



Should Advisors Barter Their Services?

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It happened only once, recalls Dan Candura, president of PennyTree Advisers in Braintree, Mass. The singular instance: a prospective client, a practicing architect, offered Candura a bartered exchange; the architect would create a home design, Candura would provide financial services.

“He was the one client who bridged the topic,” Candura says. “He said, ‘I do a lot of bartering of my services.’”

Candura’s response, however, was unequivocal: a polite no way.

“I said, ‘I’m sorry but that just won’t work in my profession. We are too closely regulated,’ ” Candura recounts.

Candura, who also owns Candura Group, a consulting firm that provides ethics training to financial advisers nationwide and Canada and Europe, recommends others follow his example.

“It gets very convoluted very quickly,” he says about bartering of advisory services. Candura recommends advisers tell clients who insist they’d like to barter that, “It’s an interesting thing to do, but not permitted under my business model.”

TRICKY QUESTIONS

Bartering raises tricky tax reporting questions, since the value of services received must be reported as income, it also triggers problems with errors & omissions insurance, and needs to be disclosed in regulatory reports.

Perhaps precisely because of all those issues, although many financial advisers have heard about peers bartering their services, none discussed engaging in the practice themselves.

Instead, they report that although some advisers offer their services as part of barter exchanges with lawyers and other professionals, when they do so running the risk of appearing as if they seek to skirt regulatory

reporting requirements and tax rules.

One exception to that rule stands out: when financial planners and advisers barter with each other. They adopt a you-be-mine-and-I'll-be-yours strategy. That works because it's an identifiably equal exchange, but some advisers despite the legal blessing still like to pay for their peers' services to be sure they rank as a top-priority client.

Across the profession, however, queasiness persists about bartering.

"I'm not an attorney but my opinion is it's probably okay if it is fully disclosed. I'm sure people do it, but no one really talks about it," concedes Deena Katz, co-chairman of Evensky & Katz / Foldes Financial Wealth Management, which manages over \$1.5 billion in assets; with offices in Miami and in Lubbock, Texas.

"I didn't think legally we could take things for service other than a check," says Ross Gerber, president and CEO of Gerber Kawasaki Wealth and Investment Management in Santa Monica, Calif., which has manages \$430 million in assets.

Many of his clients are doctors who don't give him a free check up, but do get in him quickly if the need arises and they also charge him "great rates," Gerber says.

"That is very common, discounting rather than actual bartering," he says. But straight-out bartering: "I avoid those deals. A lot of that is shady. It's so easy to say in this profession: 'I'm legally not allowed to do this,'" Gerber says, noting that the regulatory environment that advisers operate amid actually often provides self protections.

GOVERNMENT SCRUTINY

Joseph Birkofer, a principal and adviser in Legacy Asset Management in Houston, Texas, also steers clear of bartering. "The government look at your so closely that the less I have to explain about variances, the happier I am," he says.

Evelyn Zohlen, who founded and serves as president of Inspired Financial in Huntington Beach, Calif., has other business reasons for nixing prospective clients' proposals.

"This is a non starter. They are doing it because they can't afford your services. Such unequal footing is an unhealthy start to a relationship," she says.

Only one of type of advisers' client relationships might merit such a non-currency exchange, suggests Zohlen. That is the one they might develop with another financial adviser. "You be my planner and I'll be yours," Zohlen says, describing how such a scenario might unfold.

Many financial planners seek out a peer's advice for their own needs. They are reacting to the conventional wisdom that the cobbler's children have no shoes or professionals fail to follow well for themselves the advice

they give clients.

“We know what we need to do, but we don’t always get it done,” Zohlen says about advisers’ own financial planning. The strategy of employing a peer for your own planning also allows advisers to get an up-close look at how another member of the industry operates and possibly learn a thing or two, she says.

If advisers barter such an exchange of each other’s financial planning services, they run little risk of providing unequal value. Therefore many of the questions about reporting values of such exchanges for regulatory and tax purposes that arise in other bartering circumstances no longer apply, Zohlen says.

Notably, however, she has reservations of bartering her services even in those equal-footing situations.

Why?

If you don’t pay for services, “You fall to the bottom on the priority list. We all know that,” she says.

Bartering Basics: 1-2-3

1. Generally, any bartering exchange is taxable to both sides, according to Robert Wood, a tax lawyer in San Francisco at his own firm.
2. Be wary about triggering possible snags with your errors & omissions (E&O) insurance provider if you start your bartering services, says Dan Candura of the Candura Group
3. All bartering exchanges must included as part of advisers reporting on their ADV forms submitted the Securities and Exchange Commission (SEC) and state securities authorities, Candura says.