

Restoring the Accountants Exemption

IPA Eastern Discussion Group – Wantirna
Submission

Accountants Exemption what was it pre 30 June 2016

Enabled highly qualified tax professionals to guide clients through their professional and independent review of the client's circumstances to gain the best possible outcome following guidelines to minimising tax via superannuation and SMSF education and guidance. Set up and close and convert from accumulation to pension in general make practical tax and financial decisions.

Accountants Exemption post 30 June 2016

Absolute confusion both with professionals and regulators as to what was allowed and not allowed a multitude of information and misinformation as to the types of discussions and dealings that professionals could have with their clients.

Prefaced by conversations with clients that usually ended with what I could discuss with you before 30th June 2016 as at 1st July 2016 we as a profession are not allowed to discuss in the future.

Result clients that could not or perceived they could not afford financial advice simply did not get any advice and therefore slipped through the cracks in the system.

Post Royal Commission

Some of our largest financial planning institutions including banks held to account over anything from indiscretions to downright illegal activities over many years a lot of which was glossed over by the regulators.

General reaction is seeing massive hikes in education requirements additional costs and huge increases in licencing fees in the financial planning industry. Limited licences will fall out of favour as it will be uneconomical to sustain them with the increases in education and fees.

Restoring the Accountants Exemption

IPA Eastern Discussion Group – Wantirna
Submission

Banks are opting to sell off their financial planning arms, and sole trader financial planners have in many cases been advised that they will not survive unless they join with larger practices and have a certain value based book of clients.

Once the dust settles

Mum and Dad investors, in general any small investor, retirees or those looking for assistance transitioning elderly relatives to nursing care will be priced out of the market unable to afford even the most basic of advice.

New start up business or small business retiring selling or trying to estate plan will not have access at affordable prices to quality advice.

1725 advisors exited the sector in July 2019 alone the model which has been adopted is similar to the UK where 80% of advisors existed the Advice Sector.

Due to the lack of factual guidelines what is tax advice and what is financial advice it is unclear as to what is a breach and professionals on both sides tax and planning walk a tightrope of inadvertently transgressing.

Do Public Practice Accountants wish to give full Financial Planning Advice

In general, Public Practice professionals seek to guide and educate their clients in best tax options which since 30th June 2016 has been blurred by the superannuation and self-managed super funds being declared financial products.

Accounting professionals seek to be able to guide and educate their clients and be allowed to have generalised factual discussions without fear of reprisals on a multitude of subjects which have a strong nexus to the provision of tax advice including superannuation and self-managed super funds. When it comes to product, legal or credit advice then we guide clients to an appropriate group or groups or individuals that they can seek specialised advice through.

Restoring the Accountants Exemption

IPA Eastern Discussion Group – Wantirna
Submission

However, at the current level of fee increases for those few advisors opting to stay in the advice sector the general population may be priced out of financial planning advice.

Streamlining and common sense must prevail to ensure a sustainable outcome for the majority not just a privileged few.

There does not appear to be any evidence that the Accountants Exemption was systematically abused prior to 30th June 2016 and with reference to our code of conduct this should continue to be the case.

Code of Professional Conduct

A dynamic code

Current position

- 6.1 The Code of Professional Conduct is set out in Part 3 of the *TASA*. It is inextricably linked with the object of the *TASA* in ensuring "*that tax agent services are provided to the public in accordance with appropriate standards of professional and ethical conduct*".¹
- 6.2 The Code regulates the personal and professional conduct of tax practitioners. In doing this it ensures that the duties owed by tax practitioners provide confidence to consumers,² as well as broader responsibilities providing confidence to the community and the tax system as a whole.
- 6.3 The Code consists of a list of core principles which are grouped into five categories:
 - honesty and integrity
 - independence
 - confidentiality
 - competence
 - other responsibilities.

¹ Section 2-5 *TASA*

² Paragraph 3.10 of the EM

Restoring the Accountants Exemption

IPA Eastern Discussion Group – Wantirna
Submission

6.4 Section 30-10 of the *TASA* contains the Code consisting of the following 14 items, listed under 5 key principles:

Honesty and integrity

(1) You must act honestly and with integrity.

(2) You must comply with the taxation laws in the conduct of your personal affairs.

(3) If:

(a) you receive money or other property from or on behalf of a client, and

(b) you hold the money or other property on trust;

you must account to your client for the money or other property.

Independence

(4) You must act lawfully in the best interests of your client.

(5) You must have in place adequate arrangements for the management of conflicts of interest that may arise in relation to the activities that you undertake in the capacity of a registered tax agent or BAS agent or tax (financial) adviser.

Confidentiality

(6) Unless you have a legal duty to do so, you must not disclose any information relating to a client's affairs to a third party without your client's permission.

Competence

(7) You must ensure that a tax agent service that you provide, or that is provided on your behalf, is provided competently.

Restoring the Accountants Exemption

IPA Eastern Discussion Group – Wantirna

Submission

(8) You must maintain knowledge and skills relevant to the tax agent services that you provide.

(9) You must take reasonable care in ascertaining a client's state of affairs, to the extent that ascertaining the state of those affairs is relevant to a statement you are making or a thing you are doing on behalf of a client.

(10) You must take reasonable care to ensure that taxation laws are applied correctly to the circumstances in relation to which you are providing advice to a client.

Other responsibilities

(11) You must not knowingly obstruct the proper administration of the taxation laws.

(12) You must advise your client of the client's rights and obligations under the taxation laws that are materially related to the tax agent services you provide.

(13) You must maintain professional indemnity insurance that meets the Board's requirements.

(14) You must respond to requests and directions from the Board in a timely, responsible and reasonable manner.

Restoring the Accountants Exemption

IPA Eastern Discussion Group – Wantirna

Submission to strongly support its restoration to its existing or enhanced modified format

Accountants Exemption - pre 30 June 2016

Prior to the removal of the accountants exemption, highly qualified tax professionals with many years of industry & practical experience coupled with extensive knowledge of their client's personal situation were able to guide, explain and advise these very clients on the mechanics of superannuation, use of an SMSF structure, (including establishment and wind-up) and discussions around how and when to convert from an accumulation to pension phase. All this was achieved using years of historical client knowledge and an in-depth understanding of their employment, business, personal & family situations. This holistic guidance was considered critical to the clients entire accounting and taxation advice requirements and was highly valued and most certainly appreciated. Our rights were abruptly terminated with the totally unnecessary removal of the accountant's exemption at midnight on the 30th June 2016.

At this time the entire accounting profession knew this was the wrong decision, but by pure nature of an accountant, we were respectful, conservative and accepted the umpires decision. We accepted the changes and dealt with the blow we were handed, knowing that ultimately this action would be detriment to our clients, our profession and our businesses.

Well enough is enough!

Our industry has been (and is currently) going through many changes, some necessary and some unnecessary and 3 years on, it has been proven that the removal of the accountants' exemption was absolutely detrimental and unworkable.

Hard-working, honest, public accountants are dealing with the fallout of this horrendously inappropriate legislative restriction, all at the expense of our clients. Clients are the ones missing out, the clients who trust us, lean on us and respect our advice and are genuinely concerned for their entire business dealings and feel they are being left out in the cold. They request our expertise each time they phone or meet for an appointment and as soon as the conversation turns to SMSF, superannuation, contributions or pensions our barrier must go up and we cease talking, cease engaging and ultimately cease providing the advice the profession has been providing to client for generations. It is this holistic and trustworthy advice that has earned our profession the title of 'trusted advisor'. With the removal of the accountant's exemption, the 'trust' behind this title is being rapidly eroded. If the clients do not have a trusted advisor to turn to, who will they seek their advice from; their friends, family, their mates at a BBQ. This is a dangerous path to send our clients down, and we have the removal of the accountant's exemption to blame for this. The accounting profession is in turmoil since the removal of the accountant's exemption.

Restoring the Accountants Exemption

IPA Eastern Discussion Group – Wantirna

Submission to strongly support its restoration to its existing or enhanced modified format

Accountants Exemption - post 30 June 2016

Post 30th June 2016, there is now absolute confusion both with professionals and regulators as to what is and is not allowed in terms of advice and conversations we can have with our clients. Our clients have become suspicious and confused with our position and our motives when we end conversations with "I could discuss this with you before 30th June 2016 but sorry since 1st July 2016 I can no longer talk to you about this". It is only too obvious to see why clients are leaving accounting firms in droves, confused and hurt after being rejected the advice they have always been provided by their 'trusted advisor'. Our offer for them to seek financial advice from a planner, are met with a snigger and sarcastic comments, "sure, if you can find me one, I can trust". Ultimately the client is making the default decision not to seek the financial advice and are now chancing their future on no advice whatsoever or at best, the discussion they had over the fence with their next door neighbour.

Do Public Accountants wish to give full Financial Planning Advice?

Absolutely not. There is most certainly a place for financial planners in the holistic client advice space. Accountants lack the experience and product knowledge to provide comprehensive Financial Planning advice and this should absolutely be left to the appropriately qualified financial planners. However, the general superannuation, contributions, SMSF, accumulation and pension advice should be the sole responsibility of the 'trusted advisor', the accountant. It is critical to call on the accountant's wealth of client knowledge to provide the most appropriate advice suitable to their situation. As Accounting professionals we seek our clients best interest to guide, educate and advise our clients and we should be able to do so without fear of reprisals on a multitude of subjects which have a strong nexus to both the provision of tax advice and the provision of financial advice.

With the current advisor numbers dramatically falling and evidence of over 1700 advisors having left the industry in the last quarter alone, it is more evident that the accountant, the trusted advisor should be left unrestricted to provide the advice we have been providing for decades and which our clients have trusted, respected and relied upon.

Accountants have earned the title "trusted advisor", our clients recognise this, the public recognises this, the financial planners even recognise this, it is absolutely evident and well overdue for the Government and regulators to do what they know is the right thing to do and reinstate a revised 'accountants exemption'.