

It's time for an update in the accounting world

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It's time for an update in the accounting profession. Firstly, the use of the title "accountant" should be regulated; and secondly, while we're at it, it's also time for a tax specialization designation. While our firm is a tax law firm, I personally am a professionally designated accountant working with lawyers day-to-day. Given such, I'm going to tackle these important issues from the lens of an accountant in this short opinion piece.

On December 14, 2018, the media [reported](#) on the conviction of an Alberta "accountant" who had participated in tax fraud. The trial decision can be read [here](#) and the sentencing decision [here](#). Overly simplified, the "accountant" had first been convicted of theft over \$5,000 in 2010. He then received a sentence of 15 months in prison in relation to failing to direct funds obtained from his clients to the Government of Canada (these funds were intended to be credited towards his clients' income tax accounts). On July 14, 2010, the "accountant" was released on a Temporary Absence Permit with two stated conditions:

- (a) *Not to complete any tax returns other than own; and*
- (b) *Absolutely no involvement with any type of tax advice as part of business or employment.*

While he was still serving that sentence, the "accountant" failed to abide by the conditions of his Temporary Absence Permit by completing income tax returns for clients and providing tax advice all under the business name Tax Doctors Corp. The "accountant" purported to have expertise in obtaining tax refunds for clients and ultimately created fictitious losses that were claimed on clients' tax returns thus generating income tax refunds. The "accountant" arranged with his clients to receive a portion of the refunds. While such an arrangement was not a Ponzi scheme, the ultimate impact was similar since he knowingly jeopardized the future financial credibility of and caused severe stress to his trusted clients. The Provincial Court of Alberta found the "accountant" guilty of fraud and was sentenced to six years in prison.

Why am I putting the title "accountant" in quotation marks? Because this man was not a professionally designated accountant. It appears that he was a Certified General Accountant from 1990-2000 but does not appear to have been professionally regulated after that time. After 2000, he continued to advertise to the world that he was an "accountant". There are no prohibitions against this. That is simply wrong. Can anyone call themselves a "lawyer", a "doctor" or a "dentist"? Absolutely not. There are consequences for such misrepresentation. But anyone can call themselves an accountant. This needs to change – it's a matter of public interest and protection.

The average consumer of accounting/tax services should be able to distinguish between a

qualified/professionally regulated accountant and in particular, a person that has specialized – or as a bare minimum – knowledge and experience in taxation matters. I've been vocal about the need for a tax specialist designation for years. More on this later.

In the sentencing decision, the judge made the following comment at paragraph seven of the decision:

[the “accountant”] entered a guilty plea to the charge on October 10, 2008 and his sentencing was delayed until February 19, 2010. This delay was primarily as a result of [the “accountant’s”] own actions. It is important to note the words spoken to [the accountant] by the late Honourable Judge P.M. Caffaro, at his sentencing:

To put it baldly, [the “accountant”] abused his position and betrayed the trust put in him by his various clients. He did this over a number of years and he not only abused the trust put in his professional advantage by his clients, he also involved his wife, who the Crown has specifically said is innocent. He also involved his wife in his nefarious proceedings.

Not to put a fine point on it, he has shown a callous disregard for the feelings, positions, and rights of others and as this Court was reminded by the Court of Appeal in Bracegirdle where there is a moral position involved, the strongest denunciation must be enacted.

Lawyers and accountants hold a special place in society and the trust reposed on them is almost a sacred one. To break that trust is to harm not only the people who are the victims of it, but society in general. [my emphasis added]

I agree with the above statement. Lawyers, accountants, doctors, dentists, veterinarians and other professionals hold a special place in society, and it's a privilege – not a right – to be considered with such esteem. To break that trust is unacceptable.

In reality, there are a lot of unregulated “accountants” who may or may not know a lot about accounting that are providing tax advice. And the public has no ability to easily distinguish whether or not the “accountant” is truly a professionally regulated accountant. In addition, even if the accountant is a professionally regulated accountant, there is no easy way for the public to distinguish whether or not such a professional has sufficient tax expertise and experience to provide the services.

What's the solution? I think the provincial governments should work with each province's Chartered Professional Accountant (“CPA”) body to legislate and restrict the use of the title “accountant”. In addition, I believe the provincial governments should recognize CPA as the only body that can confer professional designations for accountants given the fact that there are other “accounting” organizations that attempt to compete with CPA. There are no competing bodies for lawyers, doctors, dentists, etc. The same should be true for CPA Canada and the companion provincial bodies.

Both of the above initiatives – restricting the use of the title “accountant” to only CPAs and prohibiting competing bodies to CPA Canada – would be a step in the right direction toward protecting the public interest. At least the average person should be able to trust that a person who calls themselves an accountant, truly is, and that consequences exist for those who falsely claim themselves as one.

And what about tax services? In my opinion, tax is one of those topic areas that you can't simply dabble

in. If you do and you're a lawyer or professional accountant, you have the potential to make a lot of mistakes often felt by clients directly. And, again, the public has no ability to distinguish easily whether or not the professional has sufficient tax expertise or training. Google searches are likely not helpful since many, like those claiming the "accountant" title, can also profess tax expertise where in reality they may not have sufficient expertise nor training.

I believe that a tax specialist designation should be brought to Canada that is supported by CPA Canada and the legal profession. Why? Ultimately for the similar public protection reasons as discussed above. Right now, anyone can call themselves a tax specialist including many professionally designated accountants. That's wrong. In our firm, we have seen firsthand when a client originally hired someone who attempted to tackle a tax matter outside of their expertise. Who pays the cost of the clean up (usually in the form of increased professional fees and sometimes increased taxes, penalties and interest)? The client. If the public had a way of identifying who truly was a tax specialist – that had met minimum educational, experience and professional standards – then I believe the public would be better informed and ultimately better protected.

In May 2018, I wrote an article about this subject and published it on my LinkedIn account that can be viewed [here](#). It goes into more detail about the reasons why I think a tax specialist designation is long overdue.

A tax designation – with companion compulsory quality control reviews of tax files that need to be reviewed by the designation granting body on a regular basis (with consideration given to publishing the results that would be generically available to the public) and searchable databases to help identify qualified members – should be a requirement to ensuring quality tax services are being provided to the public by qualified professionals.

If the use of the title "accountant" and the introduction of a tax specialist designation gets done, would it prevent cases like the Edmonton "accountant" stealing money from his clients or preparing false tax returns? No. There will always be bad apples who can cleverly game the system. But will the public be better protected and informed than it is today? The answer is a clear "yes." And it needs to happen.