments to make regarding the proposed amendment to ASA 700 for the inclusion of a new paragraph Aus 49.1 to clarify when the auditor's report must be dated, we had the following comments to make regarding the proposed amendments to ASA 701:

1. We agree with the inclusion of a new paragraph Aus 5.1 to narrow the scope in respect

of when key audit matters are communicated where a financial report contains consolidated and complete parent entity financial statements to the consolidated financial report.

2. The inclusion of a new paragraph Aus 5.2 states that paragraph five applies by the auditor determining and communicating key audit matters for the stapled security group financial report only. The second sentence of Aus 5.2 proposes that the auditor may elect to report key audit matters separately for each stapled issuer or other general purpose financial reports of listed entities within the stapled group and where the auditor elects not to do so, the auditor's report need not contain a key audit matter section.

3. We did not agree that the auditor may elect to report

key audit matters with respect to a listed entity if a separate financial report is prepared. If the entity is a listed entity, paragraph five applies to the auditor determining and communicating key audit matters. Further, the last sentence of the new paragraph Aus 5.2 seems to contradict this, making it mandatory to apply paragraph five whether the stapled issuer or other listed entities in the group prepare separate financial reports or are presented in adjacent columns with the group financial report.

AASB tentative agenda decision *Materiality of Key Management Personnel Related Party Transactions for Public Sector Entities*

The IPA made a submission to the AASB and stated that we do not support the AASB tentative decision not to provide further guidance on the application of materiality to transactions with KMP related parties. We find the AASB's rationale for its decision unconvincing.

The IPA is of the opinion that AASB 124 *Related Party Disclosures* guidance is inadequate. The guidance is virtually silent on the need to consider the governance effects of related party transactions, the need for transparency in relation to dealing with related parties and conflict of interest.

There is an increasing level of distrust and scepticism in relation to activities of KMP and whether those activities are undertaken for their own benefit rather than that of taxpayers (in the case of public sector entities). It should be noted the same distrust and scepticism exist in the private sector. The IPA is of the view that AASB 124 is an inferior standard, in particular, in relation to the pre-IFRS related party reporting disclosures. ^②

The licensing hold-up

For those thinking of applying for an AFSL, be aware that there are massive delays with the regulator

...

by Victoria Dryden



Victoria Dryden, lawyer, Sophie Grace Compliance and Legal

Limited Australian Financial Services Licence applicants are likely to face continued licensing delays, according to ASIC's latest licensing report – *Report 503 Overview of licensing and professional registration applications: Jan to Jun 2016 (Report 503)*.

The delay will not only be frustrating for accountants, but will also be a disappointment for clients who want to continue working with their accountants on their financial plans.

ASIC's target is to assess all AFSL applications lodged prior to 30 June 2016 before 31 March 2017. However, this is subject to constraints.

Potential licensees are urged to remain patient and cautious while they await the outcome of their application. ASIC will most

certainly take a very dim view of any accountant who acts in anticipation of a limited AFSL being granted and who is found to be providing financial services that they are not yet authorised to.

Why the delays?

From 1 July 2016, accountants were required to hold a limited AFSL, or become an authorised representative of an existing limited AFSL holder, to be able to provide advice relating to acquiring or disposing of an interest in an SMSF or provide 'class of product' advice on a select variety of financial products.

Report 503 states that the transitional funding ASIC received from the federal government to assist with the implementation of the licensing changes lapsed on 30 June 2016. At present, there is a significant number of limited AFSL applications still to be assessed, with the regulator reporting, "Because the transitional period funding has now elapsed, we will assess these limited AFS licence applications out of our existing ongoing resources".

The new licensing requirements for limited AFSL applicants included a three-year transition period, ending on 1 July 2016. During this period, ASIC reports (through *Report 503*) that it

received 899 applications for an AFSL or a limited AFSL. Of the applications received, 203 were approved, 39 were withdrawn, 82 were refused and 617 applications were still pending.

To address the significant number of pending applications for limited AFSL holders, some ASIC employees have been reassigned to assist in the assessment of the pending applications.

ASIC advised that all AFSL applicants are likely to be affected by the delays, stating, "this current backlog is also affecting the level of service we can provide in the near term to other licence and professional registration applicants."

How will the limited AFSL benefit clients?

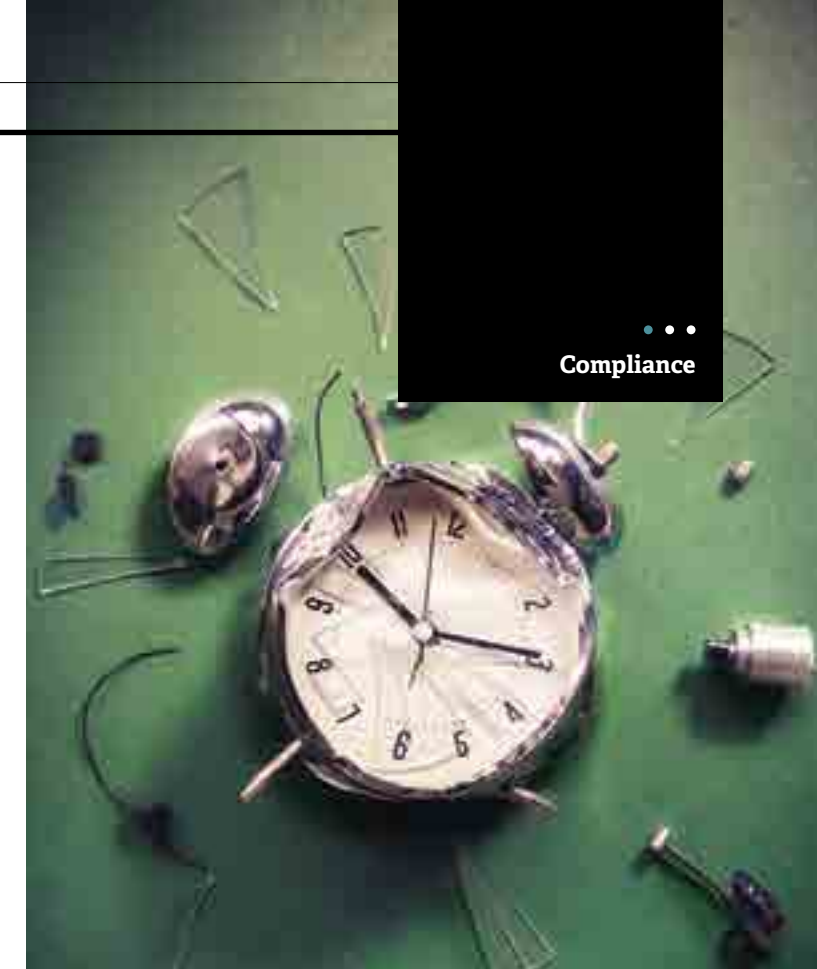
The broader services that can be offered under a limited AFSL will be beneficial to clients who will be able to generate a more comprehensive financial plan without having to engage other professionals. This will be particularly true for clients who

have a wide range of investments and financial interests.

When considering whether to apply for a limited AFSL, it is important to consider not only the types of services you currently provide but also the types of services you would like to be able to provide in the future, and the types of client you would like to be able to work with. An even greater consideration will be the types of advice and services your clients will expect you to be able to provide them.

Continuing to broaden your firm's skill set is critical if you are to stay competitive in a financial services market that is constantly evolving. The traditional role of an accountant has moved far beyond what would have been contemplated a few short years ago. We can only anticipate that the reliance clients place on their accountants for a variety of advice will continue to grow. ^③

^③Editor's note: We are now outside of the transitional period for accountants, meaning experience requirements will need to be met to apply for a limited AFSL.



The good FIGHT

Barry Lambert, who has graced the BRW Rich 200 list, made his name and fortune by going head-to-head with the accounting and financial services in Australia. Now, he's fighting for a very different cause

by Jack Derwin



Despite his best attempts to wind down his career, Barry Lambert, at the age of 70, still has his work cut out for him.

After selling his professional services network Count Financial to the Commonwealth Bank in 2011 for a whopping \$373 million, it would have been understandable for Mr Lambert to sit back and enjoy a well-earned retirement.

Instead his career took a new turn, which saw him overseeing the successful IPO of SMSF software provider Class in 2015 – now worth more than twice its initial offering.

At the time of writing, Mr Lambert remains chairman of Count Plus.

Building a multimillion-dollar company from scratch is an accomplishment few can lay claim to, but Mr Lambert is characteristically modest about his achievements.

“I built a business, which is hard work, and listed a few companies because I had to, but I don’t pretend to know everything,” he says.

Starting from scratch

Mr Lambert grew up on a dairy farm outside Taree, NSW and his early life was challenging.

“I was more or less an orphan, you could say. My mother died when I was 10 and my father was not very attentive. He lost the family farm.”

While his father struggled, Mr Lambert developed an early interest in business.

He worked as a bank teller at a local Commonwealth Bank branch straight out of school, later moving to Sydney to study commerce at the University of New South Wales.

However, he realised the city wasn’t for him.

“I wasn’t cut out for the city so I applied for a transfer and they sent me to New Guinea up in the





→ beautiful highlands and I had the time of my life. I came back to Australia, married the missus and moved to Coffs Harbour, [NSW]," Mr Lambert says.

After moving up the ranks of the Commonwealth Bank and working in several NSW branches, he left the bank and started an independent financial services network.

"I left to set up my own business because I didn't like what the bank was doing on the investment side at the time, putting all of people's money in term deposits which isn't the way to invest long term."

The decision to establish Count Financial arose from the way the financial services industry was run.

"Had I wanted to be part of that

industry, I would have been with life agents and property trusts and this sales-based culture. I was a banker and an accountant, not a salesperson so I thought I could do it differently," Mr Lambert says.

At a time when accountants were bleeding clients to life agents, Mr Lambert travelled around the country recruiting them to join what would quickly become the widest independent network of financial services in Australia.

"The accountants loved us because they hated these other guys. I could never compete with guys like AMP on their turf because they're trained sales people," Mr Lambert says, adding, "It's suited my style. That was part of me getting the big picture right and that's what it all comes down to."

Mr Lambert was ahead of the game, but as his network grew, he made enemies in the industry.

"They hated us because we were different," he recalls.

This difference was what drove Mr Lambert's success. In the 1980s, financial services professionals were still unable to advertise on name or charge commissions. He was pushing for both, and says it was a pivotal time for the industry.

Mr Lambert realised then that accountants and financial advisers had to be allowed to compete.

"If you think that your members will make the best financial advisers, you have a moral obligation to the community to let them in and compete, and the best system will win out," he says.

"People said I was mad for that."

Know when to hold them

Faced with opposition, Mr Lambert dug his feet in.

When asked why his approach was so successful, Mr Lambert's response is typically blunt.

"There's a saying that ... sums it up. You've got to know when to drown the puppies. If you've got a

"If you've got a litter of puppies, you only keep the good ones, and it's the same in business"

litter of puppies, you only keep the good ones, and it's the same in business."

When the going gets tough

Despite an enviable career, Mr Lambert's proudest achievement is his family. As in business, his personal life hasn't always been smooth sailing.

When he and his wife, Joy, were living in Coffs Harbour, their second child Nadene, 2, died after she was diagnosed with macrocephalia, a rare condition that causes the brain to swell.

Fast forward four decades and their granddaughter Katelyn was struck with Dravet syndrome, a rare and lifelong condition. Children with Dravet syndrome suffer frequent and prolonged seizures. Katelyn showed signs of Dravet syndrome at five months, and it took another five months to reach a diagnosis.

One in five Dravet syndrome sufferers die during an epileptic fit. Treatment options are limited, with varying levels of efficacy, and most children with Dravet syndrome have some degree of intellectual disability.

While searching for something to stop Katelyn's seizures, her dad Michael stumbled on a documentary about the positive effects of medicinal cannabis.

The family imported cannabis oil from Denmark, and the treatment transformed the young girl's life, almost ending the seizures entirely which

allowed her to attend pre-school and kindergarten.

"She's doing very well. Because of all the seizures she had when she was young, she doesn't talk very much. She goes to a special school on the Central Coast. The seizures have stopped," Mr Lambert says.

"She has a paste that she takes twice a day, just as you would have a dab of Vegemite on a biscuit."

The treatment has given Katelyn a new lease of life.

"In the first two years since she was diagnosed, she spent 54 nights in hospital. Then in the next two years she only had three hospital visits, and in the last 18 months she hasn't had any," Mr Lambert says.

Put your money where your mouth is

Medicinal cannabis was legalised last year, but only a handful of doctors in Australia are allowed to prescribe it.

"You have to find one of 23 doctors in Australia who are authorised to prescribe it and for privacy reasons, no one can reveal their identities," Mr Lambert says.

At the time of writing, the federal government has issued a single domestic licence for cultivation. It legalised the importation of cannabis for medicinal use in February 2017.

"There's simply no access to it and in the meantime, our granddaughter and everyone else is using the black market, and the black market is getting bigger and bigger," Mr Lambert says.

Recognising both the need for reform and the opportunity such an industry presents, Mr Lambert has

put his substantial wealth behind the industry.

In 2015, he made headlines when he donated \$33.7 million to the University of Sydney's research on the medical applications of cannabis. It was the single largest donation in the university's history.

Mr Lambert has also partnered with Thomas Jefferson University in Pennsylvania where restrictions are far more relaxed. With his funding, the university founded the Barry Lambert Centre and intends to conduct four medicinal cannabis trials by the end of this year.

Mr Lambert is hopeful the results of the trials will put an end to political opposition to the legalisation of cannabis for medicinal purposes.

"We had a really interesting meeting with a senior public servant the other week who said it's a political issue and that this won't get far until you get politics changed," he says.

"However, what the government has to realise is that this has more than 90 per cent public support."

Tackling the issue head-on, Mr Lambert founded Greenlight, an advocacy group calling on the government to reform an "unworkable" regulatory environment.

Mr Lambert has already affected change in this space. As an advisor of Ecofibre, a developer of medicinal cannabis products, he urged the board to move its operations to the US where it will not be subject to the same restrictions.

The company closed its 340 acre farm in the Hunter Valley, NSW and moved its operations to Kentucky.

Mr Lambert remains adamant the Australian system needs reform and similar to the fight he inadvertently picked up with the accounting and financial services sectors years ago, he is not backing down.

"We've got a big fight with the government, but I'm from the country and one of five boys. I'm up for it. I love a scrap." 🐾



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Igniting **REFORM**

Political apathy is increasingly an issue in Australia, despite a growing dissatisfaction with the government. What can the business community do to have their voices heard, and ignite change?

by Stephanie Deller





→ **B**roken government promises, and calls for reform – particularly tax reform – falling on deaf ears over the years have resulted in a growing trend of political apathy in the Australian SME community.

While accountants especially have specific changes they want implemented, there is often little or no action to match the desire for change.

Sage's global study – which surveyed small business owners and their outlooks for 2017 – found that only 54 per cent of respondents felt they were adequately represented by politicians. The study revealed that the most significant areas of concern were lack of business infrastructure (19 per cent), too much government bureaucracy (12 per cent) and taxation rates (11 per cent).

If political dissatisfaction exists among small businesses and accountants, what is holding them back from taking action?

The Institute of Public Accountants' executive general manager – advocacy and technical, Vicki Stylianou, says many SME owners do not lobby because they are either too time-poor, doubt that their single voice can make a difference or don't know where to start.

For those who want to voice their concerns but do not know how to, Ms Stylianou offers some effective lobbying pointers.

A world of options

Ms Stylianou says a good lobbying starting point is writing to your local member.

"There's lots of different ways [to lobby] and the traditional way is you can always write to your local member. I've worked in ministerial offices and they do take those letters seriously, and they do read them and they do answer them," she says.

"Write to your local member and tell them what your problem is or go and see your local member when they're in their electorate, and go and talk to them, especially if you know that others have the same point of view, you can represent them."

Approaching representative bodies such as the IPA is another effective strategy.

"You can [lobby] through representative bodies like the IPA. There are so many of them these days," Ms Stylianou says.

"Getting your voice out there and getting your voice heard with so many voices out there is another thing, but this is where tapping into representative bodies whose job it is to try and influence government can be really useful, because you speak on behalf of lots of people on a particular issue."

With the ability to reach thousands of people, taking to social media can also be an effective

form of raising awareness about the issues that matter to you.

Online petitions and starting or joining discussions hubs are increasingly becoming popular as a means of garnering support for a cause. Ms Stylianou also recommends getting involved in community groups.

"There are all kinds of community groups these days, so depending on what it is that you're trying to change or reform, there might be a community or social group that has been formed around that or you can always start your own," she says.

"Then the other thing is to actually get involved with those groups. If you've got something to say, get involved with them, don't sit back and wait for them to do something or whinge about what they may or may not be doing, actually get involved."

"Never underestimate the persuasiveness of a well-considered argument or a point of view"

– Bruce Billson, former federal small business minister

Meanwhile, IPA general manager of technical policy, Tony Greco, encourages people to get involved in government reviews.

"The other avenue is if the government has a review under way. Anyone can respond to a review. At the moment, there's one on the cash economy, there's another one on non-payment of super guarantee, there's another one on payment times," Mr Greco says.

"All those reviews are open to the public, so [anyone] can just put pen

to paper or an email and submit it to those committees."

Get active

A significant part of lobbying the government, especially through representative bodies such as the IPA, is the participation and input of those bodies' members.

While representative bodies exist to advocate on behalf of their members, the members also need to take an active role. They can do this by providing feedback, responding



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→ to polls, attending events, contributing to discussions via a digital hub or face-to-face, making phone calls or sending emails.

IPA CEO Andrew Conway, who has experience working with Treasury in Canberra, says the most effective submissions come from people who provide well-researched arguments.

"I can tell you that, as a person receiving submissions from a range of inputs, it's far better to be receiving a consolidated submission, basically one voice, rather than having multiple voices," Mr Conway says.

"It's important to use mechanisms such as professional bodies like the IPA to provide a consistent, evidence-based, well-researched and considered opinion to government to effect change.

"One of the most critical things is making sure that your argument is founded on evidence, and being able to go to government with a proven case makes the argument reputable."

Mr Conway says the involvement of accountants and SME owners is "critical" to success in the lobbying process.

"Receiving the input from members who are dealing with these standards, and dealing with these rules and regulations on a daily basis is critical to the process, otherwise government can be forgiven in saying, 'Well, there aren't any issues'. We know there are always issues and opportunities to change," he says.

"It is vital that an accountant realises that part of their obligation to the public and to the profession is providing their feedback in relation to the way in which the system works."

Taking the next step

Former federal small business minister and current chair of the Franchise Council of Australia, Bruce Billson, also offers several tips on how to lobby effectively.

"At a local community level, [the issue] might be something you could raise with fellow business owners and operators through the Chamber of Commerce, through small business forums that are held by local members of parliament, and then bring those ideas to local members of parliament," Mr Billson says.

Small business people and accountants should also consider sharing their ideas with those who "might be in a better place to advocate for change", Mr Billson says.

"Take it upon yourself to maybe be a bit of an opinion leader. It might involve getting on the phone to talkback radio, and sharing your insights and your point of view. It might be a matter of letters to the newspaper, an opinion piece in a magazine or even coming forward and talking to opinion leaders about your insights."

It is also worth noting that the best submissions to the government come from people who have a proposed solution, as opposed to those who simply flag what the problem is.

"As a more than 20-year veteran of public policy and political representation, and also the great honour of being a cabinet minister, the most

"Receiving the input from members who are dealing with these standards, and dealing with these rules and regulations on a daily basis is critical to the process, otherwise government can be forgiven in saying, 'Well, there aren't any issues'. We know there are always issues and opportunities to change"

– Andrew Conway, IPA

asked question that policymakers have in their head when someone approaches them is, 'What actually is it you'd like me to do?'," Mr Billson says.

"Policymakers, whether they be government bureaucrats, regulators or members of parliament, really value that kind of constructive engagement that is driven by a clear sense of what a better outcome [looks] like, but is informed by well-considered arguments and facts that give people the tools they need to make the case for change.

"Never underestimate the persuasiveness of a well-considered argument or a point of view."

Mr Billson also recommends finding the platform you feel

most comfortable with to voice your opinion.

"Not everybody would like to stand up in front of a Chamber of Commerce meeting and talk with passion about a policy change that they believe [in]. But that doesn't mean you can't go and work with people, and share those insights in a way that you're comfortable with," he says.

"I just want to emphasise how important it is to turn up. The world is run by people who turn up, and if you want to bring about change and have an influence and see your insights have an impact on policy, then you've really got to participate in that process in a manner that you're comfortable with." 📌



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DIGITAL *disaster*

The ATO's digital outages have caused mass disruption to SMEs and resulted in serious productivity and financial losses. Is there an end in sight, and what can accountants do to mitigate their own risks?

by Katarina Taurian





A disruptive past

The Tax Agent Portal, while a godsend for some when it's up and running, has proven to be as crippling as it is helpful.

Its maintenance downtime, both scheduled and unscheduled, has become something of a joke in the industry, and accountants have had to factor outages into their regular workflow – something they've been doing since the portal's launch. The industry has since lost faith in the promise of a stable service.

A quick Twitter search will reveal

hundreds of questions, complaints and outbursts directed at the tax office on a regular basis.

The most recent disruptions plaguing the ATO's digital systems began last December, when a storage hardware meltdown caused unprecedented and widespread failure of the tax office's online systems.

The significant downtime – and deteriorating functioning of critical services including the Tax Agent Portal, BAS Portal and Business Portal – spread into the early

months of 2017, causing significant productivity loss for accountants in small businesses in particular.

Commissioner of Taxation Chris Jordan labelled the saga the “worst unplanned system outage in recent memory”.

“This was an extremely unusual and unfortunate event, with the outage caused by a significant and unprecedented failure of storage hardware. The storage hardware was upgraded in November 2015 by Hewlett Packard Enterprise (HPE) after a lengthy and thorough selection process, and was seen to be ‘state of the art’ at the time,” Mr Jordan said at the time of the initial crash.

“We understand the use of this storage hardware is not unique to the ATO and is basically the same used by other large clients of HPE in Australia and across the globe.

“What compounded the problem beyond the initial failure was the subsequent failure of our backup arrangements to work as planned. The failure of our backup arrangements meant that restoration and resumption of data and services has been very complex and time consuming.”

The tax office's updates over this period were also inconsistent with functionality reports from the accounting community, which further contributed to the saga.

For example, on 15 December, the ATO announced that the Tax Agent Portal, BAS Portal and Business Portal were back online.

However, several tax agents got in touch with Public Accountant to say this was not the case.

In particular, “partial system outages” and “degraded performance” messages were encountered throughout the day on services such as activity statements, on-demand reports, pre-fill data, client accounts and mail messaging.

The client communication list service on the portal also experienced a “major outage”.

Even before this latest big crash, the ATO had admitted its failings on the tech development front, and acknowledged the significant impact this had on the accounting profession.

Addressing IPA members, ATO Assistant Commissioner Venetia Blackman said the tax office got the development of myGov wrong by not working closely and effectively enough with tax agents.

This resulted in many tax agents being kept out of the loop in relation to the correspondence the tax office was sending their clients via myGov.

Ms Blackman suggested the ATO has learned from this experience and will work closely with the professional community when it rolls out services that affect their clients.

She also acknowledged that the Tax Agent Portal especially is prone

“One of the unfortunate aspects of the outages is that all IT projects under development to improve tax practitioner services are on hold, and maintaining stability of the current systems is priority one, two and three”

– Tony Greco, IPA

to crashes and is often down for maintenance, and promised that new systems are in the works and a priority for the ATO.

An end in sight?

At the time of writing, the ATO is beta-testing an online system that will replicate the current Tax Agent Portal.

“We have done quite a bit of work to try and stabilise the portal, but it is aged infrastructure. At the time it was released, it was the ‘you beaut’ thing. That’s a long time ago. Unfortunately, we find ourselves in a place where we haven’t maintained that platform to keep it contemporary,” Ms Blackman told IPA members.



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“Accountants tend to want to get things done sequentially. It would help if I could organise around the downtime”

– Gail Freeman, Freeman and Co

overdue and largely welcomed by the accounting community and its representative bodies, the accounting community is sceptical about the ATO's ability to commit to a time frame and to provide a stable service.

Crying wolf

The biggest source of frustration endured by accountants who had to deal with the latest service outage was not so much the digital downtime itself. Instead, it was the inaccurate updates accountants were receiving about when systems would be up and running, and to what degree they would be functional.

Director of Gail Freeman and Co, Gail Freeman, said the outages meant she had work that could not be completed by deadline.

Ms Freeman – who was quick to praise the Tax Agent Portal when it is fully functional – said losing access to the portal makes it difficult for her to verify data when completing work for clients.

Like many accountants, Ms Freeman would like to have a clear indication from the ATO of the downtime, rather than vague promises that a solution is in sight.

“Then at least I can work around it and plan. Accountants tend to want to get things done sequentially. It would help if I could organise around the downtime,” she said.

Several other tax agents, who spoke on the condition of anonymity, confirmed to Public Accountant that the inconsistent messaging is especially problematic for smaller firms.

“I will get to the office early if the systems are all ready to go, and often I do,” one tax agent said.

“But when you run there thinking the systems are working, and they are not, it is beyond unreasonable and frustrating,” he added.

Demanding compensation

The IPA has publicly pushed government agencies to fully recognise the impact of digital instabilities, and has floated the idea of compensation for affected parties.

Mr Greco said financial compensation for earnings lost during the outages would be the ideal solution.

“If you continually are suffering losses because of someone else's poor service delivery, I think you start to say, ‘Well, when is enough enough?’

“Do they deserve something? I think rightly so, but the difficulty is how do you quantify on a per practice basis the quantum of compensation? We understand that that's the dilemma.”

However, while affected accountants are certainly deserving of compensation, Mr Greco acknowledged the complexities in assessing and administering such compensation.

“Some members are heavily compliance-based and they would be massively impacted because effectively they can't do their work, so in that sense these outages have prohibited them from being able to continue on generating revenue,” he said.



“We can keep putting Band-Aids on it ... or give you a brand-new one that is capable of a whole new experience.”

The new service was originally supposed to be made available to the accounting community in the first half of 2017. However, at the time of writing, the platform has not been released and has been delayed, due to the long stretch of digital downtime at the ATO.

“One of the unfortunate aspects of the outages is that all IT projects under development to improve tax

practitioner services are on hold, and maintaining stability of the current systems is priority one, two and three,” the IPA's general manager of technical policy Tony Greco said.

The ATO has been reluctant to specify a launch date for the new system, with Mr Jordan saying that while the tax office remains committed to delivering its new services, he cannot, at the time of writing, give a clear delivery date.

“We ... made good progress working with the profession to develop and test new online services

for 2017. However, and as you would appreciate, these further developments are on hold until we have stabilised the performance of our systems for tax time 2017 to match the service and experience of last year,” he said.

“So we have only partly delivered our commitments... We did fix the major irritants with the portal and replaced the correspondence list with the client communication list; we progressed implementation of the practitioner lodgement service with software providers, albeit

with relatively slow take-up, but we are yet to provide the enhanced online functionality.

“I commit to you that we will be delivering on these enhancements. However, today, I cannot give a confirmed delivery date until we have finished the re-plan of our IT work program.”

When the new system is up and running, Public Accountant understands there will be no forced migration to the new service from the current Tax Agent Portal.

Although a new service is long



“It’s case by case, but it would be hard to find a practice that wasn’t impacted in one way or another. Even advisory firms have been caught out not being able to do certain things, so it has had widespread impacts,” Mr Greco added.

Ms Freeman said she has suffered significant losses as a result of the outages.

“It’s impacted on our earnings because when you’re a small practice, there is a significant impact,” she said.

What can you do?

The IPA, as always, urges members to get in touch where they are experiencing further and significant problems.

Accountants are also encouraged to voice their concerns with the ATO directly. More than ever, the tax office is open to community feedback, particularly from professionals.

The Tax and BAS Agent Portal help centre – portalhelp.ato.gov.au/tap/ta/ – has resources to assist with portal support. This page also links to the technical support – <https://www.ato.gov.au/General/Online-services/Technical-support/> – for portal troubleshooting advice. The ATO says this should be a tax professional’s first point of assistance.

On the practice side, while the ATO’s systems being down will always be a roadblock, there are systems and software procedures accountants can put in place to mitigate the risk of being totally off the air.

Cloud-based software systems, which are not linked to office hardware or servers, are valuable backup options for client data. Typically, data is backed up in real time and can be accessed on various infrastructure platforms, i.e. you are not restricted to one office, one computer or one device.

Although this is not a perfect solution where the ATO’s portal

“Accountants are always busy. They have their heads down, doing what they did last year. Finding time to embrace change, finding time to look at new systems and put new things in place is hard for them to do”

– Kevin Bungard, Class

data is necessary, it does mean that relevant data remains accessible, and work doesn’t need to come to a screeching halt.

While the use of cloud technology in the accounting sector has risen, attitudes and conversions to new technology in general have not been positive.


For example, software provider Class, despite its recent strong growth, cites the slow transition of accountants to the cloud as a limiting factor in its business.

“Accountants are always busy, they have their heads down, doing what they did last year. Finding time to embrace change, finding time

to look at new systems and put new things in place is hard for them to do,” Class chief executive Kevin Bungard said.

Citing research from Investment Trends, Mr Bungard said accountants’ intentions to migrate to cloud have been increasing since 2013, while actual migration has been slow.

“What that means for us is that unless something dramatic happens, unless there’s some sort of legislative requirement or some other trigger, we think it’s going to take quite a number of years for accountants to move across to the cloud,” he said.

In the meantime, the commissioner promises an end is in sight. Is it actually? Unfortunately, as always with the Tax Agent Portal, it’s a case of watch this space. 

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Surviving the STORM

SMEs are a lucrative client pool for accountants, and after a roller-coaster few years on the economic and legislative front, SMEs are feeling optimistic

by Lara Bullock



Small to medium enterprises are the cornerstone of many accountants' client bases and their outlook on business prospects has an enormous impact on accountants' work.

With economic conditions rocky since the GFC, it's time to ask this question – has a positive sentiment returned to the SME industry?

HLB Mann Judd supervisor Charlotte Sandell believes it has, and that now is the time for accountants to capitalise on this positive sentiment.

Optimism prevails

Ms Sandell says there has been a noticeable shift in SMEs' attitudes towards business prospects.

"What I've been observing and hearing from clients is generally positive, optimistic outlook for the year," she says.

"There's definitely a lot of optimism out there. With the ability to leverage off technology and digital marketing and that side of things, they feel like they are in a position to compete and start something."

KPMG Enterprise's national managing partner Rob Bazzani concurs.

"It's actually a very buoyant mid-market at the moment. We're seeing plenty of cause for optimism out in the SME market," Mr Bazzani says.

"A lot of those SME businesses, they're generally in good shape, they've got healthy balance sheets, secure contracts, and I think irrespective of what might be happening in the political scene or an economic



scene globally, those businesses are fairly optimistic and in good shape.”

This uptick in sentiment could be the result of the return of readily available capital.

“What we’re also seeing is there is a fair degree of capital available across a lot of sectors for many of those businesses with solid cash flows to get access to,” Mr Bazzani says.

“So it’s not necessarily a need to have hard assets as security for capital, whether it’s capital, whether

it’s bank debt or equity, a strong cash-flow business is certainly viewed as being attractive.”

Sentiment by sector

Mr Bazzani believes the sentiment for start-ups and SMEs is relatively similar across all sectors.

“I think there’s really no one area that they can pop up in,” he says.

“They’re popping up everywhere. I know there’s been a lot of attention on say, fintech, financial services, but we’re seeing them across the board.”

Bentleys SA managing partner Michael Ruggiero says he has observed several industries where positive sentiment is higher than others. Two of these sectors are transport and food.

“Transport has been good and that’s a very good sign because that’s a good leading indicator of how the economy is moving. Particularly since about September 2016, transport has been very, very good and the optimism is pretty high,” Mr Ruggiero says.

“Also, we act for a large apple and pear grower, for example, and they’ve invested an awful lot in new technology and capacity in the last four months, and a lot of the growers and the farms in the Northern Territory are expanding and reporting very, very healthy numbers.”

Ms Sandell says there is another noteworthy trend that is not so much dictated by sector, but by business life cycle stage.

“There is a lot of work from SMEs who might be looking to sell their business in the near future, and that tends not to be sector specific, more an age and stage in life of the business owner,” she says.

“We do see people in that Baby Boomer generation perhaps looking to get some advice on selling their business or how to transition into that next stage. We’re definitely seeing a lot of that.”

State to state variance

Being such a large and diverse country, Australia has multiple economies, and Mr Ruggiero says SMEs’ business prospects vary from state to state.

“If I was an SME, I wouldn’t mind being in Victoria at the moment. They’ve got the population growth and they’ve got the economic activity to be a place to be for an SME,” he says.

Mr Ruggiero says New South Wales tails closely behind, with

third place going to Queensland and Western Australia, followed by Tasmania, South Australia and the Northern Territory.

“Well, if you live there, it’s good but Sydney and Melbourne tend to be the places to be for SMEs or for anything really and it’s always been the case and it will always be the case,” he says.

Accountants wanted

With optimism returning to the SME market, business owners will need help from their accountants.

Ms Sandell says as the outlook turns the corner, SMEs need guidance on how to embrace and leverage the positive conditions.

“Sometimes we see people optimistic and with ideas but kind of not sure exactly where to start or what the basics are that they might need in place to be starting,” she says.

“We are in an era of significant disruption across almost every sector of the economy and I think that there are huge opportunities for our profession whenever that happens”

– Michael Ruggiero, Bentleys SA

“We tell people to get some advice early in terms of how to set up, in terms of what structures to start to operate in, and some of those foundations really can help set you up for success or minimise some headaches down the track.”

Ms Sandell says business owners who are already established are hungry for more from their accountant, and accountants who are unable to provide for

their clients should refer them to other professionals.

“People are looking for some more value and where they can get more value from their advisers. Part of that is any of those connections we can put clients in touch with,” she says. “Making introductions, whether that’s introducing you to other professional advisers or mentors, being that connector and trusted adviser [is important].”



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“Being able to add value in that sense and being someone that clients come to for recommendations [is] as well.”

A big part of the accountant-client relationship is accessibility, according to Mr Ruggiero.

“As accountants, we need to be accessible to clients, which I think is the thing they value the most,” he elaborates.

“There is a big demand for us as a profession for SMEs and we’re not just talking compliance. Ever since I’ve been in the profession, there’s been this general wisdom that clients want us more for advisory but I think this more than ever is very, very clear.”

Meanwhile, for Mr Bazzani, it’s simple – all SMEs want from

their accountants is value add and technology advice.

“They’re not necessarily looking for compliance. What they really are looking for is an answer to the question, ‘What are the best companies in our industry doing and how can we do that like them?’” he says. “They want to know how they benchmark against the best in their sector or in their industry, and how they can do things more efficiently.”

Communicating value

While it’s all well and good to know and understand what accounting services SMEs want, the challenge for accountants is being able to communicate their offerings to win and retain clients.

Ms Sandell says it’s about being aware of the trends in the industries their clients operate in.

“It is important to stay up-to-date with what is happening, what questions are on your clients’ minds. You don’t necessarily need to be an expert in everything, but keeping up-to-date in terms of trends and what those pain points might be for your clients is always useful,” she says.

Ms Sandell believes technology should be utilised and leveraged to both maintain contact and communication with clients, and boost the clients’ business exposure.

“Technology has become more and more integrated in everything we do, everything our clients do

so it definitely provides a lot more opportunity to work with your clients in real time,” she says.

“We also see it creates potential for clients to compete globally and have that visibility that perhaps without technology they wouldn’t have.”

On that note, Mr Ruggiero says accountants need to be proactive, get out there and spend time with their clients.

“Nothing communicates value more than telling someone you care and you’re interested in what’s happening in their lives and in their business, which means we’ve got to get out from behind our desks and we need to go out and see clients,” he advises.

“They’re immersed in their business. You’re not immersed in it, and you’re able to offer perspective they don’t have and that’s very, very valuable.”

Government guidance

While acknowledging positive legislative and policy changes supporting SMEs have been implemented in recent years, Mr Ruggiero says more needs to be done to improve the SME market.

“At a federal level, I’d like to see a couple of things happen. I think government fiscal policy needs to be more expansionary and there’s been some talk about that recently,” he says.

“I’d like to see a fall in

“Whenever there is significant disruption, there are opportunities for accountants and I can’t remember a time when there was as much disruption to business norms than there is right now”

– Michael Ruggiero, Bentleys SA

personal tax rates. They are way too high and often that causes a disincentive to businesses.”

Another area causing headaches is the complexity of the tax system.

“Tax is another one where regulation and complexity doesn’t do anything to help the client and, in fact, it makes our services more expensive because in order to help the client just comply is a formidable task,” Mr Ruggiero says.

“Keeping up-to-date and ensuring the client complies with things they don’t really understand means that that’s time and money that’s taken from helping them build their businesses. It is a serious problem.

“Most firms have clients who are in desperate need of advice and yet you’ve got these roadblocks and these walls that you keep hitting your head against.”

Embrace opportunity

Accountants should be embracing change to benefit their clients’ businesses as well as their own, according to Mr Ruggiero.

“Whenever there is significant disruption, there are opportunities for accountants, and I can’t remember a time when there was as much disruption to business norms than there is right now,” he says.

“We are in an era of significant disruption across almost every sector of the economy and I think that there are huge opportunities for our profession whenever that happens.

“It means we need to re-skill, it means we need to learn new things and it means that we need to do things that we may not be comfortable doing, but business needs us to do it and the opportunities are enormous.”

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Beating the **CLOCK**

It's only a matter of time before your competitors aggressively encroach on your territory. Diversifying is one way to ensure you retain your trusted position as the principle adviser to your clients

by Taylee Lewis





It's not news to accountants that revenue generated by traditional compliance services is deteriorating rapidly.

Cloud solutions and automated technology – along with an increasing demand from clients for a range of wealth management services – is putting pressure on accountant practices to diversify their offer.

This is the challenging environment accountants now operate in. Cloud solutions have burst on the scene, disrupting the manual compliance process.

But it's not only technology that is changing the game. Increasingly, the clients of 2017 are looking for a one-stop shop for their wealth management needs.

Does this spell the death of compliance work? No, far from it. But with compliance offerings in particular under pressure, it is time for accountants to diversify their practice and consider offering services that both add value to clients and grow revenue.

Compliance can't compete

Mediq Financial's owner and managing partner Ravi Agarwal says compliance work accounts for the least amount of revenue generated by his multi-disciplined firm.

Mr Agarwal, whose company offers a broad range of wealth management and legal services to medical professionals, points out that it's only natural that core compliance services such as cash-coding and tax returns are now automated.

"The challenge with compliance work is that it is becoming easier and easier as years progress. With cloud technology ... the value [accountants] can add is becoming more limited," he says.

"As a compliance-only firm, [these firms] would be facing a lot of price pressure and, ultimately, they can certainly continue, but they're only going to continue with making sure that they can achieve high levels of volume. [Compliance] is an area that has got so much market pressure on it," Mr Agarwal says.

Instead of placing too much focus on compliance, Mediq Financial generates most of its profits from financial advice, credit and insurance.

"We charge clients advice fees and that is an ever-growing area for us," Mr Agarwal says.

Mediq Financial's advice fees, which are a hybrid derived from a fixed fee and an asset portion, range from \$3,000 to \$50,000 per year.

According to Mr Agarwal, the firm reports growth of approximately 30 per cent to 40 per cent year-on-year. This level of growth would not have been possible without offering clients a wide range of services.

"From where we are today to where we're going to be in 2020 ... we're going to have 100 per cent growth."

Mr Agarwal says practices looking to offer other services, like financial advice, should form a joint venture with another specialist.

"All of you can become a team of specialists, whether you work together as a single brand [or under separate brands]. I think that can be quite a successful model," he says.

"Everyone runs their own business, but ... have shared services and share clients."

There is no one business model to "rule them all", and the key is to understand what services clients need, and offer them, Mr Agarwal concludes.

Diversified practices 'worth a lot more'

Omniwealth's chief commercial officer Matt Kidd says multi-disciplined firms fetch a higher price than single-service companies at time of sale.

"There is a commercial reality to being multi-disciplined. Your practice is worth a lot more when you want to exit," Mr Kidd says.

Omniwealth offers a range of services including estate planning, mortgage and finance, and financial planning, as well as advisory and legal services for businesses. Financial advice, according to Mr Kidd, is the most lucrative service.

"From a valuation point of view, you want your financial



“From a valuation point of view, you want your financial planning [arm] to be bigger as it sells for a higher multiple, i.e. three times fees versus one times fees for accounting”

– Matt Kidd, Omniwealth



planning [arm] to be bigger as it sells for a higher multiple, i.e. three times fees versus one times fees for accounting,” he says.

“If an accountant is really only doing compliance work, then I worry for them as their practice is more likely already diminishing in value.”

Mr Kidd says diversified practices also outperform when it comes to client retention and acquisition.

“Clients don’t want to be sent all over the place anymore. They want to have it all in one place. Clients are often giving us feedback as to how they love coming into our office and meeting with their planner, mortgage broker, estate planning solicitor and accountant in one sitting,” he says.

“They also love the fact that we work together on the client’s needs and objectives, so we are all on the same page.”

He adds that a multi-disciplined business model gives a practice “much more client-winning options”.

Mr Kidd agrees that the best option for an accountant looking to diversify their practice is to consider a joint venture model.

“My biggest tip is to find a really good financial planning firm that has a joint-venture model, not just a referral model, and work closely with them. This way, you get the exposure to financial planning, but without the risk and exposure [when] buying a practice or hiring a planner,” he says.

According to Mr Kidd, Omniwealth has successfully built five joint ventures with external firms, evidence that it is a “model that works”.

“Stick to your knitting and partner with other professionals to deliver the service that clients want and need. This will lock them in for a long time to come.”

Compliance still has its place

Jong Chung, executive director of Enrizen Accounting – part of the Enrizen Financial Group which provides financial planning, general insurance, mortgage broking, lending and legal services – says there will always be a compliance market, even if it is reduced.

Enrizen Accounting was established in 2014 to complement the services Enrizen Financial Group provides.

“Accounting was a natural addition, as access to up-to-date, quality financial information is a necessity to providing our other services,” Mr Chung says.

He adds that the compliance addition has allowed the firm to provide advice and other services that are based on “real-time information” rather than “outdated information”.

Setting up Enrizen Accounting proved to be a savvy move. As it continues to expand, the firm has added two accountants to its growing team every nine to 12 months.

Enrizen Accounting’s compliance offer forms part of the group’s Enrizen One strategy, which sees a client’s complete financial affairs managed by a dedicated relationship manager, with assistance from and contribution by the company’s other specialists.

“We want our clients to have a cohesive strategy built on aligned advice. Our Enrizen One strategy ensures that our clients do not have to deal with conflicting advice from the various professionals they engage,” Mr Chung says.

“Providing a greater range of high-quality, value-added services have resulted in an expansion of

our fee base and the provision of a greater number of services to each of our clients,” he says.

“The ability to partner with your client on a daily basis also creates more opportunities to add value.”

While there is a strong case for offering diversified services, it requires a significant investment of time, money and resources, Mr Chung says, adding that clients need to have a single dedicated manager to ensure their numerous needs are met.

“Accounting, taxation, business advisory, wealth creation, retirement and estate planning strategies all begin to overlap. It’s critical that one person constantly project manages the process and constantly reviews to ensure that there are no gaps or incompatibilities, and that the strategy evolves with the specific requirements of the client.”



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Led by Institute of Public Accountants’ (IPA) CEO Andrew Conway and co-led by IPA President Damien Moore, the delegation will provide an introduction to commercial opportunities following the historic China Australia Free Trade Agreement (ChAFTA) that came into force in December 2015.

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→ Accountants becoming advisers

Skeggs Goldstien's director Jonathan Reynolds has seen many accountants become financial advisers and vice versa.

"I think both professions need to continue to merge for the betterment of their client offering," Mr Reynolds says.

"Accountants have such a detailed knowledge of their clients, however, often can only discuss options generically and are not involved with the

implementation. [Similarly] with advisers, often they do not have the taxation knowledge to understand the application of legislation to a client's circumstance."

Mr Reynolds says accountants in compliance-only firms will need to evolve their skills to be able to meet client advice needs.

Skeggs Goldstien offers services in-house and externally via referral partners. For practices considering adopting a referral model, Mr Reynolds says it's imperative that

the referring accountant remains "involved in the referral process".

"Being more involved in the referral process and ensuring all information that may be relevant is critical, opposed to just handing out a group of names."

Mr Reynolds describes Skeggs Goldstien's experience in this area as positive.

"When you explain to [clients] your scope and where other professionals come in and the reasons why, they value the experience".

Robo-advice for accountants

Accountant firms looking to add financial advice to their offering have another option besides forming a joint venture or a referral partnership.

Online investment provider Stockspot is beta-testing a robo-advice platform for accountants. The tool is set to go live at the end of April.

The tailored robo-advice platform manages the investment process – from providing personalised investment advice to rebalancing and reporting – for the accountant.

"For an accountancy firm, partnering with a robo-adviser ... is a cost-effective way to make sure clients are getting the best wealth advice," Stockspot founder and chief executive Chris Brycki says.

Mr Brycki says integrating a


"All of you can become a team of specialists, whether you work together as a single brand [or under separate brands]. I think that can be quite a successful model"

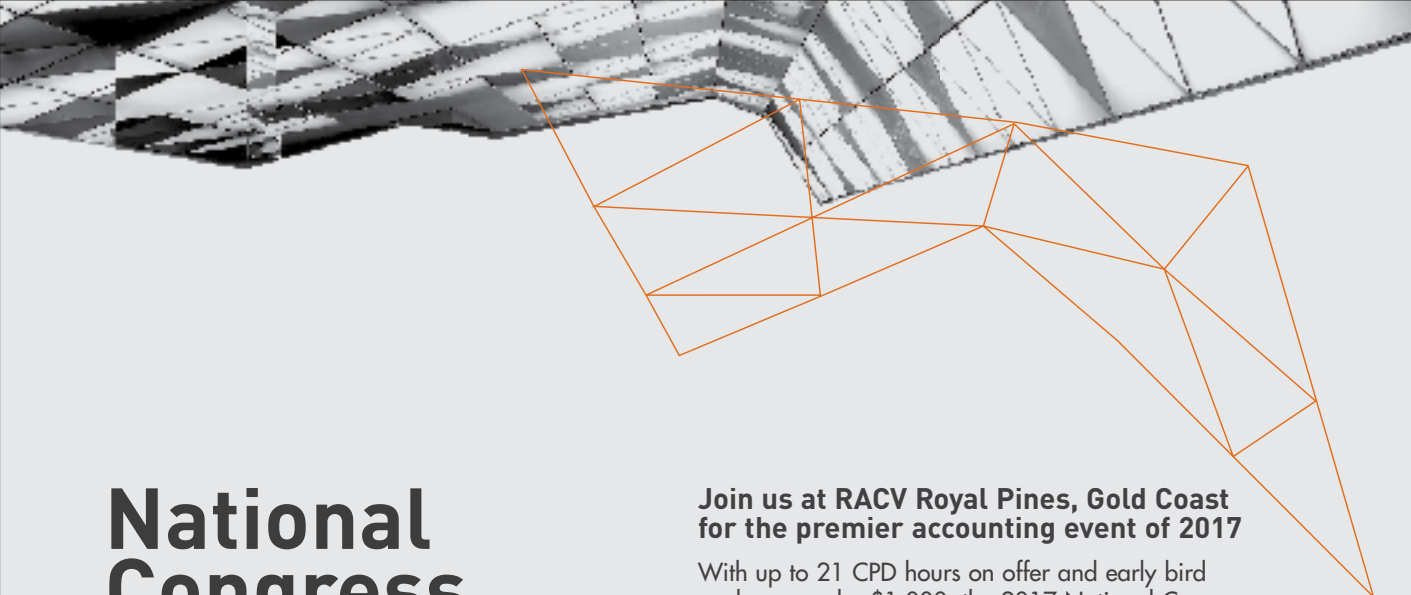
– Ravi Agarwal, Mediq Financial

robo-advice tool into an accountancy practice helps accountants "build more meaningful" relationships with their clients.

"Stockspot is completely online so you don't send your client away to another service provider. The accountant maintains the face-to-face relationship. It lets them have a deeper understanding of the client's needs, which makes the accountant a more valuable partner."

Mr Brycki says accountants, especially those managing self-managed superannuation funds, will be one of the company's largest growth areas in the next 12 to 18 months.

"Accountants I speak to want their clients to be able to access investing that is lower risk than buying individual shares and more cost-effective than managed funds. Robo-advice fits the bill." 



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In *business* and in HEALTH

When Peter and Sarah Reimann founded Equity Flare last year, they aimed to build a practice with a long and happy future

by Stefanie Garber



Marriage binds two hearts and two minds, and in the case of Peter and Sarah Reimann, two accounting practices. Shortly after their wedding last year, the Adelaide sole practitioners merged their businesses, creating a new accounting firm Equity Flare.

A new practice calls for a new approach, particularly as the population ages and technology disrupts traditional businesses. With an eye to the future, Peter and Sarah re-designed their accounting model to thrive in the years ahead.

New beginnings

Up until June 2016, Peter and Sarah were sole practitioners in Adelaide,

with their own bustling practices but limited support staff.

Sarah describes this career path as “lonely”, saying she missed having another accountant to bounce ideas off. Likewise, Peter was looking for new challenges and had ambitions beyond the confines of a one-man operation.

As Peter and Sarah prepared to tie the knot, an idea began to form – why not join businesses as well? The pair realised a joint practice would allow them to support each other’s growth, while sharing the burdens of everyday operations.

“There’s two people with a greater knowledge, two people in charge, rather than just doing it on your own,” Sarah says.

Combining the businesses allowed the couple to pool resources – sharing premises, technology and intellectual property.

“The whole idea was having one bigger practice under one roof rather than two smaller practices under two roofs,” Peter says.

“It’s all those costs that you don’t realise add up to quite a few dollars, until you sit down and tally them up.”

A few months before the merger, the couple sent an announcement of the upcoming change to their clients. Both are pleased to report that the majority of their clients moved across to the new operation.

Today, Equity Flare has around 1,000 clients on its books. The practice

employs another full-time accountant and two part-time support staff.

Rather than replicate the tried-and-true model, the Reimanns saw an opportunity to build a new practice with an innovative edge. As sole practitioners, both of them were focused on the compliance-based work that makes up the bulk of traditional accounting, which Peter describes as “grunt work”.

Sarah found herself growing bored with the daily repetition, while Peter was facing the loss of the accountants’ exemption, a legislative reform that took effect on 30 June 2016, banning accountants from providing advice on self-managed super funds without a licence.

When planning their new practice, the Reimanns were aware of the growing threat from technology, which Sarah believes is on the verge of “taking over” the accounting sector. She predicts that, in coming years, many compliance-based, process-driven tasks are likely to be replaced by digital platforms. Together with Peter, Sarah envisioned a model where accountants add value where technology cannot.

“We have to slowly move away from just crunching out tax returns and BAS statements,” Sarah says.

“We have to get more involved with people.”

Under its new model, Equity Flare takes an in-depth and personal approach to client financial affairs, with a strong focus on advisory. It also offers diverse services, with Sarah leading the small business section while Peter concentrates on superannuation and retirement planning.

To make the most of their re-positioning, the pair brought in business mentors they met through the IPA – adviser Peter Vivian and Blueprint HQ director Mark Holton. The mentors’ feedback and guidance have proven to be invaluable.

“Otherwise, if you try and re-invent the wheel, you’d have



Name: Peter and Sarah Reimann

Company: Equity Flare

IPA status: FIPA

Location: Adelaide



to quit doing what you're doing and dedicate 40 hours a week just to that," Sarah says.

Diversified offering

When the accountants' exemption was scrapped, Peter was one of thousands of accountants affected. He estimates that around two-thirds of his counterparts "buried their heads in the sand" and simply stopped advising on SMSFs.

Peter was one of the minority. After almost forty years in practice, he decided to go back to school. In order to earn his diploma in financial planning, he travelled to Melbourne five times over a six-month period.

A corner of his living room was "full of paper" and any free time he had was spent studying.

Peter did not relish the course

work, admitting he had no interest in studying again. However, he believes the time, cost and effort has paid off.

Now that he is a certified financial planner, he no longer worries about crossing the statutory line between accounting and financial advice. Peter says the legislation provides insufficient clarity to accountants who are unsure about what they can and cannot say to their clients.

"I feel so much better now that I've done that course, because I'm now not inhibited by anything," he says.

Peter believes superannuation is an "integral part of growing old", and with an ageing population, Australia is more in need of super advice than ever before. Advising on superannuation is going to be a "big thing" in the next few years, he predicts, and Equity Flare wants a slice of that market.

"If you look at a house, it's built on a foundation," he says.

"That superannuation is the foundation of someone's retirement. And that's what I'm pushing the future of this business into."

Meanwhile, under Sarah's business advisory division, the majority of her clients are small business owners. She sees her role as helping business owners get a better handle on their financials, and looking beyond numbers to address operational issues. Seeing the full financial picture can be a challenge for owners who are usually preoccupied with dealing with clients and orders, she says.

Aside from tax planning and balance sheets, Sarah also sits down with her clients to conduct quarterly comparisons of their figures to the same period the year prior. She helps clients organise cash flow, identify

staffing issues and smooth out any other kinks in their operations that might be affecting profits.

"It's more advisory than day-to-day 'here's your tax return, you have to pay \$10,000,'" Sarah says.

Up close and personal

Peter believes demand for more involved accounting services is partly driven by cloud technology. Cloud-based platforms give business owners, and their advisors, a real-time overview of their financial positions. This can often prompt owners to be more proactive about their finances.

"Things are continuously updating on their computer, reminding them to get off their backside and do some accounting work," Peter says.

"At the same time, we can see exactly what they see about how their business is going. That was unheard of 20 years ago."

The type of advisory Peter and Sarah are pursuing requires a higher degree of involvement in client businesses than traditional accounting.

In the past, Sarah says she might have met with clients a few times a year. Now, it's common to meet at least quarterly, if not more often.

Sarah also seeks to maintain regular contact with her clients between meetings. She does this by sending them the occasional email or text message, checking in on them or reminding them of due dates. She believes this plays a major role in client retention.

"As long as you keep in touch with them and do what you say you're going to do, I think they'll stick with you," Sarah says.

Another tactic is bringing the community together for information sessions or workshops. Equity Flare has launched a North Adelaide traders group that invites local businesses once a month to hear speakers such as the small business commissioner and the local NBN representative. In the past six months, the group has grown to 15 active members.

"The reason I do it is because I think networking is our best form of advertising," Sarah says, adding, "We might get a client, we might not, but we can connect people."

In a similar vein, Equity Flare rarely passes up an opportunity to advise local charities or organisations without charging a fee. Peter says pro bono work occasionally pays off in the form of new clients, but the major motivator is giving back to the community.

The IPA has also been a source of support and networking opportunities.

The Institute is more "heavily geared towards small business" than other associations, a position that aligns with Equity Flare's client base, Sarah says.

The IPA encourages members to become actively involved, allowing the Reimanns to further expand their contacts in the local area.

"[The IPA representatives] like members being involved and jump at the opportunity for members to help," Sarah says.

The years ahead

Even with the assistance of mentors, Sarah admits that implementing a new model for accounting has been slow and laborious. While she and Peter are working hard to re-shape their approach and introduce it to clients, she believes transitioning 100 per cent to the new model will take a few years.

"We all know how to do a tax return or a BAS, but implementing these new things is quite a lot of work," she says.

While working alongside a spouse can be challenging, with the pair admitting to occasional disagreements, the partnership allows the Reimanns to leverage off each other's strengths.

Peter first entered the accounting profession in 1979. It was his first job out of high school. It's been four decades since and he has witnessed several changes in the profession, weathering the introduction of capital

"We have to slowly move away from just crunching out tax returns and BAS statements. We have to get more involved with people"

- Sarah Reimann

gains tax, the introduction of the GST and the two financial crises.

Fourteen years younger, Sarah came to finance by a more roundabout route. She left school in year 10 and spent years working in retail and hospitality. When she was pregnant with her first child at age 23, she decided to make accounting her career.

It took Sarah six years to get her graduate certificate in professional accounting. In the interim, she gave birth to her second child. Sarah says "it was all worth it", adding that aspiring accountants should not let challenging circumstances get in the way of their dreams.

Peter and Sarah's different paths have given them different areas of expertise. Sarah is creative and forward-thinking, while Peter has a vast bank of experience to draw on. Both strengths have come into play in their new venture.

"I can see the benefits of what Sarah does and hopefully Sarah can see the benefits of what I bring to the partnership," Peter says.

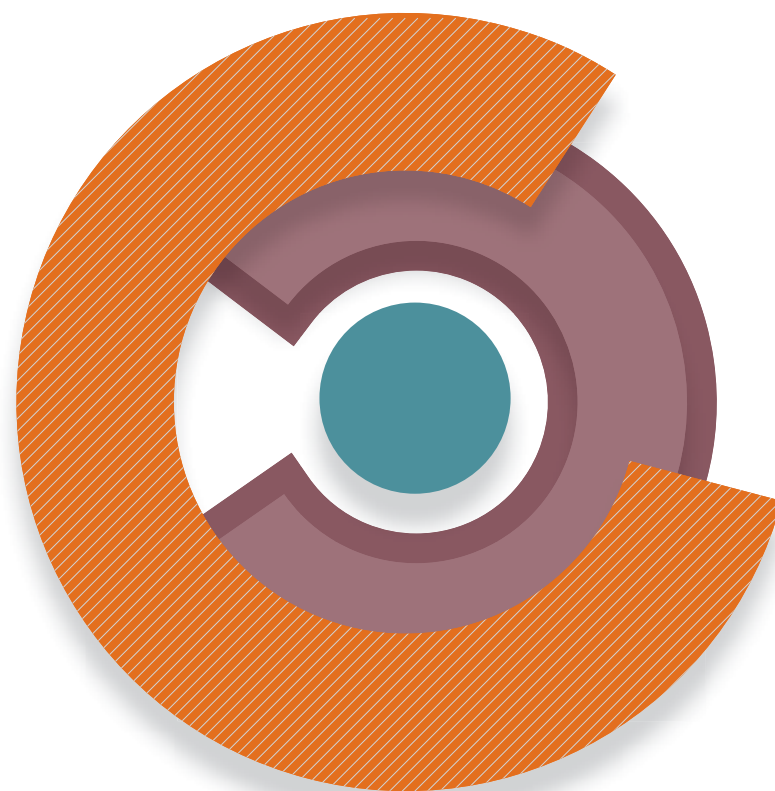
The couple believes the merger of two practices will prepare Equity Flare for long-term success. Looking ahead, Sarah says the future of accounting is people-focused and technology-driven, while Peter warns older accountants against ignoring the new developments in technology.

"You have to keep up-to-date with everything that everybody is doing," he says.

"You have to change with the times." 📌

360 DEGREES

Can SMSF audits ever be fully automated?



Katie Timms

director,
RSM

Where the struggle lies

One of the difficulties in being able to truly achieve full automation lies in the different parts of the SMSF audit requirements.

Some of the software will now take away an enormous chunk of the financial statements audit process. Pre-filled work papers and audit planning streamlines the initial process, and auto-calculated analytics highlights risk areas for auditors to focus on.

For SMSFs with automated data feeds in their software, systems can identify errors between third-party portfolio information and the SMSF records. But for some SMSFs, this isn't an option. Can technology provide the financial verification for unique or difficult assets? For a closely held unlisted investment, it is almost impossible.

The real struggle lies in the SMSF compliance audit, which is the most important component of the audit process. If data is able to be fed into audit software, a system will be able to identify for you a bank overdraft or an asset not held in the SMSF name. It may even be able to highlight risk areas based on the investments being reported. But can automated software examine a complicated investment structure to determine whether an asset may be considered in-house or look through investments for possible sole purpose or early access issues?

For those with listed investments and accounts with low-compliance risk, this may mean a compliance audit that can be almost fully automated. But for those who like more exotic investments, it will be years before a computer can replicate the expertise it requires for an SMSF auditor to untangle the weird and wonderful we tend to see in our SMSFs.



Belinda Aisbett

director,
Super Sphere

Black and white

The short answer is no. The audit process requires the evaluation of audit evidence and judgments need to be made in assessing this information. Technology may assist in this process, but at this point in time, I do not believe the audit can be fully automated.

Data feeds can provide audit evidence and I think the use of data feeds should be limited to supporting other audit evidence on file, rather than being used in isolation. We have seen automated data feed reports that do not agree to the year-end bank statement balance, so we have to question whether data feeds, in isolation, are sufficient audit evidence.

Another area that raises questions as to audit evidence reliability is online property investment tools, and whether the auditor can rely on these to support property values as reported in the financial statements. In my experience, these online tools are not reliable and should only be used where they support other audit evidence.

There is an increased risk for the 2017 financial year audit in relation to asset valuations (given the desire of some members to push asset values down to meet the \$1.6 million balance transfer cap), and auditors should consider the quality of audit evidence they have before signing off that asset values are fairly stated.

Auditors should also be mindful of complying with the auditing standards where they are placing reliance on systems.

The auditor must ensure that if they use technology, it is not just an exercise to reduce the time spent on the audit, and the technology is addressing the assessed audit risks in an appropriate and accurate manner.



Mark Ratcliff

managing director,
BMR

Considering the complexities

Full automation of an SMSF audit is something that, in my opinion, is unlikely to ever happen.

In order to fully automate an SMSF audit, there are several factors that need to be addressed.

Let's start with the basic fundamentals of an SMSF – the trust deed. For an audit to be automated, the automation must be able to review the deed and ensure it is appropriate for the actions of the fund and executed correctly. Let's assume that this part is OK.

There are other administrative parts – ATO trustee declarations, investment strategies and minutes. These are normally all ad-hoc documents of varying quality. Execution is important but what is even more important is the content. Let's assume that automation can handle this too.

The correct ownership of assets is another part that needs to be reviewed. Automation can check that CHESSE statements are correct and bank statements have the correct name. But what about the ownership of a property or the correct market value of unlisted shares? What about an in-house asset?

I believe parts of the financial audit can be automated – to an extent. This is made easier by the main SMSF administration systems providing access to their underlying data that can be extracted to assist with the audit. The data received is only as good as the data provided. There are still going to be issues regarding the valuations of property and unlisted shares, but this won't exist in every SMSF.

Technology will assist and the industry will continue to develop, but an auditor will still need to look at every SMSF each year.



Shirley Schaefer

lead partner for superannuation,
BDO

Meet in the middle

There are certain elements of the audit that can be taken care of automatically, like direct data feeds and software doing recalculations. What puts the full automation at risk is making sure there is integrity in data. The results are only as good as the data that goes in, so if that data is not accurate or is manipulated in any way, an automated process won't necessarily be able to detect that.

But where the automation really falls down is applying the judgement that is needed in a number of audit requirements in regards to trustee behaviour. How will an automated audit program know whether or not the trustee has done anything against their trustee duties, whether they have exercised due skill and care?

A lot of the SIS compliance side of the SMSF audit requires a fair bit of application of expertise on behalf of the auditor in terms of interpretation and understanding what trustees have done, and assessing trustee behaviour in relation to the more unusual and complex transactions.

Automation can certainly take care of what I call a 'plain vanilla' audit. But those superannuation funds that perhaps have more transactions with related parties, some collectable and personal use assets, and in-house assets, are where the auditor needs to apply their judgement and their expertise.

Certainly, I see no issue in the financial statement side of the audit being handled under automated systems, but it is that application of judgement to the compliance side of the audit, and particularly where they are complex, where perhaps there are breaches.



Paul Greenwell,
platform strategy manager,
MYOB

Not forecasting business growth this year? Here's why

Accountants are no longer acting their role in the traditional sense. We are increasingly being asked for an expanded skill set to meet the demanding and growing needs of our clients

...

by Paul Greenwell

As many of us know, in order to change, we need to be doing something differently, which is why accountants who are yet to embrace a digitally savvy path are only holding their own practice back from increased growth and productivity.

Regardless of the direction of your practice, there is a 30 per cent year-on-year growth in cloud accounting, and this isn't projected to slow anytime soon.

When in doubt, evaluate the numbers

We're all in accounting, so let's take a step back and talk some numbers.

According to recent Australian Bureau of Statistics (ABS) reports, 281,553 new businesses started in Australia in a year. One year. When we break down this group, almost half of these businesses fall into the \$50,000

to \$200,000 turnover brackets, and over a quarter into the \$200,000 to \$2 million category. For accounting businesses, this means that 75 per cent of new businesses are falling into that sweet spot we talk about – those looking for accounting software and compliance advice from an accountant.

When we look at the top five industries for new business in the sector with a turnover of \$50,000 or more, they are ranked as follows;

1. Construction/trade;
2. Professional scientific and tech services;
3. Rental, hiring and real estate services;
4. Accommodation and food; and
5. Retail.

Construction is a whole new ball game, something accountants would have discovered when jumping in-

between the books of different industries. Moreover, within each industry, not all clients need the same accounting and advisory services from their accounting firms.

Our research from late last year told us that while many businesses in the sweet spot have fairly simple accounting needs, 40 per cent of businesses consider their accounting complex.

What happens when you get your fair share of these new businesses? How do you manage to keep your practice efficient, while giving your clients' solutions and advice that helps them succeed in their new business?

In order to tap into new businesses and continue to run a cost-effective operation, accountants need to be looking towards technologies that can assist them in automating a

large number of tasks that are restricting their time, time that could be spent farming and servicing new business.

Technology – the real impact

When pondering the world of accounting software, an essential consideration is flexibility. Interesting, right? While an accountant's role is clearly defined, with ridged rules around things like compliance, the key ingredient to selecting the right technology is flexibility.

Take construction and trade as an example. There's a big difference between the electrician who condenses his work into four days to have more time with his family, or to surf, compared to an irrigation expert who also does fencing contracts, hires subcontractors and plans to expand the business further. Both business operators need accounting support in different

ways, and it is technology that enables this flexibility in offering.

Flexibility in accounting has come about through two main avenues – the rise of automation and software that helps accountants custom-fit to client needs. Using these two technological advancements should no longer be seen as an option for the future leaders of our sector. Instead, it is a must-do.

Consider Roberts & Morrow, a regional-based accounting firm on the front foot of technology as part of its efforts to reach out to its client base without compromising the quality of its work. Brad Schumacher, the director of Roberts & Morrow, sees moving the company's clients to cloud-based solutions as not only ideal but imperative.

Mr Schumacher says doing so allows his accountants to spend more time concentrating

on understanding the business and where it is at, rather than focusing on the chore of doing end-of-month work.

"Over the years, many changes have taken place within the accounting industry. It has been important for our business to adapt to the changes presented," he said.

The practice, which began in Armidale, NSW in 1951, has grown to 13 partners and 78 staff members, and it believes its employees are the glue that binds the firm together. Because of this, Mr Schumacher believes it's important to maintain a culture that promotes ideas and innovation to ensure the firm isn't left behind in an ever-changing environment.

"Any accounting firm steering clients away from the benefits of working via a cloud-based product are doing their clients an injustice. The ability to change the

relationship dynamic of providing professional services to a client via a multi-access platform with the benefits of bank feeds, for instance, is too good an opportunity to miss," he said.

Advisory – the key ingredient

We continue to see an upward trend of accountants taking on advisory roles for their clients. What we see as the future of the accounting profession is the formation of three critical functions within a practice – transaction processing, compliance and business advisory.

MYOB research last year found that nearly half (48 per cent) of small businesses turn to accountants as their first port of call during a business or financial difficulty. This tells us that clients are looking to accountants as a source of financial advice

throughout the year, rather than simply the answer to the tax man.

Through access to accurate cloud-accounting data, accountants are able to report in real time and at scale, opening up new revenue opportunities for their clients. As a result, a whole range of advice about the cloud and the tools their clients can use to make their businesses more efficient is available, cementing the accountant's advisory role.

In general, compliance creates 60 per cent of revenue for accountants, falling from 75 per cent in 2007. What has taken the space of that drop? Business advisory services have fluctuated between 12 and 16 per cent in the last five years.

Due to technical advances, it is now easier and more cost-effective than it has ever been to deliver compliance services. While it remains a critical part of any accountant's service portfolio, it does not have to be the primary offering now that technology is enabling compliance work to underpin a set of more valuable offerings.

One of the ways technology has enabled this is through the automation of TX processing. Automation has meant that our four key workflows – bank statement coding, accounts payable, accounts receivable and payroll – have become more efficient, enabling accountants to take on more advisory work and spend less time on those labour-intensive tasks.

Look at it this way, compliance as the anchor – the piece that builds trust between the client and accountant, and the piece that holds the critical information on which they can base advice. An advisory role is then the valuable offering we can now provide on top, in turn growing the profitability of a traditional accounting firm in a space they wouldn't have played in 10 years ago. 





Rob Hull,
founder and chairman,
Adaptive Insights

Dealing with curve balls

Founder and chairman of Adaptive Insights, Rob Hull, shares his tips on how to overcome challenges when launching a start-up and what he believes are the key factors for ongoing business success

Q. Why did you start your own business?

You've got to step back a little bit to my background as a CFO. A big part of the challenge that I faced was trying to help the management team really better manage the business, understand what the company's needs were and understand where the company was going in the future.

The problem was, in many of those businesses, you could put a plan together, but these would change so being able to adapt to that quickly was a challenge or putting a plan together with the management team was a problem. We couldn't get everyone to engage in the process actively because of the locations they were in, or the process was just too hard.

Looking at the marketplace, there just seemed to be a huge void. There was a demand in the marketplace that wasn't being filled by other products that were out there, and I felt like we had the right technology and capabilities to build and service that marketplace.

Q. What were some of the early challenges you experienced when launching your business?

This is 13, almost 14, years ago. Some of the initial problems we faced were software as a service (SAAS) and cloud adoption in general. It was a very early stage. There weren't that many SAAS companies, and some of it was getting people familiar and comfortable with SAAS. On top of that, you had to get people comfortable with SAAS on financial data and confident their data would be secure. Then there's just the challenge of continuing to grow and expand the company, so continuing to grow and scale the business over time.

Q. How did you overcome those challenges?

Along the way, you hit various curve balls at different points. So you ask, "Do you have the right team for that point in time to scale the organisation? How do you get the message out when it's a small company and there are other vendors out there?"

How did we solve some of those problems? The cloud adoption problem, it was a little bit, a matter of time. We needed people to become more familiar and more comfortable with a growing number of SAAS vendors in the space.

Analysts had to really beat the drum and say, "This is where the future of software is headed". We began to put that sort of dialogue line out into the market space and it caught on quite well. And [also], trying to help educate the market about what we did, why that was a scalable, secure and better way of doing what companies were usually doing.

Q. What should business owners focus on to effectively lead their company?

First, what I'll say is that I've learned a lot over 14 years. A big part of helping us to continue to grow is making sure that we find really skilled people who are much better at various things around the organisation than I am.

A big part of growing any company

is finding really great people because you're never going to be any better than the people on your team. One of the other things that's important in building any business is a combination of gut feel and a perseverance to battle through tough times.

You're always going to come up against something that you didn't anticipate. It isn't going to go as you expected. To solve those challenges, bring people into the problem to solve it with you, and have the fortitude and perseverance to stick with it.

Q. What advice do you have for people wanting to launch their own business?

The team you hold around you is absolutely critical. Find great people, find people who know more than you, and don't be afraid to hire people who are smarter and better than you are, because you'll never succeed without a great team.

One of the things that's challenging when starting a company is the feeling

that you're all alone in trying to solve the problem at times. Find good advisers, find people to bounce ideas off, who challenge you in the positions that you have so that you either see another side of it or you get stronger in your own conviction about how you're doing it.

Don't be afraid to change your idea. All too often, people stick with things for too long because they have the mindset, "That was the idea. I've got to stick with it". You've got to be able to read the signs around you that say, "That's not going to work. You need to adapt in some fashion to do it differently".

That has got to be coupled with, again, the intuitive perseverance. You'll hear a lot of reasons why what you believe in isn't right, especially if you're doing something a little different.

You've got to be able to find this balance – when do you listen to other people telling you that you might not have the right idea? And when do you stick with it and say, "No, you're wrong. We're going to do something new and bold and innovative".

Q. Are there any business traps you think people need to be aware of?

I think that's very specific to the business you're in. It's a little hard to say there is generic advice for every business situation. You can't know until you're in that business.

We've certainly made mistakes, and went down paths where, looking back on it, you sort of scratch your head and say, "Wow, why did we do that?" But it was hard to see that at the time.

Whether it's doing business in a particular country that's challenging to do business in or technology-wise, making certain technology decisions about heading down one path and then realising, "Wow, that's not the right technology. We need to pull back from that", it goes back to the advice – be willing to adapt and change.

Q. Do you have any other advice for budding start-ups?

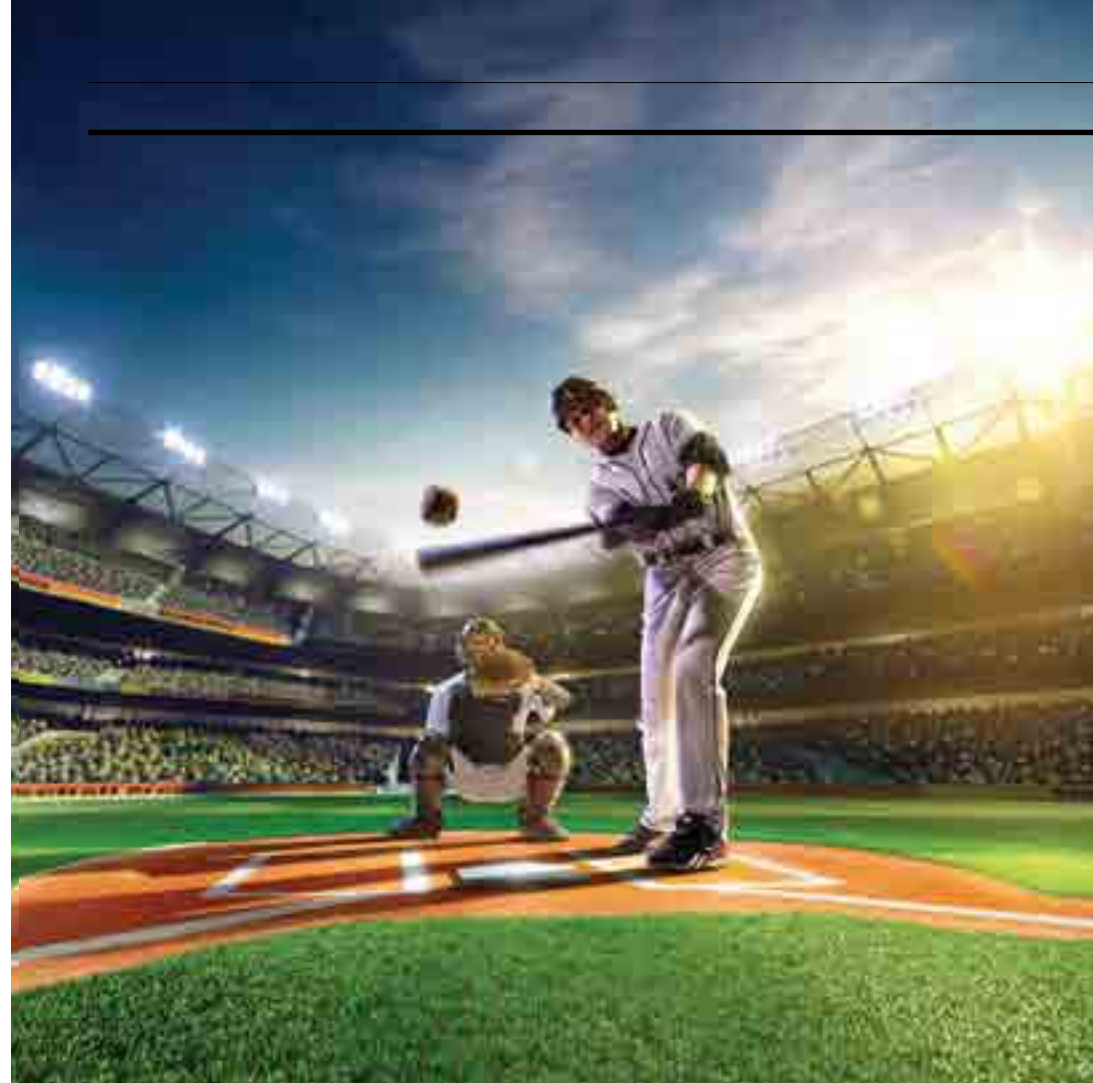
You need to really understand your personal end goal. Why are you doing this?

There are a lot of reasons why you, as an entrepreneur, might do it. It might be financial, it might be some space that you're really passionate about, it might be just the desire to solve a problem, but I think you really have to understand why. What is it that's driving you personally?

Then you've got to understand the bigger picture. What is the end game for the company as a whole? For everyone else who's involved – it could be employees, it could be shareholders or your customers – where do they want it to go?

Make sure your own personal goal is going to align well with the employees, shareholders and customers' goals, otherwise it's just going to be frustrating.

Launching a business is going to be really hard. It's going to be potentially incredibly frustrating at times, but at the same time it's going to be super rewarding. If you have a clear understanding of why you're doing it, it will help you out through the really hard times. 📌



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A closer look at whistleblower provisions

The federal government is proposing to reform whistleblower provisions for corporate and tax laws, as well as other legislation which might be affected consequentially



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Australian financial reporting is poised to experience the biggest upheaval since we adopted International Financial Reporting Standards in 2005. Are you ready?



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I am astounded that more thought has not been given to the situation of the individual construction tradesperson. You can make a real difference here

Technical

Our technical section keeps you abreast of the regulatory, legislative and policy developments affecting the accounting industry

A closer look at whistleblower provisions

Given the recent attention in the media, IPA members will be aware that the federal government is proposing to reform whistleblower provisions for corporate and tax laws, as well as other legislation which might be affected consequentially¹

by Tony Greco

• • •



▶ **Tony Greco FIPA**, general manager of technical policy, IPA

Many countries that have adopted major whistleblower protection and procedural reforms have experienced significant increases in disclosures, which have in turn, resulted in increases in prosecutions and revenue collections.

Australia is no exception, particularly in respect to tax fraud which has been greatly assisted by extensive whistleblower provisions within the *Income Tax Assessment Act*.

The rationale for the federal government's reform initiatives is to promote greater transparency and accountability in business.

These reforms are important for our members as some of the proposed provisions will seek to widen the definition of 'whistleblower' as well as other changes that may impact members and their clients.

Moreover, in regard to corporate whistleblowers, a further need for reform is triggered by the apparent ineffectiveness of existing corporate laws in protecting whistleblowers as evidenced by several recent

high-profile cases where whistleblowers have suffered considerable damage by being exposed. These cases have further highlighted the need to provide stronger protection provisions along with further provisions that include a vital pathway for whistleblower compensation.

What is a whistleblower?

Surprisingly, there does not appear to be a robust legal definition of whistleblower, either in an academic setting or in public policy generally. However, despite this lack of broad consensus, Latimer and Brown (2008), authoritatively define a whistleblower as "a person with insider information of misconduct who makes a decision to report".

They argue that whistleblowers are "different to a customer, members of the public or others who have evidence of and report organisational misconduct".

What the proposed reforms are seeking to do is to clarify the definition of whistleblower by extending the category of persons who qualify as whistleblowers and ensuring that these categories are consistent across Commonwealth legislation, for instance, as between corporate and tax laws which in turn will be in line with the *Fair Work (Registered Organisations) Amendment Act (2016)* and the *Public Interest Disclosure Act (2013)*.

In reading through the proposed reforms for anonymous disclosures, it would also appear that anyone could technically qualify as a whistleblower, providing they have in their possession credible information they honestly believe, on reasonable grounds, amounts to breaches or potential breaches of the law.

One major reform proposed for corporate disclosures expands the categories of qualifying persons to include former officers, employees and contractors. This would be in

addition to widening the net for both corporate and tax laws to include financial services providers, lawyers, accountants, unpaid workers, tax agents, consultants, auditors, business partners and clients.

Good faith

To establish the credibility of information (and thus reduce the incidence of frivolous or false disclosures), the reforms propose the removal of the existing and somewhat subjective 'good faith' provisions, to be replaced by both a subjective and objective test via the possible inclusion of the words "an honest belief held on reasonable grounds, that the information disclosed shows or tends to show that wrongdoing has occurred".

There are two elements to this test, 'honest belief' which arguably is subjective in nature in that it encompasses a subjective state of mind (Langford and Ramsey, 2015, p174-175), but also 'on reasonable grounds', which the court is likely to assess based on reasonableness, measured in terms of a reasonable person acting in similar circumstances.

Anonymous disclosures

The reforms propose to extend the anonymity provisions currently in other existing laws (e.g. *Income Tax Assessment Act*), to corporate law, as well as to provide greater protection and procedural fairness provisions to preserve the anonymity of the informant. The reforms also intend to strengthen protections against retaliation where the informant's identity is exposed.

Compensation

The reforms will enhance the current compensation arrangements, making it easier for whistleblowers to seek compensation and other remedies for any hardship or



suffering caused as a result of disclosures made. These measures might include, an apology, an injunction, a reinstatement order, compensation where loss or damage is suffered due to reprisals, and costs.

Rewards

Perhaps the most radical initiatives within the whistleblower reforms are provisions relating to whistleblower rewards.

Given the evidence of successful prosecutions and collections in other comparable jurisdictions, i.e. resulting from increased disclosures following the introduction of financial incentives (particularly in the US), it would make good business sense to introduce well-structured rewards systems.

However, caution needs to be exercised in drafting the reward legislative provisions, as no doubt, in line with positive accounting theory, self-interest will be at heart (Watts and Zimmerman, 1976). We argue that when an attractive reward system is introduced, there will be considerable incentives for so-called

'bounty hunters' not only to disclose sensitive information for reward, but also to further their self-interest by delaying the disclosure of important information so as to maximise the reward amount.

In this sense, the reforms must ensure that checks and balances that deter rapacious 'bounty hunters' from exploiting the spirit of the law are in place. We would envisage that reforms include provisions that require the informant to disclose credible and material information as soon as it becomes known, and in circumstances where for certain reasons (criteria to be set) the disclosure could not be made internally.

Greater protection for 'professional whistleblowers'

This issue raised in the proposed reforms discussion paper is particularly important to IPA members as it relates to day-to-day activities and interactions with clients. The following question was posed:

What are the interactions, if any,

between these proposed protections and professional advisers' fiduciary including legal professional privilege or ethical?

This is a tough question which possibly requires a far more lengthy review and discussion. Unlike legal practitioners, whistleblower communications with accounting practitioners and advisers are not privileged, unless a lawyer hires an accountant for the purpose of providing legal advice to the whistleblower.

Professional accountants, including members of the IPA, are ethically bound by 'public interest' as dictated by their respective codes of ethics. Moreover, members are bound by strong codes covering confidentiality between the practitioner and the client in relation to client matters. Although public interest must be regarded ahead of the needs of a client or employers' interests (the logic underlying basic utilitarian theory as advocated by Bentham, 1780), for professional advisers other than legal practitioners, being a whistleblower presents a serious dichotomy.

There is an ethical obligation to protect the interests of the client and their right to privacy for professional advisers other than legal practitioners, as well as an overriding obligation to uphold public interest. As the saying goes, advisers are 'caught between a rock and a hard place'.

In effect, by becoming a whistleblower, practitioners are potentially exposed to litigation for breach of contract and privacy, as well as breaches of the confidentiality provisions within the *Corporations Act* for client companies. What needs to be thought through here is whether the concept of professional legal privilege should be extended, in certain circumstances, to professional advisers other than lawyers. This would be a matter for professional bodies and relevant government agencies to explore further. ¹

Editor's note: You may also want to read the article by Vicki Stylianou, in this edition of Public Accountant on page 14, on recent developments in professional and ethical standards that affect all accountants, and essentially mandate 'whistleblowing' by allowing the duty of confidentiality to be set aside. This new global standard is effective from 15 July 2017.

¹ Australian government, 2016, 'Review of tax and corporate whistleblower protections in Australia'.
Bentham, J, 1780, *An Introduction to the Principles of Morals and Legislation*, T Payne and Son, London.
Latimer, P and Brown, AJ, 2008, 'Whistleblower Laws: International Best Practice'.
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Tips for managing disciplinary matters with the TPB

Many professionals will face a disciplinary complaint at some point in their careers. Some of these complaints will lead to disciplinary proceedings and possibly a full hearing before a disciplinary tribunal. What should you do next?

by Amber Agustin
• • •



► **Amber Agustin,**
senior associate, Clayton Utz

For registered tax agents, BAS agents and tax (financial) advisers (agents), the Tax Practitioners Board is the disciplinary body with authority to investigate disciplinary complaints about the provision of tax agent services and commence disciplinary proceedings.

Before the creation of the Tax Practitioners Board by the *Tax Agent Services Act 2009 (TAS Act)*, agents were regulated by state tax agent boards that had limited options to impose sanctions in disciplinary conduct matters. The *TAS Act* and the Code of Professional Conduct set out by the act, and associated powers, have invested the board with a wide range of powers to deal with disciplinary conduct issues, ranging from minor matters to matters warranting termination of registration. The board also has the power to commence proceedings for breaches of civil penalty provisions, which are in the nature of quasi-criminal matters. This article is primarily concerned with disciplinary matters, not civil penalty provision breaches.

Nature of disciplinary proceedings

Disciplinary matters are quite different in nature from other legal processes and proceedings.

The purpose of disciplinary matters is to regulate a profession that is in a special position of authority or influence by virtue of having particular skills or knowledge. The underlying rationale for the regulation of a profession is to protect the public by ensuring high standards by those authorised to practice in the regulated profession.

Section 2-5 of the *TAS Act* demonstrates its public protection purpose. It states “The object of this act is to ensure that tax agent services

are provided to the public in accordance with appropriate standards of professional and ethical conduct”.

Section 2-5 of the *TAS Act* sets out that one avenue for pursuing this public protection purpose was the introduction of a Code of Professional Conduct for agents and providing for sanctions to discipline agents.

Section 30-10 of the *TAS Act* contains the Code of Professional Conduct which applies to registered tax agents, BAS agents or tax (financial) advisers. Under section 30-15, the board may impose a sanction if it is satisfied, after conducting an investigation, that an agent has failed to comply with the Code of Professional Conduct.

If the board makes a finding against an agent, it has a range of sanction options including:

- Taking no further action;
- Cautioning the agent;
- Requiring the agent to complete a course of training;
- Subjecting the agent to specified restrictions when conducting their practice;
- Requiring the agent to practise under supervision; and/or
- Suspending or terminating the agent’s registration.

The *TAS Act* also contains a number of civil penalty provisions, including prescribing penalties for providing tax agent services for reward while not a registered tax agent. The civil penalty

provisions are, in some respects, similar to criminal offences and are imposed in a manner somewhat similar to sentencing, with a partially punitive purpose. Civil penalty matters should, therefore, be distinguished from disciplinary matters, while the same conduct may give rise to both disciplinary and civil penalty consequences. However, an agent might experience a sanction in a disciplinary matter to be punitive, even though that is not its purpose.

The options available to the board if a finding against an agent is made in a disciplinary matter range from taking no further action to terminating the agent’s registration. Termination is a serious step not taken lightly by the board. It is important to recognise that in disciplinary matters – which are distinct from most other types of legal proceedings – the seriousness of any sanction ultimately imposed by the board can be directly impacted by how a tax agent handles the process of going through a disciplinary matter conducted by the board.

Tips for handling disciplinary matters

Each disciplinary matter will be different according to its facts. However, there are some practical tips that may assist agents with handling a disciplinary complaint or matter.

Engagement

Do not ignore an initial complaint from a client or a letter from the board. The issue usually won’t go away. Many client complaints can be resolved with early engagement. Resolution at this stage may prevent a complaint being made to the board.

Similarly, if you receive a letter from the board, engage early. Most matters are resolved before the board commences a formal investigation. Ignoring a letter from the board makes it more likely the complaint will progress to a formal investigation.

Get on the front foot

Even if you don’t think a complaint has merit, is there something you can do to resolve the situation? Remember, the board’s focus in disciplinary matters is on protecting the public, not on punishing agents.

You may be able to resolve a complaint at an early stage by proactively looking to resolve any concerns. Consider taking targeted and relevant steps including:

- Instituting new policies and procedures;
- Increasing office staffing levels;
- Taking a course to brush up on knowledge; and/or
- Approaching a trusted mentor for guidance and coaching.

Know where you stand

Whether the board can take action concerning certain issues is governed by highly complex legal and jurisdictional issues. Seek independent advice to find out where you stand, and understand the legal issues.

Avoid a combative, adversarial approach

Notwithstanding the above, avoid taking an approach that is combative or adversarial. The nature of disciplinary matters means they are focused on the protection of the public.

All too often, disciplinary tribunals perceive a combative, adversarial approach from a practitioner as being a refusal to engage with the underlying concern, a refusal to admit there are any grounds for concern and a clear indication that the conduct complained of may be repeated in future.

In the context of the more nuanced range of sanctions available to the board and the need to protect the public, a combative approach may undermine efforts to assure the board that the public is protected and a lighter sanction is more appropriate.

Be cautious about a purely defensive response

Similarly, a purely defensive response may be a risky strategy, for the reasons set out above. Having said that, there are cases where this strategy is a legitimate option, including where there are genuine grounds to doubt the facts needed to prove the conduct in question. For example, where there is extensive evidence to demonstrate that the conduct did not take place or was significantly different to the conduct alleged.

Consider notifying your insurer

Consider whether you need to notify your insurer of a matter that is the subject of a client complaint or a disciplinary matter.

Effect on other professional memberships

Disciplinary matters could affect other professional memberships and you may have a duty to disclose the disciplinary matter to other professional bodies, either at the time or at the next annual renewal. Failure to notify, where required to do so, may compound the challenges of dealing with a disciplinary matter and create a new disciplinary issue with another professional body. ⓘ



The ‘triple threat’ new accounting standards

Australian financial reporting is poised to experience the biggest upheaval since we adopted International Financial Reporting Standards in 2005. Are you ready?

by Aletta Boshoff



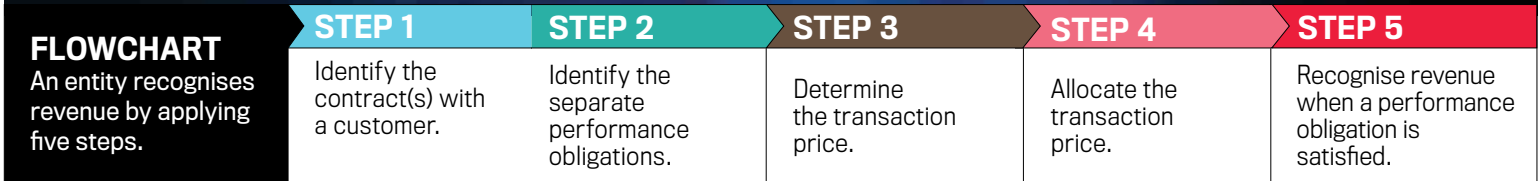
Aletta Boshoff, partner - IFRS advisory, BDO

The introduction of three new Australian accounting standards will significantly change the financial reporting landscape for how entities recognise revenue, account for financial instruments and how lessees account for operating leases. These changes come into effect between now and 2019, and raise numerous issues for organisations in every industry sector.

New revenue standard, AASB 15 Revenue from contracts with customers

AASB 15 fundamentally changes the financial reporting landscape for how entities recognise revenue by introducing a five-step model to determine when to recognise revenue and at what amount. The core principle of AASB 15 is to recognise revenue to depict the transfer of promised goods or services to customers, in an amount that reflects the consideration to which the entity expects to be entitled in exchange for those goods or services. AASB 15 determines that an entity recognises revenue in accordance with the core principle by applying five steps (see flowchart).

- The new AASB 15 raises many questions such as:
- How will the amount and/or timing of revenue recognised be impacted?
 - How will current agreements be affected?
 - Which processes and systems will need changing?



- Which wider business-planning activities will be affected?
 - What staff training will be required?
- AASB 15 applies to annual reporting periods beginning on or after 1 January 2018. Earlier application is permitted. The date of initial application is the start of the reporting period in which a vendor first applies AASB 15. AASB 15 is applied retrospectively either to:
- Each prior period presented in the financial statements in accordance with IAS 8 Accounting Policies, Changes in Accounting Estimates and Errors with a choice of three practical expedients; or
 - The current period with a cumulative effect adjustment.

“AASB 15 fundamentally changes the financial reporting landscape for how entities recognise revenue”

New leases standard, AASB 16 Leases
The current accounting treatment of operating leases in the records of lessees is well understood and quite simple. Currently, operating lease payments are recognised as an expense on a straight-line basis over the lease term. However, the new AASB 16 is changing that. AASB 16 introduces a single lessee accounting model (all leases, finance and operating, will be accounted for in the same

way) and requires a lessee to recognise assets and liabilities for all leases with a term of more than 12 months, unless the underlying asset is of ‘low value’. A lessee will now be required to recognise a right of use asset representing its right to use the underlying leased asset and a lease liability representing its obligation to make lease payments. Assets and liabilities arising from a lease are initially measured on a present value basis.

As a consequence, a lessee recognises depreciation of the right of use asset and interest on the lease liability. The new AASB 16 is expected to have a negative impact on lessees’ profit before tax in the initial years of an operating lease, because the current even operating expense over the period of the operating lease will be replaced by depreciation of the leased asset (capitalised right of use asset) and an interest expense on the lease liability, which will decrease over the period of the lease as the capital amount of the lease liability is repaid. The new AASB 16 will lead to an increase in assets and liabilities in the lessees’ statement of financial position due to the initial recognition of a right to use asset (which will be depreciated over the useful life of the right to use asset) and a lease liability (which will be repaid over the period of the lease through lease instalments). It should also be noted that the right of use asset would be recognised in the statement of financial position of the lessee as a non-current asset, whereas the lease liability will be split into a current and non-current liability. This could potentially impact the bank covenants of an organisation, as well as other key financial ratios, which are based on net current assets.

In some cases, the recognition of both a lease asset and lease liability will have no economic implications for a lessee. Nevertheless, as with the potential impact on reported profits, lessees should be considering the potential impact of AASB 16 on, for instance, any loan covenants, profit or loss, earnings before interest, tax, depreciation and amortisation (EBITDA) and/or management compensation arrangements they might have in place in 2019 and beyond. AASB 16 is effective for periods beginning on or after 1 January 2019. Entities may adopt the standard earlier, but if they elect to do so, they must also adopt AASB 15 as there can be significant interactions between the two standards. An entity is permitted to follow one of two approaches in adopting AASB 16, the retrospective approach or the modified retrospective approach. Given the broad impact of AASB 16, significant transitional exemptions and simplifications are available to entities. ⓘ

Don't let your clients get caught out by unpaid super

There have been numerous reports on the issue of unpaid super recently, with many people realising too late, when they retire, that their employer has not been making the right contributions, leaving them worse off

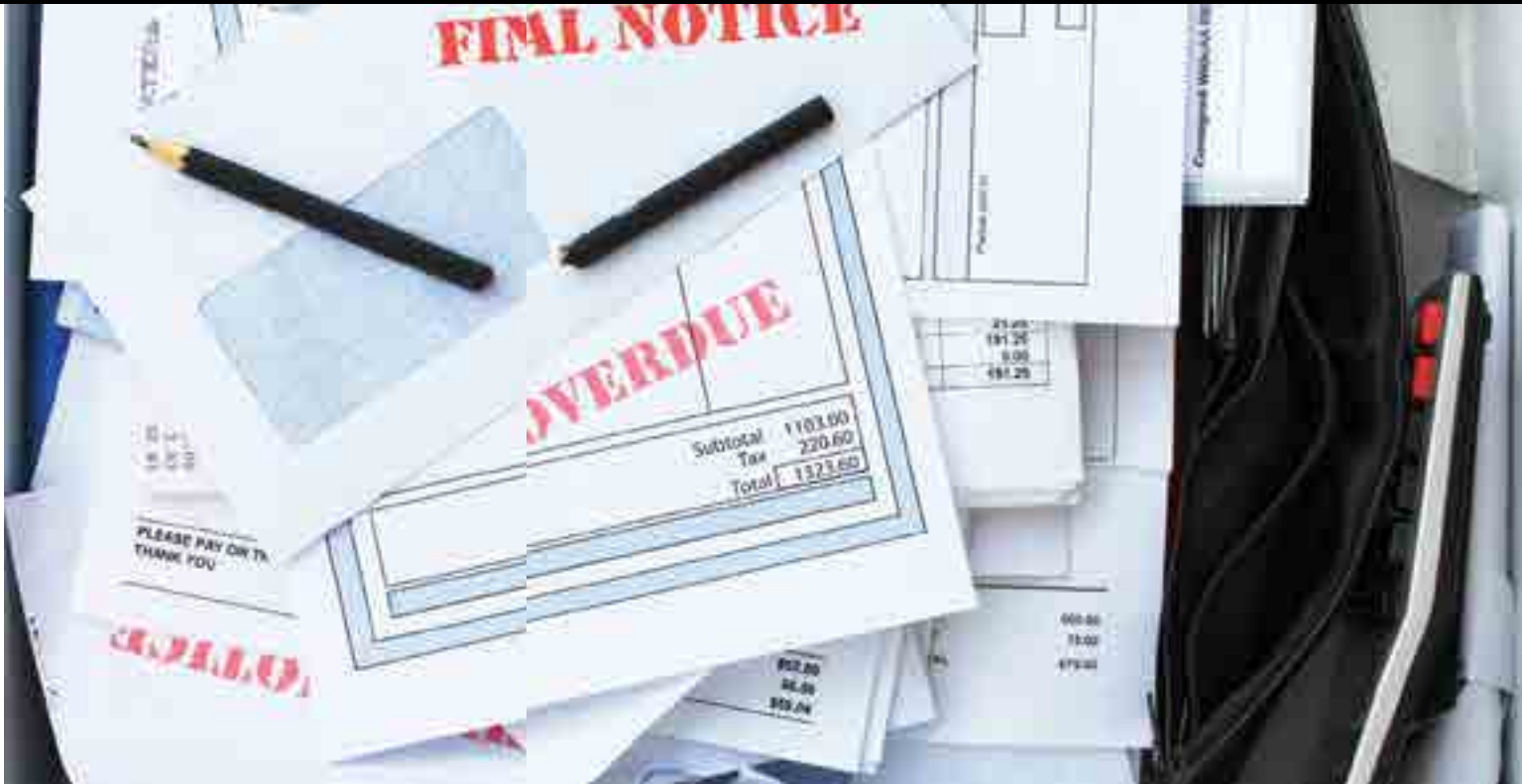
by Hayriye Uluca
• • •



► **Hayriye Uluca,**
associate – superannuation
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Blackburn Lawyers

Aworrying, but not well-known, consequence of unpaid super is the fact that people may miss out on the automatic disability insurance cover they ought to have within their nominated super fund. In the event of total and permanent disablement (TPD), terminal illness or death, this insurance can be worth upwards of \$100,000 and, in some cases, can include income protection cover until the age of 65. Professionals in the finance industry need to be alert to the risks of unpaid super on behalf of their clients, and to be informed on the responsibilities of employers regarding various types of employee arrangements when it comes to super.

For example, people who identify themselves as contractors and work under their own ABN may find themselves at risk of underpaid super, given they are not entitled to benefits – such as leave and super contributions from an employer – ordinarily given to employees. Therefore, it is vital that they understand the implications of working as independent contractors, as opposed to employees, and avoid being mistakenly compelled to operate as a contractor, if the nature of the relationship suggests more of an employment arrangement. The consequence of not understanding these implications often leads to people missing out on super contributions and, consequently, automatic disability insurance cover. Becoming a member of an industry super fund simply by being employed by a participating employer is generally the easiest way to acquire disability insurance cover without the necessity of completing medical questionnaires or complying with disclosure requirements. Provided the member meets the relevant provisions when joining the super fund as an employee of the contributing employer, they can generally quite easily obtain the automatic default level of disability insurance cover, and often even for pre-existing medical conditions. It's also important to be aware of whether an employer is making super contributions to the nominated super fund in accordance with their instructions and are doing so on time. Checking pay slips and remaining vigilant are crucial.



The legal requirement to pay super
Pursuant to the *Superannuation Guarantee Charge Act 1992* and the *Superannuation Guarantee Administration Act 1992*, employers are under a statutory duty and obligation to make superannuation contributions, on time, to an approved superannuation fund on behalf of their employees. Failure to do so can be a breach of the legislations, the employment contract and possibly even an award. A court can impose penalties on employers for such breaches.

Who is an employee? Who is an independent contractor?
There are many factors that determine the difference between an employee and an independent contractor. No single indicator determines whether a person is a contractor or an employer. The following chart outlines several common indicators that help to determine whether a person is an employee or an independent contractor. Most people are surprised to learn, when considering the indicators, that their relationship – labelled as an independent contracting arrangement – is in fact characterised as an employment relationship which would entitle them

| Indicator | Employee | Independent contractor |
|--|---|--|
| Degree of control over how work is performed | Performs work, under the direction and control of their employer, on an ongoing basis. | Has a high level of control over how the work is done. |
| Hours of work | Generally works standard or set hours. A casual employee's hours may vary from week to week. | Under agreement, decides what hours to work to complete a specific task. |
| Expectation of work | Usually has an ongoing expectation of work. Some employees may be engaged for a specific task or period. | Usually engaged for a specific task. |
| Risk | Bears no financial risk, which is the responsibility of their employer. | Bears the risk for making a profit or loss on each task. Usually bears responsibility and liability for poor work or injury sustained while performing the task. As such, contractors generally have their own insurance policy. |
| Superannuation | Entitled to have superannuation contributions paid into a nominated superannuation fund by their employer. | Pays their own superannuation. In some circumstances, independent contractors may be entitled to be paid superannuation contributions. |
| Tools and equipment | Tools and equipment are generally provided by the employer or a tool allowance is provided. | Uses their own tools and equipment. Alternative arrangements may be made in a contract for services. |
| Tax | Has income tax deducted by their employer. | Pays their own tax and GST to the Australian Taxation Office. |
| Method of payment | Paid regularly. For example, weekly, fortnightly or monthly. | Has obtained an ABN and submits an invoice for work completed or is paid at the end of the contract or project. |
| Leave | Entitled to receive paid leave – such as annual leave, personal/carers' leave, long-service leave – or receive a loading in lieu of leave entitlements in the case of casual employees. | Does not receive paid leave. |

to employee entitlements including superannuation contributions that they may not have received during their employment.

Sham contracting
Some employers attempt to disguise an employment relationship as an independent contracting arrangement to circumvent payment of employee entitlements. The *Fair Work Act 2009* prevents employers from:

1. Misrepresenting an employment relationship as an independent contracting arrangement;
2. Dismissing or threatening to dismiss an employee for the purpose of engaging them as an independent contractor; and
3. Knowingly making a false statement to persuade an employee to become an independent contractor.

Consequences of unpaid super
There are serious penalties for businesses that contravene these provisions and businesses that do this are usually not meeting their taxation and superannuation obligations, denying workers their employee entitlements and reducing their labour costs to gain an unfair advantage over their competitors. Employers face penalties and charges including a super guarantee charge made up of super guarantee shortfall amounts (the amount of super contributions that should have been paid into a complying fund), interest charges and administration fees. In some cases, an additional super guarantee charge of up to 200 per cent can be applied. Additionally, if it can be established that contributions that ought to have been paid were not, there may be a claim against the employer for the equivalent level of insurance their employee ought to have held within their super fund and would have been paid, for example, in the event of TPD. Unfortunately, by the time most people discover super contributions have not been made, or not made on time, by their employer, they have stopped work due to a medical condition and are seeking to make a claim on their policy, only to find themselves without the disability insurance they thought they had. Ultimately, knowledge about super entitlements and vigilance are the keys to ensuring your clients do not miss out on crucial disability insurance cover. 📌

Which ATO publications can you rely on?

It is important that advisers and taxpayers understand key materials and products published by the ATO, and the level of protection that each provides

by Daniel Butler

• • •



► Daniel Butler, director, DBA Lawyers

Public rulings

Public rulings are binding advice that express the ATO's interpretation of the law. The ATO publishes different types of public rulings including:

- TR – Taxation ruling;
- TD – Taxation determination (short-form ruling);
- GSTR – GST ruling;
- MT – Miscellaneous taxation ruling;
- SGR – Superannuation guarantee ruling;
- CR – Class ruling; and
- PR – Product ruling.

Where a taxpayer follows a public, private or oral ruling that applies to them, the ATO is bound to assess them as set out in the ruling. If the correct application of the law is less favourable to a taxpayer than the ruling provides, the ruling protects the taxpayer from

the law being applied by the ATO in that less favourable way.

A public ruling usually applies to both past and future years, and protects a taxpayer from the date of its application, which is usually the date of effect of the relevant legislative provision. In addition, a public ruling that is withdrawn continues to apply to schemes that had begun to be carried out before the withdrawal.

TR 2006/10 is an ATO public ruling that provides details on the protection offered by public rulings, etc.

Private binding rulings

A private binding ruling (PBR) on a tax query is binding on the ATO. Note that this is the information provided at the start of most PBRs:

- You cannot rely on the rulings in the register of private binding rulings in your tax affairs. You can only rely on a private ruling that we have given to you or to someone acting on your behalf.
- The register of private binding rulings is a public record of private rulings issued by the ATO. The register is an historical record of rulings and we do not update it to reflect changes in the law or our policies.
- The rulings in the register have been edited and may not contain all the factual details relevant to each decision. Do not use the register to predict ATO policy or decisions.



As you will note, PBRs only provide protection to the particular taxpayer that the PBR is issued to. Thus, those who seek to rely on information in the register of PBRs do so at their own risk.

An example where this may prove risky for SMSFs is if they relied on a favourable PBR issued to another taxpayer on a nil interest LRBA from a related party since there would be no protection from that PBR (as it only protects the taxpayer covered by that PBR).

Tax determinations

A tax determination (TD) provides similar protection to a public ruling. By way of example, the protection provided by a TD, as described in TD 2013/22, is as follows:

- This publication provides you with the following level of protection –
- This publication (excluding appendixes) is a public ruling for the purposes of the *Taxation Administration Act 1953*.
- A public ruling is an expression of the commissioner's opinion about the way in which a relevant provision applies, or would apply, to entities generally or to a class of entities in relation to a particular scheme or a class of schemes.

- If you rely on this ruling, the commissioner must apply the law to you in the way set out in the ruling (unless the commissioner is satisfied that the ruling is incorrect and disadvantages you, in which case the law may be applied to you in a way that is more favourable for you – provided the commissioner is not prevented from doing so by a time limit imposed by the law). You will be protected from having to pay any underpaid tax, penalty or interest in respect of the matters covered by this ruling if it turns out that it does not correctly state how the relevant provision applies to you.

ATO IDs

An ATO ID is a summary of a decision on an interpretative issue and is indicative of the tax office's view on the interpretation of the law on that particular issue. ATO IDs are produced to assist ATO officers to apply the law consistently and accurately to particular factual situations. For more information, see PS LA 2001/8. By way of example, here is the level of protection provided by ATO ID 2012/16:

- This ATO ID provides you with the following level of protection – If you reasonably apply this decision in good faith to your own circumstances (which are not materially

different from those described in the decision), and the decision is later found to be incorrect you will not be liable to pay any penalty or interest. However, you will be required to pay any underpaid tax (or repay any over-claimed credit, grant or benefit), provided the time limits under the law allow it. If you do intend to apply this decision to your own circumstances, you will need to ensure that the relevant provisions referred to in the decision have not been amended or repealed. You may wish to obtain further advice from the tax office or from a professional adviser.

Practical compliance guidelines

From 2016, PS LAs will align more closely with their main purpose and practical compliance guidelines (PCG) will be the appropriate communication product providing broad law administration guidance to taxpayers. Provided a taxpayer follows a PCG, the ATO will administer the law in accordance with the approach reflected in that guideline. PCGs are not binding on the ATO and are used as safe harbours to provide an indication of how the ATO will apply its compliance resources. For example, PCG 2006/5 provides safe harbour terms for related party LRBAs that,

if satisfied, will not result in the ATO applying resources to review and audit LRBAs prior to FY2016.

Law companion guideline

A law companion guideline (LCG) provides the ATO view on how recently enacted law applies and is usually developed at the same time as the drafting of the bill. An LCG will normally be published:

- In draft form for comment when the bill is introduced into Parliament and will be finalised soon after the bill receives royal assent. It provides early certainty in relation to the application of the new law; or
- Where taxpayers need to take additional action to comply with the law, to provide certainty about what needs to be done.

An LCG will not usually be issued where the new law is straightforward, is limited in its application or does not relate to an obligation to pay tax, penalties or interest.

A range of draft LCGs have been issued in relation to the super reforms that commence on 1 July 2017, including LCG 2016/D8 on superannuation reform: transfer balance cap and transition-to-retirement reforms: transitional CGT relief for superannuation funds.

An LCG will usually be finalised as a public ruling at the time the bill receives royal assent and becomes law, unless issues arise during consultation or the bill is significantly amended in the bill's passage through Parliament.

Because LCGs are prepared at such an early time, an LCG will not be informed by experience of the new law operating in practice. Therefore, while they offer the same protection in relation to underpaid tax, penalties or interest as a normal public ruling, this will only apply if a taxpayer relies on an LCG in good faith.

LCG 2015/1 covers the purpose, nature and role in the ATO's public advice and guidance.

ATO web page and fact sheets

The ATO web page and fact sheets can be useful but cannot be relied on. The general administrative practice is that the ATO feels bound to follow its own written materials but in the event that the tax office is wrong, the tax is still generally payable but penalties may not be imposed. There is no legislative framework for the provision of public, private or oral advice in relation to matters under the SGAA. ⓘ

Tradespeople forced into being an incorporated entity: your role

During my many years in public practice, I have been astounded that more thought has not been given to the situation of the individual construction tradesperson. You, as an accountant, can make a real difference here

by Rosemarie King

• • •



► **Rosemarie King**, accountant, Rosemarie King Accounting & Taxation Services

These are ordinary people, earning an ordinary wage. But their trade sets them apart and makes the whole situation difficult for them.

The tradesperson has a tendency to consider the accountant an extension of the ATO, especially when the conversation has concerned itself around the final amount of taxable income that the client is to be assessed on. Then the general look of despair and disbelief as they plead that there is nowhere near that amount of profit in the bank account.

It takes an assortment of tradespersons to construct a building. However, they cannot all work at the same time. The groundwork is started, bricklaying cannot commence until the foundation is laid. Plastering cannot be done without walls etc. This is why the builder needs casual workers. There's a small margin of profit in building which doesn't allow for the luxury of employing a team of mixed skills on a permanent basis.

However, legislation requires that any deemed worker on a building site is required to be covered by WorkCover. This has been a difficult legislation to get across to the builders. Tradespeople, for a long time, had been required to provide their own insurance and builders felt this was working satisfactorily for them. Safe Work Australia has a construction work code of practice which outlines just what a construction worker is. The onus applies to anyone who has a duty of care and provides guidance to principal contractors.

The builder is very reluctant to add further

expenses to the cost of building. Not only is there the cost of WorkCover insurance, there is also the compulsory superannuation which is currently 9.5 per cent of the gross pay.

The builder has the task of putting together a contract for his client, outlining the stages to completion of the construction. The builder is forecasting using his knowledge of the current trade costs and tradespersons availability. The builder is praying at this stage that those who he intends to use for each stage will be available and still charging the price they have quoted him today.

The builder already has the worry of errors on the job. This could cost him additional materials. If a tiler lays tiles wrongly, it is the responsibility of the builder to rectify the workmanship. The builder doesn't want to be adding a further percentage to his contract price as a price rise guarantee. This could cost him dearly. He is competing with many other builders to secure this contract. Decisions are mainly based on price structure.

With all this legislation, the builder is forced to deal only with incorporated entities.

This is why the tradesperson finds himself in the dilemma of now having to be

an incorporated entity. As a company, the tradesperson is responsible for his own WorkCover insurance and his compulsory superannuation. The tradesperson is still in the same situation of competing with other tradespersons to secure the work. While the tradesperson is working, he is bringing in money. When that contract ceases, he is out looking for more work.

It has been my experience that the general tradesperson relies on his bank account balance to advise him on whether he has made any profit. The average tradesperson also has very little skill in budgeting for those non-fun commitments payable down the track, like superannuation and personal tax.

Many tradespeople will seek the services of an accountant once all other avenues of advice have been exhausted. The first area of advice being a mate who will insist that these legislations are purely rumours created by rich, large-bottomed, little accountants who have nothing better to do than terrorise their clients.

Our task is intensified by the fact that the general tradesperson will linger for many months before seeking the help of an accountant, often prompted only by a hostile

letter from the tax office demanding immediate attention to outstanding matters.

Enter: the accountant

Of course, it is no fun being an accountant when you are faced with the arduous task of explaining to the young tradesperson that the current lifestyle has ended and every effort must now be applied to working hard to pay a debt that was accumulated over time.

Also, another great debt must be budgeted for, because the greater the profit made, the greater the amount is owed to the taxation department for personal tax. The super guarantee charge for unpaid superannuation is not tax deductible, the personal tax for prior periods is not a tax deduction and current commitments must be honored. Added to this is the fact that the incorporated entity is now operating insolvent knowing that it cannot pay its' debts as they fall due.

In the process, the tradesperson's own personal tax situation will have resulted in a much higher outstanding tax debt than if the tradesperson had been a sole trader entity, because the tradesperson would have been emptying the incorporated entity bank account

for personal expenditure. The company would have losses to carry forward and the tradesperson would not be benefitting from any of the non-cash concessions available.

Could this situation have been avoided? There are so many things that could have operated differently.

Why does the entity have to be an employer to pay WorkCover insurance? This seems to be the main justification for dealing with an incorporated entity only. The whole scenario would change if the sole trader had access to WorkCover based on their own income of prior years.

Why does the 'deemed worker' become the responsibility of the contractor? Why can't the worker be responsible for their own obligations? Why can't compulsory super be imposed on the sole trader and partners in a partnership? It is the same for trust distributions.

Why doesn't the ATO act faster with notifying people and entities of their obligations? Why allow them to not lodge for such a long period of time? The BAS is due monthly/quarterly/annually each with a lodgment due date. Why doesn't the tax office send out their hostile letter when that BAS is just two weeks' overdue? Why does it allow a debt to accrue to such a large amount before acting?

Why is nothing done before the tradesperson has reached the brink of bankruptcy? Not forgetting that there is very often a whole family affected by this situation.

Accountants are only in a position to help their client when the client has sought their help. What help can we give them? We have an obligation to advise the client of their tax liabilities and their compliance obligations. We can work with them and show them how to budget for their living expenses. We can explain how the tax system works. We can advise the client when they have a lodgment due and work with them to make sure this happens at the right time.

I did develop ways to deal with my clients to make them more aware of their obligations and more responsible with their lodgment requirements. It meant I had to tell little white lies. I literally mothered them. All this takes time to achieve and the clients have to want this service to appreciate it. But this still made me the enemy because the clients felt I was the one inflicting the tax debts on them and let's face it, "My mate in the pub doesn't pay tax".

Register of members

The following list updates the Membership Register of the Institute of Public Accountants. The board of directors extends congratulations to all new members and to those who have advanced in status

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Pushpakumara
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