

## PRACTICE ADVISORY

### The Case of the CPA Franchisee

(Originally published in D&A Magazine Jan/Feb 2015 – updated November 2018)

The *Dear Advisor* series helps members become better informed about the provisions of the Member's Handbook, including various Bylaws, Regulations, and ethical requirements under the CPA Code of Professional Conduct (the “CPA Code”) and related Guidance.

#### Dear Advisor:

I am looking at changing my career path. I want to have more control over my destiny, instead of working for others. Rather than starting from scratch, I’m thinking of buying an accounting or tax franchise. I may even try to work for an existing one for a few months before I make up my mind. Do you have any information for me to help me evaluate these options?

- *Entrepreneur in Essex*

#### Dear Entrepreneur:

There are a number of issues with your proposal to be associated with an accounting or tax franchise – either working with and/or owning one.

#### Requirement to register a firm

The services that the franchise is providing likely fall under the Bylaw 1.1.53 definition of “providing accounting services to the public.” The provision of accounting or tax services in an expert capacity both fall under this definition. Some examples are provided below to help clarify what is considered to be the provision of accounting or tax services in an expert capacity.

- Bookkeeping services (which are usually considered to involve the preparation or maintenance of an entity’s accounting records up to and including a trial balance, excluding financial statements) are not considered to be “accounting” services covered by this Bylaw definition. However, the preparation of accounting schedules for clients that involve interpretation and coding of types of expenses do qualify as the provision of accounting services to the public, rather than bookkeeping.
- There is much confusion about what is mechanical processing of tax returns *vis a vis* tax processing in an expert capacity. The provision of any tax advice and all corporate and trust taxation services qualifies as the provision of tax services in an expert capacity. So does the provision of advice concerning RRSP contributions, the preparation of many forms and schedules requiring more than very basic knowledge of the Income Tax Act (and possibly accounting), such as Form T776 - *Statement of Real Estate Rentals*, Form T2125 - *Statement of Business or Professional Activities*. The completion of a donation schedule could be mechanical processing.



Also consider what a reasonable observer would think. In many cases, if the public is aware that you are a CPA, they are looking to you to add value — not mechanically process. If the services that the franchise is providing fall under either the Bylaw definition of providing accounting services to the public (or the Bylaw 1.1.53 definition of the "practice of public accounting," which covers assurance services requiring a public accounting licence), then you are required to register a firm with CPA Ontario pursuant to Regulation 10-1 *Firms* and provide these services only through your firm.

### Practising in corporate form

Such arrangements are likely not permitted under Rule 409 *Practice of public accounting in corporate form*. This Rule states a member shall not associate in any way with any corporation engaged in the practice of public accounting. (In the Rules, the term "public accounting" encompasses both Bylaw definitions.) The word "associate" has a broad meaning and does not require a partnership or employment relationship. A franchisee clearly has an association with the franchisor. Accordingly, a CPA cannot practise public accounting or provide accounting services to the public through a franchise, regardless of whether that is done in the CPA's personal capacity or through a professional corporation. The franchise is owned by the franchisor and the franchisor is likely to exercise a degree of control over the franchisee and to place restrictions on the manner of practice that would be contrary to the CPA Code of Professional Conduct.

### Association with non-members

In addition, members must ensure compliance with Rule 406 *Member responsible for a non-member in practice of public accounting*, and Rule 408 *Association of member with non-members in public practice*. When performing services for a non-member, association rules may place you in a position where you take on responsibility for their work and their conduct, irrespective of your intended role.

### Possible relationships

The following items should be considered when entering into a relationship with a non-member to provide any form of public accounting or providing accounting services to the public — whether in franchise, a sub-contractual arrangement, or otherwise:

- You should consider the professional capabilities of the non-members/other practitioners, including their qualifications, reputation, technical competence, experience and integrity.
- If working with another practitioner, a thorough plan should be prepared that documents and supports the extent of your review of the other practitioner's working paper files.
- You must be satisfied that you have access to all information required regarding the engagement including the appropriate authority from management.
- If the role entails that you are the one signing off on the financial statements, then you need to have a direct relationship with the client and have the client provide you with the necessary engagement letter. A contract should be signed between you and the non-member outlining the terms of the engagement and the roles and responsibilities of each of the parties. Consider having a lawyer review this contract.



Remember: At the end of the day, it is your sole responsibility to ensure that you continue to be associated only with work that represents the standards of your practice.

- Advisor

#### Information and Guidance

- Practice Matters articles, such as “Mechanical processing of tax returns,” may also be helpful and can be found at CPA Ontario’s website under *Stewardship of the Profession, Insight/Research, Guidance*.
- CPA Ontario Member’s Handbook can be found at CPA Ontario’s website under *Stewardship of the Profession, Governance*, which provides the complete wording of Bylaws, Regulations, and CPA Code of Professional Conduct.
- For further guidance, members are encouraged to contact a Practice or Member Advisor:
  - Phone: 416-962-1841, ext. 4456 or toll free at 1-800-387- 0735, ext. 4456.
  - Email: [practiceadvisory@cpaontario.ca](mailto:practiceadvisory@cpaontario.ca) or [memberadvisory@cpaontario.ca](mailto:memberadvisory@cpaontario.ca).

As no two situations are identical, CPA Ontario members are responsible for ensuring that their own situation complies with the CPA Code of Professional Conduct, By-law and Regulations.