CPA Practice Advisor

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FIRM MANAGEMENT

What Accountants Need to Know About Professional Liability Insurance

There are a great many choices when it comes to accounting insurance. Sometimes, wading through the choices is such a chore that many busy professionals are tempted to simply go without insurance and chance a lawsuit.

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It's ironic that a profession dedicated to minimizing financial risks is so fraught with risk. While many business owners worry about liability and property risk — especially in the immediate wake of Hurricanes Harvey and Irma — insurance for accountants usually means professional liability insurance, which is often referred to as errors and omissions (E&O) or malpractice insurance.

There are a great many choices when it comes to buying insurance for an accounting firm. Sometimes, wading through the choices is such a chore that many busy professionals are tempted to simply go without insurance, believing they have minimal risk, or buying the lowest cost solution.

A specialty insurance broker, who knows both you and the industry, is invaluable here. Shopping for insurance on your own is very time-consuming and can be futile as insurers often require a broker. From the CPA's perspective, engaging a knowledgeable broker is only to your advantage. There is zero cost commitment to you, and you may even get educated on your risk factors along the way. A specialty broker who deals in professional liability insurance for CPA's does all the legwork, so you can focus on adding to your clients' bottom lines.

The Risks

Claims or Potential Claims against CPAs often happen to even the finest of practitioners. If something goes wrong for your client, that client will often look to nearby deep pockets to recoup costs, regardless of how strong your work was. In our litigious society, frivolous claims are common place as it costs almost nothing for a plaintiff attorney to accuse the CPA of wrongdoing. The profession has been fraught with claim payments, attorney expenses, and fees for expert witnesses despite doing work that is near perfect.

The Top 100 U.S. CPA firms have claims alleged against them at an alarming rate, despite having world-class resources for client selection, tax adherence, auditing standards, fraud detection, and in house general counsel to defend them. Even with all of these resources, a mere frivolous claim is a massive distraction. One of the most unavoidable issues is reputational risk and the burden that a claim brings. Adhering to client needs is difficult enough. The last thing any CPA needs is a lawsuit over their head and worrying if they have the proper financial backstop to handle the matter.

CPA lawsuits are nearly always expensive and protracted. In addition to the expense, the likelihood of a lawsuit is the second significant risk that E&O insurance and help minimize or eliminate. Lawsuits can come from a myriad of sources, such as:

- Alleged errors,
- Professional negligence,
- Breach of professional duty,
- Misleading or misinterpreted statements, and
- Performance-related claims.

Professional Duty

The low evidentiary threshold is even lower in many accounting insurance cases, if the accountant has a fiduciary duty to the client. Basically, this duty applies if there is a high degree of trust in the accountant-client relationship. Some examples include:

- Estate trustee, administrator, or personal representative,
- ERISA plan adviser, and
- Investment adviser or stockbroker.

In other accounting malpractice cases, the practitioner must exhibit a reasonable professional standard of care. Despite their best efforts and work, the CPA can easily be proven to have breached this reasonable professional standard, particularly in front of an aggressive plaintiff counsel or expert witness. This is yet another pitfall leading to financial harm.

Types of Accounting Firm Insurance Policies

While CPA professional liability policies have improved and broadened over the years, not all policies are created equal. It is important to keep in mind that oftentimes you get what you pay for.

The largest writer of CPA malpractice insurance is through the American Institute of CPAs (AICPA) plan, however it does not necessarily equate to being the best policy or the best value. Other insurance providers such as Camico, Aspen, Liberty, Navigators, Hiscox and others provide a broad form policy with favorable pricing.

The industry has also seen certain low cost provider programs come in and out of the industry, often leading to many dissatisfied customers. Insurance policies can be differentiated by key language in the policy form including the definition of Professional Services, definition of Claim, key exclusions and the insuring agreement overall. The difficult part to ascertain is the quality of claims handling, commitment to the industry and ancillary benefits.

Most every policy is written on a Claims Made basis, meaning that the claim attaches to the policy period in which it was reported. For a new buyer, this can be a confusing concept, which is yet another reason that engaging a strong, trustworthy broker can be good for your education.

Minimizing Insurance Premiums

In the insurance business, premiums are based on risk that is driven by the revenue of the CPA firm, the location, number of practitioners, areas of practice, clientele and claims. As you would imagine, premiums will be a little higher for certain CPAs.

For example, the same CPA firm in California will pay a higher rate than a CPA firm in Maine simply because of the litigious nature of the state and increased likelihood of Claim from a statistical standpoint. This said different carriers have different rating models, and shopping the marketplace is advantageous.

If you've dedicated your career to reducing the risk that other people face, reduce your own risk with professional liability insurance for your firm.

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