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Risk in providing accounting services in the context of new regulations regarding liability insurance (OC) in Poland

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Abstract: In the present economy, it is essential to access to the correct information coming from the market. The source of such information is financial statements of entities, prepared in accordance with accepted accounting principles and ethical behavior requirements.

The rapid evolution of solutions conducive to the fulfillment of these expectations requires professionals involved in accounting to engage in continuous learning in order to maintain the high quality of knowledge and experience. Notwithstanding this, correct implementation of separate processes also requires constant cooperation between the customer and the accounting office. Otherwise, both parties are at risk. A way to reduce this risk is mandatory liability insurance (OC) concluded by the accounting service providers in order to protect themselves from the consequences of error and possible claims arising thereof.

The paper presents the key issues related to the practical implementation of services in the field of accounting in the modern economy and presents the risks associated with them in the eyes of customers and accounting offices. Against this background,

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the merits of securing the parties to the concluded contracts in the form of compulsory third party liability purchased by providers is indicated.

Translated by Katarzyna Świetla

Introduction

Over the years, there has been a development of the economy towards demanding more and more specialized offer in goods and services. This phenomenon has also happened in the field of contemporary accounting. It has become a widely understood cluster of processes offered by the professionals providing outsourcing services in the area. Indeed, it has been noted that economic operators do not necessarily have to hire their own employees to serve an accounting department, but this can be carried out by external service providers. Increasingly, the "make or buy" question has been asked. This separation of certain processes and providing the implementation of the service to an external company is called outsourcing.

Dissemination of a positive image of outsourcing accounting does not undermine the possibility of the potential risk of using external services. Interestingly, it is perceived not only by recipients of the services, but also by entities providing them.

The aim of the study is to indicate the rules for the implementation of customer service by accountancy firms, presentation of the risk associated with purchasing services as perceived by the customers as well as through the eyes of representatives of the accounting firms, followed by a discussion of the legal basis and rules of liability insurance for error.

Research methods and the course of the research process

This article reviews the literature on outsourcing in today's economy. Its role in the practical implementation of accounting services offered by large and small entities in this regard is presented in detail. Directions of adapting actions to the expectations of customers are indicated. Then, on the background of case studies' research described in the literature and the Author's own research, knowledge and experience areas of risk perceived by both customers of accounting offices and service providers are discussed. There follows an analysis of ways of eliminating risk, paying attention to the solutions applied in selected countries and stressing the legitimacy of compulsory, additional and extended liability insurance (OC) in Poland as a condition for the security of commerce.

Rules of practical implementation of accounting in the contemporary economy

The demand for services in the field of accounting refers to different market segments. It is common among small and medium-sized entities supported mostly by local accountancy firms, as well as among large capital groups serviced by specialized service centers with a global reach.

Large service centers are most often created to handle specific partners and already at the stage of starting their business, they decide on the directions of their specialization, also supporting the economies of the countries in which they located (McKee, Garner & McKee 1998, 21–29).

Among those present in Poland one should indicate, among others:

- BNP Paribas, which offers clearing and IT services,
- Brown Brothers Harrimann – corporate banking services, investment management, consulting on mergers and acquisitions, asset management, investment services, technical customer support,
- Euroclear – operational consulting in the field of after-sales services,
- HSBC – involved in the credit card services, customer service, financial operations, debt management, HR services, and payment support,
- State Street offers investment fund accounting, valuation of business assets (including securities), valuation of index funds and other derivative instruments, investment analysis, funds maintenance,
- UBS provides support for UBS departments, including: data analysis, operations support, risk analysis, and HR services; IT services: software development, quality control, production support, systems analysis and IT risk analysis,
- Uni Credit (CBB Call Center) is involved with financial, information and sales customer support for Bank Pekao S.A (ABSL 2013a, ABSL 2013b, Świetla 2014, 117).

The area of operation of these entities and their global offer is a derivative of reducing the barriers to international trade in accounting services (White 2001). A somewhat different situation applies to accounting offices operating for the numerous stakeholders from the local market.

The most common operations performed by accountancy agencies include: bookkeeping, tax billing service, payroll management, HR matters and insurance. Some accounting firms provide services related to the conduct of the revenue and expense ledger or support taxpayers on recorded revenue without deductible costs or lump sum tax card – the latter services mainly apply to micro-entities. It is noted, however, that about 80% of the agencies maintain full accounting for their customers whose expectations in this area are increasing (Biura rachunkowe rosną w siłę 2013, 85). This applies particularly to the use of information technology for the integration of processes occurring in the business entities.

Along with changes in the regulation of the accounting, market and technological developments, customer expectations are subject to an evolution, as is the growing need for services and accounting firms to adapt to the new reality. Especially the importance of the development of e-services in accounting is increasing (Gulkvist 2014, 21–29) as it is gaining popularity in the digitalized world.

So far, the need for frequent visits to the accountant's office meant that when selecting a service provider, the customers considered its location, which reduced their choice. In the current era, computers and the Internet allow the customer to safely and efficiently deliver documents to the service provider which makes the distance no longer a problem in dealing with the accounting agency, and bereaves it of the decisive influence on the selection of a particular outside service provider (Jak skutecznie pozyskiwać 2013, Weygandt, Kimmel & Kieso 2013, 24).

It follows that the accounting firms adapt their services to the expectations of their customers by offering an increasingly wider range of services and timely access to the financial records necessary for the proper business decisions. There are several options for satisfying this condition.

Table 1. Basis for immediate access to financial information

Operation	Rules of implementation	Recipient
Separating an element of evidence serviced by the service recipient	partial separation of records to customer service, which is required for normal customer operations, effects periodically transferred to the accounting agency	the customer has access to the documents and records necessary for everyday activities (stock records, turnover data),
Services on the customer's premises	accounting firm employee checks the validity of documents and keeps records on-site,	the customer has access to source documents as well as information already included on accounts,

Operation	Rules of implementation	Recipient
Current information on the telephone	documents are sent gradually by the customer to the accounting agent and processed there,	the customer can access any information from anywhere by contacting agent by telephone (the widespread use of mobile phones),
On-line access	a consistent computer program for the customer and provider where documents are included to date,	the customer accesses their accounting records on-line without involving the agent,

Source: own work based on the opinions of accounting companies and their customers.

In response to the demand from business entities and their financial resources, affordable solutions for supporting accounting records are available on the market, as well as complex systems to support the accounts of major operators with all the modules necessary to conduct multivariate analyzes.

Risk as seen by customers of the accounting firm

Owners or managers of economic units are aware that in the absence of one's own experience concerning accounting, or the lack of funds to employ a full-time accountant, it will be preferable to entrust the process to an external company. At the basis of this decision lies the risk associated with abnormalities that may occur in the financial records – in the case of unawareness of the applicable regulations or their misinterpretation (Chorafas 2007).

The legislation relating to accounting and taxes sometimes contains contradictions in the various interpretations by the tax authorities. On this basis, many entrepreneurs give up self-service entrusting its accounting tasks to specialized entities, thus avoid the risk of self-error. Therefore, it is important to correctly choose the service provider and to remain in consistent cooperation because its effects will not only include properly prepared reports but it will also be the basis for making sound business decisions by the customer.

The most often reported drawbacks of using external accounting services reported by customers include:

- impossibility of daily insight into the submitted documentation,
- impossibility of daily insight into the accounting processes,
- spoken answers to questions that are difficult to understand,
- no forecasts from the agent regarding costs to be incurred,
- high cost of agreement (Świetla 2013, 995–1008; Świetla 2014, 201–205).

The reservations indicated in the first four points may be offset by the use of an accounting platform, whose operation is based on three key elements (www.platforma.księgowa.pl)[1], which are: the customer, the processing center of the accounting platform, the accounting firm. The current transfer of invoices and documents for Accounting Platform Processing Center is an obligation of the customer. The Center scans and automatically exports them to the accounting software used by the specific accounting office.

Matters related to contract costs result from the assumptions made at the time of the conclusion of the contract. It is not worth making a choice based solely on the price of the basic service, but one should also analyze the cost of additional services, which may appear along with the development of cooperation. It is important especially if the price of services is not disproportionate to the services provided. This situation is a common practice among rogue providers who charge for additional services well above the price they could claim if these services had been provided in the contract. An initial benchmark for basic tasks and the measurement and analysis of risks and benefits connected with stopping the operation of the company or transferring it to an external service can be helpful here (McIvor 2000, 30 – 35).

The risk of operation of accounting firms

Risk issues concerning the correct use of accounting is discussed in a very wide perspective by A. Karmańska (2008, 230–275), presenting it against the general view of risk in accounting seen as one of the key functions in the contemporary economy. The following types of risk in accounting firms should be noted:

- risk arising from the organization of the firm's operation,
- risk arising from the choice of method of bookkeeping,
- risk applicable to the choice of accounting software,
- risk of document control,
- risk of the accounting system organization.

The first of the indicated cases involves personnel issues and is the result of fear of irregularities arising from poor organization of work of the accountants. This applies especially to the division of tasks and the competences and qualifications of employees, which result in actions they take and implement.

[1] Other electronic accounting platforms, e.g. Platforma Taxxo, operate in a similar manner.

The risk associated with the selection of bookkeeping methods includes fears that it may not guarantee safety of the activities and that the information function of bookkeeping may not be implemented in the correct way. This issue is becoming increasingly important in the case of e.g. books maintained at the customer's premises and the customer's duty is to properly secure them. Also, the knowledge about the system in which they are processed and the adopted processing method are important. Against this background, it should be noted in, the context of the third element of risk relating to software selections, which should be tailored to the specifics of the activity of the supported entity. Not only security, but also the guidelines adopted by the Accounting Act are of importance here.

It is well known that the basis of the reports presented by businesses are source documents that, in order to avoid the risk of breaking the rules of true and fair view, should be subject to careful control both in terms of content and practical implementation of the provisions set out in them.

The last concern is the fear of releasing sensitive data to unauthorized persons or inadequate security of documents or media carrying the records which may, among other things, result in undue modifications or loss of information which should be provided to the customer. It may also have an impact on their quality (reliability, comparability).

Table 2. Risk in the operation of accounting firms

Type of risk	Factors determining threats
Market	unmatched service offer to customer expectations, too few customers, an increase in the number of accounting firms due to the deregulation of bookkeeping services,
Operational	human error, incorrect operating system, poor work organization, improper distribution of tasks, ignorance of the laws, ignorance of customer expectations
Reputation	errors in customer service, lack of timeliness, ignorance of new regulations, lack of ethics,
Legal	conducting activities beyond the framework of existing legislation, legislative risk, the risk of an erroneous interpretation, risk of litigation,
Credit	force majeure, natural disasters, loss of customers, inadequate investments, economic crisis,
Tax	ignorance of the laws and the interpretation of tax regulations by the accountant, malfunctioning computer programs, erroneous preparation of tax return forms,
Customer insolvency	customer – or customer group – resignation from services without payment,
Employee cost	hiring incompetent employees, too many employees,

Type of risk	Factors determining threats
Penal and fiscal liability, collective entity	obligation to pay penalties and reparations in the event of error being the fault of the accounting firm,
Liquidity.	loans taken, insolvent customers, untimely execution of settlements.

Source: own work based on Klamut (2012, 11–34).

It is also worth noting the personal risks resulting from a loss of a valued employee, which usually involves a domino effect, causing the departure of customers the employee had supported.

Mandatory, additional and extended liability insurance for accounting service providers

Accountants worldwide recognize the problem of error and risk arising from irregularities in the implementation of accounting. In 2009 irregularities in the conduct of monetary policy were highlighted by the FED (High-Level Group of Financial Supervision in the EU), which put emphasis, among other things, on the need for greater regulation of access to the financial professions.

Control action and specific regulatory packages introduced by specific countries, however, are mostly full of inconsistencies. They are usually considered as the so-called fire alarm approach. In other words, an immediate political response to demands by the market. At the same time it is believed that self-regulation of the market and the role of specific professional organizations having supervision over the activities of specific entities are the most appropriate. This is done in countries such as the United States and Great Britain, where membership in professional organizations was made compulsory for entities to ensure their control the expected quality of accounting. In Germany, it is a requisite for achieving high quality of accounting is mandatory membership in a professional organization. In Belgium, an entry in the register kept by the Minister of Finance for a criminal record for fraud is required. Against this background, consistent introduction of compulsory civil liability insurance (OC) in Poland should be assessed positively.

A key objective of the existence of civil liability insurances, regardless of industry which it concerns, is the protection of the interests of the customer. In the case of a customer who purchases accounting services, it is particularly true of the financial interest of the customer.

In a situation where the customer suffers damage due to the fault of the accounting firm, compensation can be claimed. The firm bears responsibility for the failure to comply with the concluded contract, based on the Civil Code (2014), which indicates that the debtor is required to repair damage resulting from non-performance or improper performance of an obligation, unless the non-performance or improper performance is the result of circumstances for which the debtor cannot be held responsible.

For the realization of the assumptions underlying the civil liability insurance, one should consider whether the insurance is adequate to the risk (the coverage, the guarantee amount) and whether the person performing the tasks assigned was aware of the consequences of errors.

In order to secure customer claims, incorporating regulations on accounting service provisions to the Accounting Act (Act 2008) the obligation to conclude an civil liability (OC) agreement was indicated, to be realized by entrepreneurs providing accounting services, for any damage caused in relation with the conducted economic activity (Act of 2008, Article 76h.1). It was also stressed, that the determination of rules of insurance shall be formulated in a Regulation containing the detailed scope of mandatory insurance, the term of the obligation to insure and the minimal guarantee sum, in particular taking into account the specifics of the operations and the associated tasks of the service provider (Act of 2008, Article 76h.2).

Recent changes in the Accounting Act (Act 2014 of 9 May) have deregulated bookkeeping and released the accounting profession meant that any citizen without a criminal record for fraud with the ability to act (Act of 29 September 1994, Article 76a.3) may perform services previously subject to the need to have appropriate permissions (certificates, practice, etc.). Thus, the need arose to adopt a new measure implementing the compulsory insurance of civil liability – the Regulation of the Minister of Finance concerning the compulsory third party insurance (Regulation 2014). The Regulation refers to the provisions defined in the Accounting Act where it is indicated that within the meaning of the freedom of business, bookkeeping services are an economic activity involving the provision of services in the following areas:

- conducting, based on accounting evidence, accounting books containing records of events presented in chronological and systematic order,
- periodic determination or preparation of inventory of tangible assets and liabilities,
- valuation of the company's assets and liabilities,

- valuation of the company's assets and liabilities,
- preparation of financial statements,
- collecting and keeping any accounting evidence, as well as other documents provided for by law (Law of 2008, Article 4.3, item 2, 6).

As everyone knows, these are just the basic tasks of the accounting firm regarding the prepared reporting. But what if such errors regard personnel matters? These could include:

- keeping documents on employment and deadlines,
- calculation of salaries, overtime, bonuses, allowances, and benefits arising out of employment,
- determination of contributions for compulsory social and health insurance,
- support for documentation and payments under the terms operation on the Labor Fund, the Fund for Guaranteed Employee benefits, or the Fund for the Rehabilitation of Persons with Disabilities,
- determining the monthly subsidies to salaries of disabled persons, documentation and submission of applications for payment of benefits,
- control on the amounts of wages which have been seized by an enforcement officer and correspondence with legal authorities.

The regulation does not contain provisions regarding the inclusion of any errors into the scope the compulsory third party insurance, which is currently 10,000 Euros for one event, because these activities are statutorily excluded from the area. Similarly excluded, along with the deregulation of professions, was the need for compulsory third party insurance on tax advisory activities carried out within the framework of accounting services. Most insurers, however, suggests the possibility of extending the scope of protection for providers with the insurance including the indicated operation (for an additional fee). This is called supplementary insurance, which in addition to the activities listed above may also include:

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- Responsibility for damages caused by subcontractors without recourse. Where a subcontractor is hired to perform some of the tasks is, the insurance protection can cover damage caused by them as well, even though the ordering entity is responsible for their supervision. An important feature of this insurance is that in case of compensation for damage caused by a subcontractor, the insurer most often decides not to claim recourse against the subcontractor.[2]
- The consequences of the destruction, loss or damage of documentation, which may be caused by the destruction of documents by fire or loss of documents during transportation due to a break into a vehicle. This clause covers the costs associated with the consequences of the events listed in the contract.[3]

In addition, more and more agencies are deciding to purchase excess insurance protection for a higher amount of compensation as a result of damages.

The outcome of research and conclusion

It is widely accepted that outsourcing is intended not only to improve the quality of accounting in a business entity, but also to lower its operating costs. The costs, however, may not be a major key to choose the particular accounting firm. It sometimes happens that such firms emerge that do not have the required permissions or that employ workers without adequate training. The prices of their services are generally lower than those of the competitors. This should encourage potential customers to control their powers, as accounting errors are also a risk for the recipient of services.

It should also be noted that the described services have the specific feature that their effect is also dependent on the customer. Apart from the obvious advantages arising from the use of external services, it requires maintaining individualized commercial relations, daily contact and access of both parties to

[2] This is of importance due to the fact that the Polish Act on Compulsory Insurance and the Civil Code (Journal of Laws of 2014, 121) the provider has the right of recourse in the event of early payment for damage caused by gross negligence. This follows from the assumption that the function of insurance is to protect the interests of third parties and not the insured.

[3] This is offered, e.g., by Sagabrokers, www.sagabrokers.pl.

confidential data and information. This may be a concern especially for mistakes made by the parties or unfavorable results of the cooperation. In order to avoid or mitigate potential disputes and claims, there is the protection of mandatory civil liability insurance of the accounting firm. When planning an agreement with an accounting agency, one should thus make sure that that their insurance is valid and whether it covers only the compulsory insurance or elements that complement and extend it.

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