

# The Professional Liability Lifecycle of a Client Relationship

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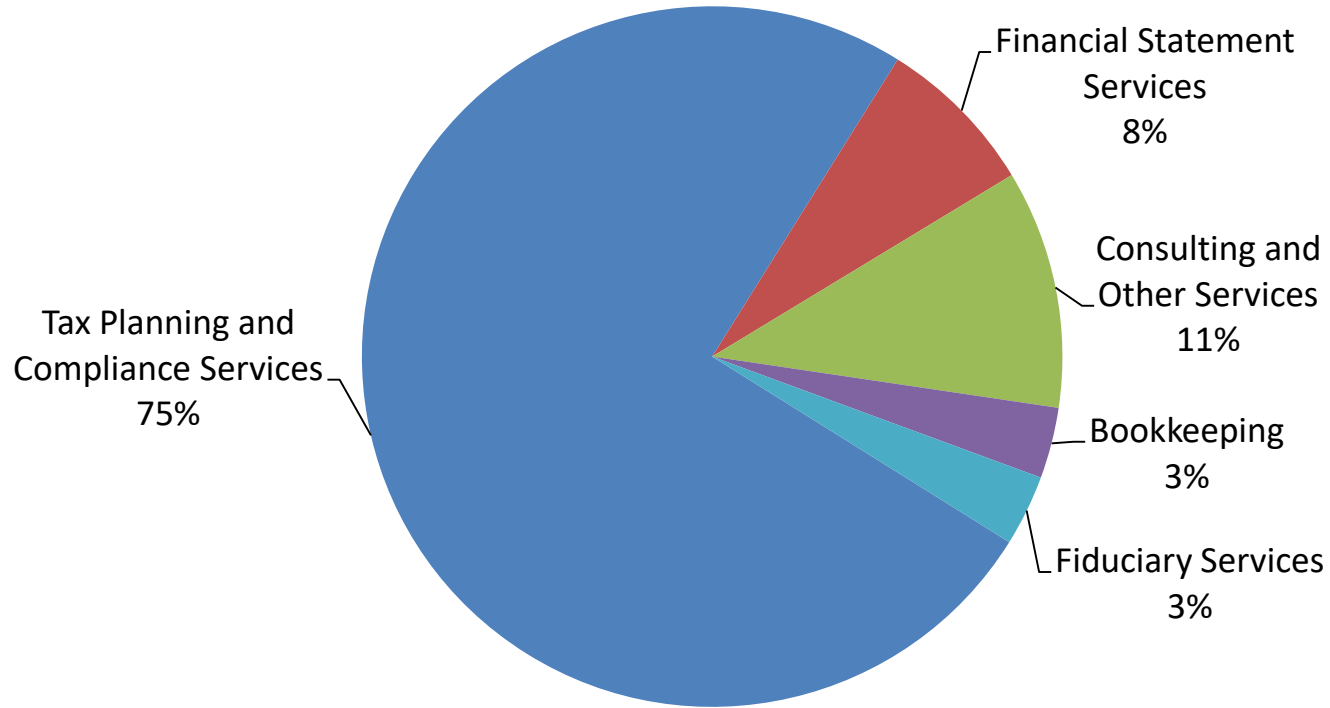
## Learning Objectives

- To obtain knowledge and implement strategies to help reduce the risk of experiencing a professional liability claim arising from professional services rendered during the upcoming busy season.

## “The Client Lifecycle” Agenda

- Claims Data from AICPA Professional Liability Insurance Program
- Client and Engagement Acceptance
- Engagement Letters
- Engagement Performance – Theft and Fraud Risk
- Client Continuance and Termination
- Questions

## 2015 Claims by Area of Practice



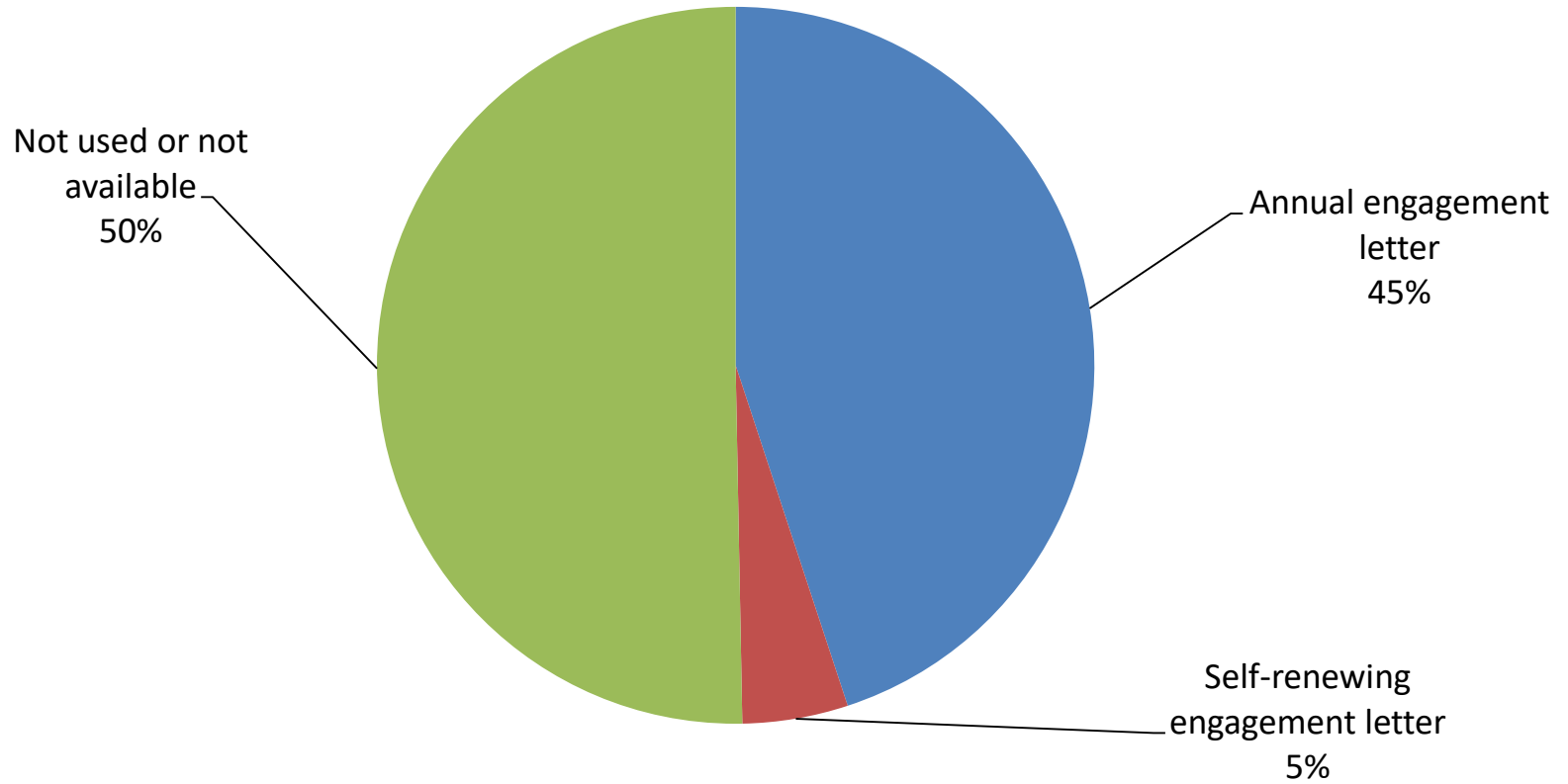
Source: CNA Claim Database 2015, underwritten by Continental Casualty Company

# Client and Engagement Acceptance

- Purpose – to identify risks
  - Accept and manage risks
  - Decline to avoid risks
- Acceptance process
  - Consideration of client’s integrity
  - Consideration of client financial stability
  - Other client and engagement acceptance considerations
  - Conflicts of interest
  - Independence in fact and appearance (where required)
  - Deliverable/work product
- Overall considerations
  - Ensure firm has relevant experience – avoid dabbling
  - Ensure availability of firm resources

# Engagement Letters

## 2015 Claims - Engagement Letter Use



Source: CNA Claim Database 2015, underwritten by Continental Casualty Company

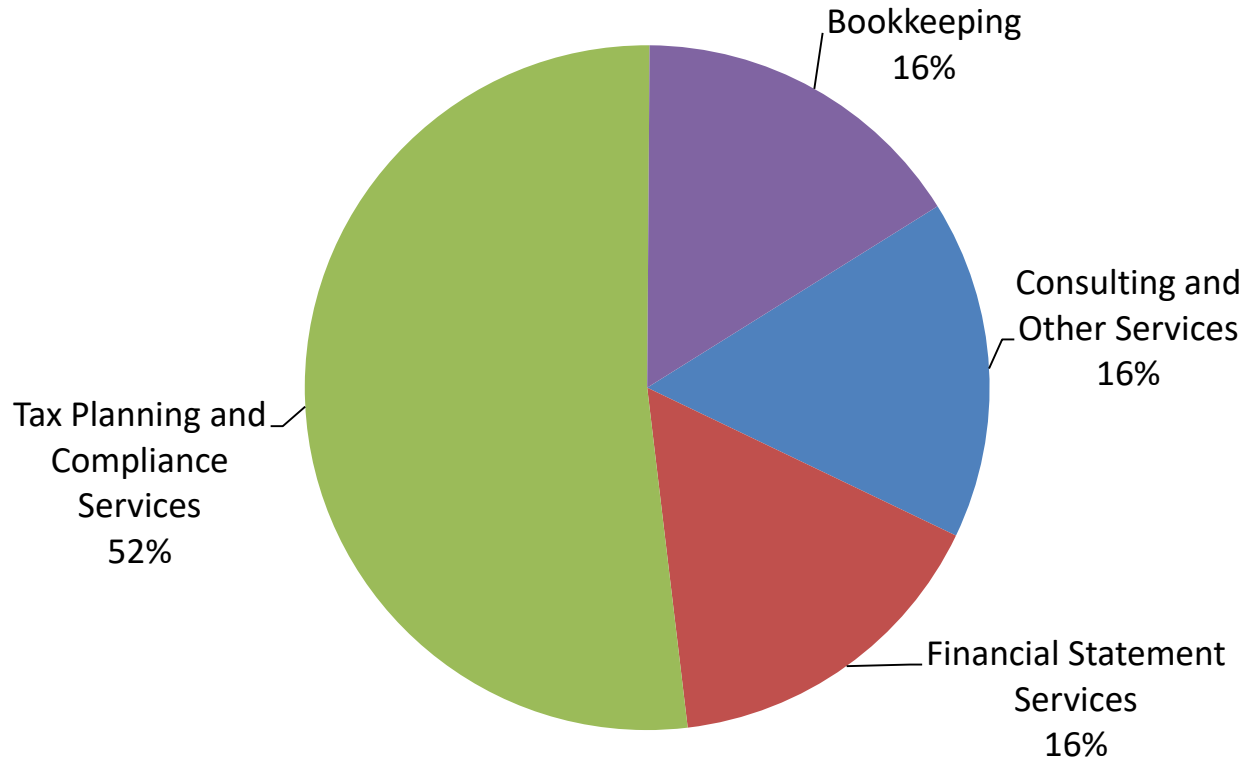
# Engagement Letters

- Why use engagement letters?
- Scope of services
- Limitations of services
- CPA responsibilities
- Client responsibilities
- Deliverables/work product
- Risk allocation provisions (where permitted) :
  - Alternative dispute resolution
  - Limitations on liability
  - Statutes of limitation
  - Choice of law and jurisdiction



# Claim Data

## 2015 Failure to Detect Theft/Fraud Claims



Source: CNA Claim Database 2015, underwritten by Continental Casualty Company



# Engagement Performance – Theft and Fraud

- Common schemes
  - Fictitious vendors
  - Unapproved cash disbursements
  - Payroll manipulation
  - Charging personal expenses to the business
- Small businesses, non-for-profit organizations (NPOs) and governmental entities
  - Unqualified accounting personnel
  - Poor recordkeeping and internal controls
  - Owner focused on operations viewing accounting as CPA's "job"
  - Domineering executive director
  - Authoritative city treasurer

## Engagement Performance – Theft and Fraud

- Fraud awareness training
  - Risk factors
  - Common schemes
  - Control environment

## Engagement Performance – Theft and Fraud

- Known or suspected theft or fraud
  - Contact professional liability insurance carrier
  - Determine legal responsibilities through attorney consultation
  - Inform management about findings based on facts and observations
  - Recommend investigation
  - Cease services until investigation performed
  - Resist urge to perform investigation
    - Potential conflict of interest; objectivity/independence impaired
  - Assess results of management's completed investigation
  - Consider withdrawal depending on management's response and outcome of investigation

# Client Continuance and Termination

- Continuance process
  - Evaluation in response to change in client or firm circumstances
  - Responding to continuance evaluation
    - Re-accept and manage risk
    - Modify engagement in light of risk
    - Avoid risk (client termination)

# Client Continuance and Termination

- Termination recommendations
  - Workpaper documentation
  - Significant observations
  - Termination letter
- Termination letters
  - Factual and concise
  - Avoid documenting the reason
  - Traceable delivery method
  - Termination letter elements
  - CNA article: *Client Termination Letters*
- Cease providing services

## Client Continuance and Termination

- Withdrawal during engagement
  - Management integrity issues
  - Known or suspected theft or fraud
  - Management's response to going concern issue
  - Scope limitations
  - Inability to obtain client information timely
  - Carryover of prior year uncorrected tax return error to current year return
  - Lack of payment of fees
- Consultations – Peers, AICPA, attorney, professional liability carrier

## Resources

- Client and engagement acceptance and continuance
  - [\*The Importance of Gauging a Client's Tone at the Top\*](#), Journal of Accountancy, December 2015
  - [\*The Dangers of Dabbling\*](#), Journal of Accountancy, November 2015
  - [\*Is this Client the Right Fit for Your Firm?\*](#), Journal of Accountancy, July 2013
  - [\*Stuck in the Middle: Avoiding Conflicts of Interest\*](#), webinar replay



## Resources

- Engagement letters
  - [Sample engagement letters](#) (for policyholders)
  - [Preparing and Using Engagement Letters](#) practice guide (for policyholders)
  - [Use Standard Terms to Build a Liability Shield](#), Journal of Accountancy, October 2016
  - [Weighing Strategies to Limit Litigation Risk](#), Journal of Accountancy, October 2015
  - [Don't Let Scope Creep Lead You Out of Bounds](#), Journal of Accountancy, September 2015
  - [Buckle Up – The Importance of Engagement Letters](#), Journal of Accountancy, December 2014
  - [The Problem with Evergreen Engagement Letters](#)

## Resources

- Engagement performance – theft and fraud
  - [\*Bridging the Expectation Gap: Defense, Detection and Fraud Prevention for CPA Firms – Tips to Minimize Professional Liability Risk\*](#), webinar replay
  - [\*Risks of Not-for Profit and Government Audits\*](#), Journal of Accountancy, April 2016
  - [\*How Social and Digital Media Can be a #majorrisk\*](#), Journal of Accountancy, March 2016
  - [\*Documentation is Your Ally for Tax and Other Services\*](#), Journal of Accountancy, July 2015
  - [\*Failure to Detect Theft and Fraud: It's Not Just An Audit Issue\*](#), Journal of Accountancy, February 2014
  - Risk Alert [\*Don't Be A Victim – Accountants Failure to Detect Theft and Fraud\*](#) (for policyholders)
  - [\*This Might Be Fraud...What Do We Do Now?\*](#)

## Resources

- Client continuance and termination
  - [Client Termination Letters](#)
  - [Clients: Knowing When to Walk Away](#)
  - [Clients – The End Is Near](#), Journal of Accountancy, March 2013

**Questions?**

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**Thank You!**

