



THE PRACTITIONER'S VIEW

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TECHNICIAN TRAINING PROGRAM - UPDATE

The last newsletter referred to a technician training program ("ACIA"), offered through the BC Institute via the internet, for non-CA students who are employed by practicing firms.

There has been considerable interest in this program judging from the number of requests for packages of information. The Institute had a couple of calls from individuals who encountered problems with registration; apparently, not all ICABC staff were advised that the program is available to those outside western Canada. This lack of communication has now been addressed; however, please contact Wenda Bennett at the Institute if you have any questions relating to this or other aspects of the ACIA program.

THIRD PARTY CIVIL PENALTIES

Despite strong arguments made by the CICA on behalf of Canadian CAs, the federal government's Bill C-25 received Royal Assent on June 29, 2000. A copy of the CCRA press release is attached.

The Nova Scotia Institute supported the CICA's efforts to have the legislation withdrawn or significantly amended. While the Bill was enacted, a number of changes were made from the original legislation, and the CICA has made both the Finance Committee of the House of Commons and the Senate Committee on Banking, Trade and Commerce aware of its continued opposition. As indicated in the press release, the CCRA has agreed to continue consultations with the CICA and other interested practitioner groups, and has agreed that no penalties will be imposed until consultations are completed and the guidelines are in place, which likely will not be before December 31, 2000.

Through the CICA, ICANS continues to seek assurance that the eventual guidelines and use of a headquarters committee will ensure that civil penalties will be reserved only for the most egregious cases, and the CCRA will further ensure that the penalties will not be wrongly used as a threat against appropriate tax minimization strategies.

DEFERRAL OF APPLICATION OF CICA HANDBOOK SECTIONS

The Accounting Standards Board (AcSB) of the CICA has approved the **deferral of the effective dates** of certain Handbook requirements for **enterprises other** than public enterprises, co-operative organizations, deposit taking institutions and life insurance enterprises to fiscal years beginning on or after **January 1, 2002**. The deferred Handbook requirements are as follows:

- Recommendations in INTERIM FINANCIAL STATEMENTS, Section 1751
- Recommendations in paragraphs 3680.18, 3680.24, 3680.31 and 3680.78 of the FINANCIAL INSTRUMENTS – DISCLOSURE AND PRESENTATION, Section 3860
- Recommendations in INCOME TAXES, Section 3465.

The Recommendations in new Section 1751 (a revision to existing Section 1750) are planned to come into effect for fiscal years beginning on or after January 1, 2001. The deferral of the effective date is essentially for small business enterprises.

The deferral of the various paragraphs in Section 3860 Financial Instruments – Disclosure and Presentation, is a continuation of a previously announced deferral. **Members are reminded that the remainder of Section 3860 (credit risk, interest rate risk, etc.) remains in effect.**

Section 3465 – Income Taxes (*future income taxes*) – was introduced in December 1997 and scheduled for implementation for fiscal years beginning on or after January 1, 2000. As always, earlier implementation was encouraged. **The deferral maintains the status quo for two additional years.** Accordingly, Superseded Section 3470 – Corporate Income Taxes (*deferred income taxes*) – remains in effect for those entities that have not already opted for earlier implementation of Section 3465 – Income Taxes. **Existing disclosure requirements (Significant Accounting Policies) of the choice selected for accounting for income taxes remain in effect.**

The effective date of these requirements was deferred to allow the AcSB to consider and debate the recommendations it expects to receive from the Small Business Advisory Committee in the fourth quarter of 2000 on how to deal with differential reporting.

FUTURE INCOME TAXES – SELF STUDY COURSE

CICA has produced a self-study course and guide, to assist practitioners understand the very complex issues and major changes introduced in section 3465. The 350-page guide is

comprised of 12 modules providing detailed coverage on subjects such as determining temporary differences, intraperiod tax allocation, loss carry forwards, etc. The appendices provide comparisons with superceded Handbook sections 3470 and 3471, as well as providing comparisons with the US SFAS 109 and the International Standards IAS 12.

The course material may be ordered through the CICA order department (www.cica.ca/Order) at a cost of \$60 for members.

NOT-FOR-PROFIT ORGANIZATIONS

(The following article is reprinted from the ICABC Newsletter – Issue 2000/02)

The issue of varying appropriate accounting principles for not-for-profit (NFP) organizations was resolved with the introduction of CICA Handbook 4400-4600, effective for fiscal years commencing on or after April 1, 1997. While these standards have been around for a while, there are still a number of misunderstood aspects.

Some organizations that should be reporting under the NFP section are reporting under some other standard. The new Handbook sections apply to not-for-profit organizations, which not only include the typical charitable organization but **also include** labor unions, professional bodies, social and recreation clubs, golf clubs, and condominium corporations, among others. CICA Handbook section 4400.02 states, *“Not-for-profit organizations are entities, normally without transferable ownership interests, organized and operated exclusively for social, educational, professional, religious, health, charitable or any other not-for-profit purpose. A not-for-profit organization’s members, contributors and other resource providers do not, in such capacity, receive any financial return directly from the organization.”*

Implementation of the Handbook recommendations has been a major accomplishment for many organizations. Areas where improvements are often still needed include:

- Description of purpose of each fund where not self explanatory (4400.06).
- Disclosure of the basis of revenue recognition (deferral or restricted fund method)(4410.21) *note*: government funding based on an approved budget is a form of restricted contribution even if used for general purposes – refer to CICA Handbook section 4400.A1 for an example of this.
- Description of external restrictions (4400.26, .28). Desirable, though not mandated, is a description of internal restrictions (e.g. *“Board of Directors internally restricted \$25,000 of unrestricted net assets to be used for research purposes”*).
- Inter-fund transfers reported in the statement of net assets require disclosure for the amount and purpose of the transfer, and the terms and conditions of any outstanding inter-fund balances

or loans also need disclosure (4400.12 -.14 – often accomplished through a note).

- Controlled and related entities – the definition includes an economic interest in another NFP organization (4450.10) and therefore these entities also need to be reported on in the financial statements.

REAL PROPERTY TRANSACTIONS

The Nova Scotia Real Estate Commission has requested that the Institute remind Chartered Accountants to be mindful of certain provisions of the Real Estate Trading Act if they are assisting clients in the disposition of their businesses.

The Real Estate Trading Act defines “real estate” to include not only real property (including leasehold property or any interest therein) and also defines “trading” to include “any act, advertisement, conduct or negotiation, directly or indirectly, in furtherance of any disposition, acquisition, transaction, offer or attempt”.

CAs are often asked to assist clients in determining the value of their businesses, and to provide tax advice and other valuable assistance in the most appropriate means of disposing of the investment. Many of these clients have developed long-standing relationships with their professional accountants, and rely heavily on them for this service.

The Commission recognizes the critical role played by CAs in assisting their clients and encourages our profession to continue to do so, but is of course also obligated to carry out its self-regulatory function. It is important that CAs are aware of the Real Estate Trading Act in serving their clients’ needs, and take the necessary steps to ensure that they do not inadvertently violate its provisions.

A copy of the Act is available at www.gov.ns.ca. Members are also advised that they may wish to seek legal advice in determining how the Act may impact their services.

FORM 20 ENGAGEMENTS - INCREASED SCOPE (AND RISK?)

Further to the article appearing in the December 1999 Practitioners View, the Nova Scotia Barristers Society (“NSBS”) recently amended its regulations to require lawyers who have sole signing authority or sole control over estate and other similar funds to include them in the scope of their annual Form 20 Reports for funds received after December 31, 2000.

These new regulations may have a significant impact on lawyers who presently handle client funds which are presently subject to Form 20 reporting, both in terms of the scope of the annual report but also on the required changes to present accounting and control systems.

Information will be distributed by the NSBS to all practicing lawyers in Nova Scotia, and a session will be provided at the upcoming Practitioners Forum on October 13.

UNPAID FEES – A CLIENT’S ENTITLEMENT

(The following is adapted from an article by G. A. Urquhart, Q.C., Michael J. Hewitt from the ICABC Newsletter – Issue 2000/01)

The question often arises as to whether an accountant whose fees are not being paid satisfactorily is entitled to withhold reports and other work products until paid. The answer generally is yes, but it is not so in every case.

The Engagement Agreement

Hopefully, when a dispute over fees and entitlement to information arises, it will be covered by the accountant’s engagement agreement.

If an accountant has no engagement agreement at all, or if the agreement does not address the rights of the parties in the event of non-payment, those rights ultimately will be subject to interpretation by a court in light of industry standards, the nature of the relationship, the surrounding circumstances and the applicable legal principles. It is difficult to predict how those factors will be balanced in different situations and therefore it is advisable to provide for certainty through a well-drafted engagement agreement.

Ownership of the File

There are certain legal principles in place to determine ownership of various aspects of the file in the event that the agreement does not provide for it. Most of those principles are simply based on common sense. If the accountant has created documents for the client’s purpose and has been paid to do so, then the documents belong to the client. In contrast, the accountant’s own internal records and materials prepared for the accountant’s purposes, including working papers, remain the property of the accountant.

Accordingly, regarding the sort of information that would become contentious, ownership would turn largely on the question of whether it is paid for.

Implied Terms of the Agreement

If there is an engagement agreement in place but it does not provide for rights upon a dispute arising, the courts will consider whether the agreement contains any “implied terms”. This consideration will involve looking at different aspects of the agreement, as well as the reasonable expectations of the parties at the time they entered into the agreement. The reasonableness of the parties’ expectations will in part be determined by the immediate circumstances. If the client is under a deadline or economic pressure to produce the results of the accountants work, the accountant’s pre-emptive demand for fees may be viewed as unjust.

When determining whose expectations are reasonable in particular circumstances, the Court also might consider whether the fees being charged were predictable. If they fall within a budget, the accountants demand will be viewed as much more reasonable than if they do not. Similarly, if the client receives warning that the demand for payment is coming, for example because payment is overdue, the accountant’s demand will be viewed as reasonable.

The Best Course

As noted above, there two basic components to a successful strategy intended to avoid messy fee disputes altogether and, when they occur, to put the accountant in the best legal and bargaining position without compromising any professional obligations.

The first is to obtain a written agreement from the outset with clearly drafted provisions setting out the client’s duty to make payment, the accountant’s duty to give notice, the accountant’s right to refuse to release the material for non-payment, and the parties’ proprietary rights in the event of non-payment of fees.

The second key to conducting oneself in this regard is to actually provide timely and clear notice of your intentions. This includes invoicing the client in a timely way and following up on invoices with reminders that explain in no uncertain terms the consequences of nonpayment.

Conclusion

The simple answer to most of these issues surrounding whether an accountant should release work product is that you are not required to work for free. However, the terms of the accountant’s agreement with the client, either express or implied, will determine whether the withholding from a legal standpoint is appropriate or not. In most instances, any professional is entitled to withhold delivery of their services for non-payment of fees. The caveat on that statement is that the withholding depends on the contractual terms of the engagement agreement.

AVOIDING CONDUCT COMPLAINTS - SEVERING YOUR OBLIGATIONS

You and your client are in a heated dispute over last year’s fees. You know you’ve given good value for service, but the client had not been prepared for the cost or is not satisfied with the result. It’s pretty clear to you that the relationship is over, either through actions or through conversations which have occurred. You accept the fact that you’ve lost a client, these things happen, and move on.

It is now nine months later. The client, who relied on you to advise on HST, income tax and other filings or remittances, now realizes that several deadlines have passed and he or she is subject to late payment fees, interest, and other penalties. What does the client do? Many times, the client telephones the Institute’s Executive Director: “CA always looked after filing my returns. It was unprofessional conduct

for CA to miss that deadline, and now its cost me money. I want CA to pay the costs. I want to file a complaint!"

While few of these calls eventually result in extended conduct investigation, you can avoid the time wasted and aggravation that may result by the simple act of writing the client a letter to formally terminate the client relationship. The letter makes it clear that you will no longer be responsible for these future services and the client must make other arrangements.

While tax and other services are sometimes viewed as non-recurring, in practice, such work is continued from year to year, and no engagement letter is prepared to clarify the nature of the engagement.

Despite the obvious temptation, you should terminate the relationship sufficiently far in advance of any filing deadline that the client is able to make necessary arrangements.

Deliberate use of a deadline as a means of trying to force payment from an unsatisfied client may be viewed as professional misconduct.

BEST PRACTICES FOR AUDIT EFFICIENCY

The September 2000 issue of the *Journal of Accountancy* included an article on audit efficiency, which is timely since many firms are now starting to plan for the busy season.

The AICPA commissioned a survey on best practices in audits of not-for-profit entities. The NPO sector was targeted because it poses particular challenges to audit efficiency, given the fact that NPOs often have lean operations and little if any accounting staff expertise. However, the best practices uncovered can be applied to audits in any field.

The survey revealed four important steps to achieving audit efficiency:

1. Manage and train the client. Auditors work best when clients provide them with the data they need – separate assistance from auditing. Some strategies for ensuring clients are prepared for their audits include:

- Provide explicit lists of what is needed with clear examples and due dates.
- Charge for preparation work you must do and mention the extra charge in the engagement letter.
- Discount the fee when proper preparation is performed.
- Reschedule fieldwork if the client is not ready.
- Start with basic expectations, and then add more responsibility each year.

2. Retain clients and staff. Greater familiarity with a practice area and a client enable firms to streamline their audit approaches.

- The firm can offer clients valuable advice on best industry practices and perhaps charge premium fees.

- Always look ahead; at the end of an audit, when you deliver the report, also deliver your next year's engagement letter – it will probably be signed and given right back.

3. Plan properly.

- Review the prior year's working papers to become familiar with client issues and to seek out past inefficiencies and possible improvements. *The key here is to identify, at the end of each audit, problems encountered and planning suggestions for the following year, and to require that this be an integral part of the file completion process.*

4. Assess risk. Correlating audit efforts to the levels of risk and materiality help increase efficiency.

- Strive to cut out procedures in low risk areas and focus instead on the problem spots.
- Try to use more analytical procedures and do less transaction testing because it saves time, uncovers what isn't there instead of focusing on what is, and leads to a deeper understanding of the client's business. Areas in which analytical tests have replaced transaction testing and saved time include:
 - i) rent payable (paid), rent receivable (received)
 - ii) interest income, depreciation
 - iii) payroll and payroll taxes
 - iv) revenue, postage expenses re direct mail fundraising
 - v) supplies, professional fees
 - vi) prepaid expenses (rent, insurance)

Overall time efficiencies - Quick tips:

- i) complete the audit in the field, including all reviews of the working papers, clearing queries, and producing the draft report and management letter (saved 20% to 30%).
- ii) standardize the format and flow of the working papers, and cross-reference.

QUOTATIONS

Change has considerable psychological impact on the human mind. To the fearful it is threatening because it means that things may get worse. To the hopeful it is encouraging because things may get better. To the confident it is inspiring because the challenge exists to make things better. – K. Whitney as quoted by the Wall Street Journal.

SUGGESTIONS?

If you have any suggestions about information you would like to see included in future issues, please feel free to contact Wenda Bennett, CA at the Institute wbennett@icans.ns.ca.