

Can accountants be financial planners?

Accountants perform a variety of tasks for their clients but they have traditionally been reluctant to enter the area of financial planning. As **TONY NEGLINE** reports, this situation is slowly changing.

Financial planning in Australia first began to appear in about 1983 when the then Labor Government made dramatic changes to the taxation of superannuation benefits.

Twenty years ago the percentage of the population with knowledge about financial markets was low. Even today this knowledge is not widespread. Moreover knowledge of the regulatory system controlling financial products in Australia has never been as strong as knowledge about successfully buying and selling real estate.

When you tack onto this a range of other problems which consumers have such as generating an income in retirement, protecting assets on death or disablement, building wealth, getting the fattest possible cheque from the social security system and so on it is not hard to see why investors look for someone - at times almost anyone - with knowledge of the system to guide them through their problems.

For reasons best known to themselves accountants in public practice have tended to be indifferent about personally providing this type of advice and so investors have had to look elsewhere for assistance. Life agents or brokers were able to solve some lower level problems but typically agents or brokers mostly did not possess the level of skills and knowledge needed.

As a result a new service supplier quickly filled the gap and called themselves "financial planners".

Accountants have always had vexed relationship with financial planners. Some accountants have been particularly concerned about what they see as the poor quality of work done by planners. Many accountants have a strong suspicion that planners place solving the clients'

problems below their own personal gain.

Nevertheless financial planners have always seen themselves as more educated (and hence more competent) than life advisers even though for some years they actually operated, more or less, under the same ineffective semi-self-regulatory and supervisory system that used to be applied to life advisers.

In the mid to late 1980s a licensing regime came into effect for those wishing to deal in securities and over-time this began to cover more and more products. Financial planners typically had to be licensed under this regime. Accountants were exempted from this licensing regime if they were providing 'incidental advice'.

FINANCIAL SYSTEM REFORM

In 1997 the Federal Government accepted a recommendation of the Financial System Inquiry (also known as the Wallis Inquiry) that life agents, brokers and financial planners and others - such as stockbrokers - should have a new single regulatory regime which applied to all similar activities. This was, in effect, the end of life agents because all activities were to be regulated via licensing.

The licensing regime became known as the Financial Services Reform provisions. The legislation and its administration has caused significant controversy and been extremely costly for all concerned. Practising financial planners find complying with all the legal and ASIC imposed requirements particularly onerous and time consuming.

The Wallis Inquiry said that accountants and other professionals should be exempt from this new licensing regime and again the government agreed with this statement. The Wallis Inquiry took the view that licensing of certain professional activities would not be required if the

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advice was “provided in the context of broader advisory services offered to clients extending beyond the finance sector, often where an adviser has a wide appreciation of the business and financial circumstances of a client”.

Overall accountants and lawyers were reasonably happy with this approach and felt that they had managed to escape licensing. Accountants felt they had more or less kept their current exemption and by continuing to limit their activities to 'incidental advice' - in other words do not provide financial planning services - there would be no need to be licensed. A not insignificant problem however was that no one really knew what 'incidental advice' meant and there was scant assistance from regulators or legal precedent.

COMPLAINTS

In practice accountants took the definition as far as they could whilst financial planners complained that accountants were getting away with activities which required licensing.

During the legislative development of Wallis Committee recommendations, the accounting bodies remained reasonably happy because they were more or less promised the continuation of their then current arrangements.

But then the legislation was introduced into Parliament and it lacked an exemption for accountants. In effect any accountant providing 'advice' as understood by Chapter 7 of the Corporations Act would need to be licensed. The 'incidental advice' exemption was nowhere to be seen.

The government acknowledged this anomaly and promised that appropriate amendments would be introduced during the passage of the legislation through Parliament. However because the parliamentary process is far from perfect (where mistakes all too often happen in the drafting of changes), the necessary amendments actually gave the accountants very little protection from the licensing regime.

APPROPRIATE LEGISLATION

The government acknowledged this new problem and promised to introduce appropriate regulations to cover the hole. (The government was reluctant to try and get legislative amendments through

Parliament because it expected to face opposition in the Senate.)

In due course the necessary regulation-based exemptions were released. To this day the exact nature of the exemption from licensing given to the accounting profession has, in the view of the accounting bodies, never really been adequate and as a result the accountants continue to lobby Canberra to expand the current exemption.

Some of their lobbying has succeeded in several amendments to the exemption.

To help accountants understand their responsibilities under the Corporations Act, the Institute of Chartered Accountants, The Society of Certified Practising Accountants and the National Institute of Accountants have released a guide – which is available on all the accounting bodies' websites.

This guide has contained approving covering letters from the current and most recent government minister responsible for corporations regulation.

One amendment made to the exemption is to allow accountants to recommend Self Managed Super Funds without coming under the Corporations Act. This exemption does not apply to anyone else.

In the ordinary course of events this exemption would not have caused too many waves however the imminent arrival of Choice of Super Fund has caused some market participants to think again and to lobby accordingly.

SMSFs are growing at a phenomenal rate. The real reasons consumers are showing a willingness for more involvement in the day to day running of their superannuation arrangements have not been adequately researched.

There is a market expectation that SMSFs will be a big winner when it comes to Choice of Super Fund. That is, that once employees can choose where their employer super contributions will be made then a sizeable chunk of people will switch out of their employer schemes and set up their own fund.

Rumours have circulated that the government has been lobbied intensely to get this exemption completely removed. Ironically the accountants have been lobbying just as hard telling the government that the exemption promised to them by Wallis and agreed to by the government back in 1997 remains

unfulfilled and they want the exemption expanded!

Accountants however argue that they don't need to be licensed because, as has been acknowledged, they are professionals whereas financial planners are not. It is common to hear accountants express the sentiment that because they have a bachelor's degree plus (often) have had to do further study as well, they don't need a licensing regime for their traditional activities. It is also common for accountants to deride the competency and academic qualifications of financial planners.

It is anyone's guess what the government will ultimately do in relation to the accountant's exemption.

FINANCIAL PLANNING AS A PROFESSION

Is financial planning a profession? The on-line dictionary Wikipedia says that a profession refers specifically to fields that require extensive study and mastery of specialised knowledge with rigorous training and schooling beyond a basic college degree. Only people can hold professions. It is generally a person's principal way of generating their remuneration. Membership of the profession is often self-restricted and self-regulated.

Financial planning is not a profession. As part of its policy for the 2004 Federal Election, the ALP proposed that all financial planners should have tertiary qualifications. The ALP policy said, “If the financial planning industry wishes to be considered a profession and receive the public recognition that attaches to being a profession, it must, in line with other professions, continue to upgrade its educational standards for all participants.”

At best financial planning is an emerging profession and the purpose behind the recent legislative reforms is to raise the competence and ethical behaviour of the financial planning community.

It will only become a profession if market forces push planners into having more formal qualifications than a diploma. More to the point, robust self-regulation will have to be adopted. In this respect the various member organisations that exist at present have shown themselves to prefer government-based regulation. Perhaps in time this might have to change. ■