

# Factors that could influence the ethical behaviour of tax professionals

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## Abstract

In an attempt to enhance the core professional values of tax practitioners in South Africa, the South African Revenue Service has proposed the regulation of tax practitioners' services. It is arguable whether or not this would be the only factor to influence the ethical behaviour of tax practitioners. A literature review was conducted to identify factors that could influence the ethical behaviour of tax practitioners. Numerous possibilities emerged. It is therefore recommended that if regulation is to be successful, caution should be exercised in writing a code of best practice for tax practitioners.

## Key words

*Best practices; Ethical behaviour; Professional values; Regulation of tax practitioners; Taxpayer; Tax practitioner*

## 1 Introduction

*"Professionals play an important role in society. Indeed, society could not function effectively without trustworthy professionals. This raises questions about the ethics of how institutions operate and exerts influence on those who work within them. In the face of powerful forces eroding professionalism, there is a great need to promote core professional values" (Benatar 2006).*

The significant role of trustworthy professionals in society is based on their expertise and skill in matters of particular importance, be it in the field of accountancy, engineering or medicine. Professional expertise is a form of power and should be governed by the highest ethical standards so that it does not lead to exploitation and abuse. Professional bodies that understand this have long taken measures to foster high ethical standards,

typically by means of codes of conduct for their members and measures to enforce them.

The key attributes of a profession include a high level of competency, a monopoly in society, the autonomy to choose clients and the right to express an opinion. Since a profession is born out of society's needs, the professional should make a concerted effort to act in the interests of the public good (Rossouw, Prozesky, Van Heerden & Van Zyl 2006). It can be deduced from the above that, owing to society's need for tax advice, the need also arose for tax professionals to assist taxpayers in executing their tax affairs.

From the South African perspective, there are a number of ways in which the South African tax practitioner could be viewed. For example, in the 2002 Budget

Review, the Minister of Finance, Trevor Manuel, stated that many individual and business taxpayers receive advice and assistance from tax consultants and advisors, but that the ultimate responsibility for the contents of the tax return legally rests with the taxpayer. However, the return is completed on the advice of the tax consultant or advisor who bears limited responsibility for the advice given (SARS 2003:2).

Furthermore, the South African Revenue Service (SARS) is of the opinion (as set out in its document, *Regulating tax practitioners: discussion paper*) that South Africa's history has had a major influence on the compliance culture in the country. SARS maintains that the combination of several factors has created a compliance culture that is less than it should be. These factors include the following (SARS 2003:2):

- the economic marginalisation of the population of South Africa, as a result of which a large section knows little about tax;
- the business practices that took hold when circumventing the imposition of international sanctions; and
- the limited ability of the tax authorities in the past to challenge tax evasion and highly arguable, or even fanciful, tax planning structures and techniques.

Hazelhurst (2003:64) concurs with SARS' opinion, arguing that difficult tax legislation and ineffective tax collection pre-1994 have allowed South African taxpayers to divert large amounts of income tax to tax shelters and tax havens. The legality of the tactics employed was, in many instances, questionable. Historically, however, the taxman was not adequately empowered to deal with certain of these transactions, and remained frustrated and relatively powerless in this respect.

As a result of the above, SARS has engaged in a number of initiatives aimed at improving compliance in South Africa. SARS is of the opinion that much time and energy have been spent unnecessarily and inefficiently on correcting errors made by a small but significant number of tax practitioners, or on addressing unprofessional conduct.

If viewed from the taxpayer's perspective, the unprofessional conduct of tax practitioners could place the latter's financial, ethical and tax reputation at risk. Apparently SARS is confronted on a daily basis with the question of how taxpayers can be compensated for poor advice or funds misappropriated by their tax practitioners, alias tax advisors. According to SARS (2003:2), the South African Institute of Chartered Accountants (SAICA) has received "many complaints" from clients about poor performance or other problems encountered relating to tax accountants (which includes tax practitioners).

One of the initiatives born of the above was the drafting of the Regulation of Tax Practitioners Bill, which aims to regulate the profession of tax practitioners and to make provision for an Independent Regulatory Board for Tax Practitioners. The purpose of this Act, as defined in section 2 of the draft Bill, is to provide for the regulation of the profession and to ensure that tax practitioners are appropriately qualified, have the necessary experience and adhere to the ethical practices for which they are held accountable in their professional conduct. As indicated above, the Bill also suggests the establishment of the Independent Regulatory Board for Tax Practitioners.

It is suggested that the Board be the enforcer of the Act and, *inter alia*, assist in ensuring that clear and appropriate requirements exist for the registration of a

tax practitioner, determining the requirements for the maintenance and development of professional competence of tax practitioners and, finally, promoting the integrity of the tax profession.

It is thus clear that the professional conduct of the South African tax professional is of the utmost importance to the legislator and that attempts are in progress to address this issue.

## 2 Problem statement

One may ask whether regulating the tax profession is the answer to improving the ethical behaviour of tax practitioners, or whether this is influenced by other factors as well. The aim of the study on which this article is based was thus to identify, by means of a literature review, factors that might influence the tax practitioner's ethical behaviour.

## 3 Literature review

Adherence to ethical values and standards is of the utmost importance to both organisations and individuals. It is not only people in business organisations who adhere to an ethical code. Other specific groups in society also uphold ethical standards. A profession is a typical example of such a group. Professions are distinguished from other occupations by a number of distinct features, one of which is adherence to a self-imposed set of ethical standards (Cotell & Perlin 1990:180). The purpose of these ethical standards is to ensure that members of a particular profession act in accordance with the spirit and purpose of the profession as well as to the benefit of the clients and members of society whom they serve. The accounting and taxation profession is a clear example of a group of professionals who adhere to such a set of ethical standards.

Taking this into consideration and applying it to a tax practice, ethical conduct

will be taken to refer to standards that include professional competency, objectivity, independence, integrity, reasonable care, public interest and confidentiality. In the specialised area of taxation, the role of the tax practitioner ranges from that of the accountant concerned primarily with the preparation of annual income tax returns to that of the quasi-legal adviser. Boccabella (1993:391) has identified a range of additional broad tasks that tax practitioners may currently be required to perform. These functions include representing and negotiating on behalf of taxpayers in proceedings with both the revenue authorities and policy makers. Erard (1993:164) contends that there is no general theory of tax practice, but instead, a collection of studies focusing on the role of tax practitioners in the overall tax system.

The aim of this article is not to review the moral or ethical issues of legal and business theory that may be relevant to a tax practice, but to study possible considerations that might influence the ethical behaviour of the tax professional.

Research undertaken in the academic environment was used as the primary literature in conducting the study. Relevant literature was consulted comprehensively but had to be concisely summarised for the purposes of this article. This literature review will study the various factors that could influence the ethical behaviour of tax professionals. These include the following:

- (1) regulation of professions;
- (2) client-related issues;
- (3) taxpayer preference;
- (4) tax practitioners' credentials;
- (5) technical competence;
- (6) exposure to practice risk; and
- (7) information provided by the taxpayer.

In the South African context, the term "tax practitioner" is used to describe the person

or entity providing advice on tax to taxpayers. This term will be used throughout the article, as well as the terms “tax professional” and “tax advisor”.

Furthermore, someone who provides aggressive tax advice would adopt tax positions that would probably not be upheld in a SARS audit. This is risky on account of the possibility that such an audit could result in legal disputes (Hite & McGill 1992:400). Stephenson (2006:5) indicates that being tax aggressive entails making use of every legal opportunity to minimise tax, but that this specifically excludes tax evasion or fraud. There are many tax situations in which the interpretation and presentation of facts lead to different tax liabilities. An aggressive tax practitioner would be more likely to interpret facts to the benefit of the client, who would incur the minimum possible tax liability as long as there were at least a 33.33% chance of success should litigation be involved (Stephenson 2006:5).

## **4 Factors that may influence a tax practitioner’s ethical behaviour**

### **4.1 Regulation of professions**

As early as 1987, a survey conducted by the Internal Revenue Service (IRS) in the USA indicated that approximately 60% of all but the simplest returns were professionally prepared (IRS 1987:1). The reason for this is that many areas of tax law are ambiguous, in that tax owed depends on the interpretation of complex provisions of the law. This means that an increasing number of tax returns are completed by a third party, namely the tax practitioner. It is therefore necessary to regulate the practitioners.

The theory of “capture” or the “interest group” asserts that regulation exists to

benefit the regulated parties. Scientists such as Stigler (1971:391) articulated the economic theory of regulation by examining the supply and demand for regulation. Stigler maintained that industries commanding sufficient political power and cohesiveness would endeavour to utilise the powers of the state to increase the industry’s profitability.

Research conducted by Ayres, Jackson and Hite (1989:300) determined that Certified Public Accountants (CPAs) in the USA, who are subject to a higher degree of government regulation, would be more pro-taxpayer in ambiguous areas of tax law than would unlicensed preparers. In their study, tax cases characterised by a high degree of uncertainty relating to complex taxation issues were investigated to determine who the practitioners were and what kind of advice they provided. The conclusion reached was that CPAs were consistently more pro-taxpayer than were non-CPAs.

According to Roberts (1998:78), early interest in tax-practitioner aggressiveness was initiated by an IRS-sponsored survey showing that CPAs were more aggressive than lawyers and unlicensed preparers (IRS 1987). In later research, Jackson, Milliron and Toy (1989:333) reported similar findings.

Based on the above studies, it could therefore be argued that the regulation of tax practitioners would not necessarily guarantee that they were not pro-taxpayer.

### **4.2 Client-related issues**

Various client-related factors that could also impact on tax practitioners are discussed in the following subsections:

#### **4.2.1 Client pressure**

One of the most difficult issues facing tax practitioners is that of clients who place enormous pressure on them to adopt overly -aggressive reporting positions. This was

substantiated by a nationwide survey of experienced public accountants conducted in the USA. The study revealed that the issue posed the most difficult moral problem with which accountants had to deal (Finn, Chonko & Hunt 1988:305).

CPAs in the USA are expected to exercise sensitive moral judgements and maintain the public trust (AICPA 1997:1). However, many cases concern disagreement about who the practitioner owes his/her loyalty to. As indicated earlier in this article, the IRS maintains that the tax practitioner's loyalty should ultimately be to the federal tax system and that CPAs should act as government agents. Contrary to the opinion of the IRS, the American Institute of Certified Public Accountants (AICPA) recognises that the CPA has a responsibility to both the client and the IRS. In particular, according to the AICPA *Statements on Responsibilities in Tax Practice (SRTP)*, a CPA has both the right and the responsibility to be an advocate for the client (AICPA 1997:1). The fact that taxpayers are generally ambivalent about whether tax cheating is morally wrong, increases the pressure on tax practitioners (Kaplan & Reckers 1985:97; Westat Inc. 1980:1; Song & Yarbrough 1978:442; Vogel 1974:499). According to these authors, tax practitioners are often willing to adopt aggressive or even fraudulent positions based on what is perceived to be a relatively low probability of detection and punishment.

A number of studies have been conducted investigating tax practitioners' willingness to advocate aggressive client positions. The research has indicated a number of factors that could potentially influence the preparers' aggressiveness. Examples are their attitudes to risk (Carnes, Harwood & Sawyers 1996:1), the threat of preparer penalties (Reckers, Sanders & Wyndelts 1991:30) and client risk preferences (Schisler 1994:124). According

to Ayres *et al.* (1989:300), one limitation of these studies is that they have generally failed to address the ethical considerations that influence advocacy judgements. Burns and Kiecker (1995:20) made the first attempt to explicitly investigate tax practitioners' ethical judgements. The aim of their research was to investigate CPAs' attitudes to unethical actions executed by tax practitioners. The results of this research indicated that, if client pressure increased, it had a definite effect on the tax professional's ethics.

Ayres *et al.* (1989:300) argue that the perceptions of the general morality or fairness of an action, or the extent to which an action is consistent with an individual's duties or contractual obligations, are the primary determinants of ethical judgements and behavioural intentions. They suggest that both the cultural acceptability of an action and the extent to which the action benefits society as a whole influence judgements and intentions under certain circumstances, although to a lesser extent. Previous studies have generally found minimal or no effects of demographic characteristics on CPA aggressiveness (Cuccia 1994:41; Schisler 1994:124; Duncan, LaRue & Reckers 1989:91).

#### 4.2.2 Client risk attitude

Cloyd (1995:50) found that the likelihood of experienced tax practitioners recommending an aggressive tax position was significantly greater if the taxpayer was aggressive rather than conservative. Schisler's (1994:124) research indicated that CPAs made more aggressive decisions when taxpayers were both aggressive and in a tax-payable situation. Duncan *et al.* (1989:91), however, found that CPAs were less likely to encourage aggressive reporting for aggressive clients than they were for conservative clients.

#### 4.2.3 *Payment or withholding status*

Sanders and Wyndelts (1989:41) found that payment status generally did not influence tax practitioners' recommendations, while Duncan *et al.* (1989: 91) reported that payment status had little or no effect on CPAs' willingness to encourage aggressive reporting. LaRue and Reckers (1988:37) also confirmed that there was no significant effect of payment status on CPAs' aggressiveness. They did, however, report significant interaction between experience, payment status and tax savings. Schisler (1994:124) found no significant major effect of withholding status, although there was a significant interaction between this and client risk attitude, as discussed above. Schisler (1995:76) confirmed that taxpayers' withholding status did not affect CPAs' deduction decisions.

#### 4.2.4 *Size of the taxpayer or importance of the client to the CPA firm*

Less important taxpayers were more likely to receive more conservative advice from the CPA (Reckers *et al.* 1991:30). Bandy, Betancourt and Kelliher (1994:1), however, determined that the economic importance of a taxpayer had little or no effect on CPAs' advice or willingness to sign an aggressive return.

#### 4.2.5 *Other factors relating to taxpayers*

LaRue and Reckers (1988:37) reported that perceived fairness did affect CPAs' willingness to encourage aggressive reporting on the part of their clients.

### 4.3 *Taxpayer preference*

Taxpayer preference may also have an effect on tax practitioners' conduct. Studies have indicated that, if tax laws are ambiguous and uncertain, higher income is reported. The studies have also revealed

that there is lower compliance in returns prepared by practitioners if preparer penalty fines are low. As shown earlier, aggressive tax reporting on professionally prepared returns might exist. The practitioners' defence in the event of such allegations is that their clients insisted on aggressive tax reporting. Hite and McGill (1992:389) determined that, regardless of whether or not taxpayers agreed with preparers' advice in ambiguous situations, varying the type of preparer recommendation (aggressive or conservative reporting position), the probability of audit (high or low) and whether or not there would be a severe penalty, played a role. The research results indicated that, on average, taxpayers did not show a preference for aggressive tax advice. The results indicated that taxpayers tended to disagree with aggressive advice and to agree instead with conservative advice. Reinganum and Wilde (1990:1) provided evidence of the potential for preparer aggressiveness. They determined that the tax agency preferred taxpayers to prepare their own returns when preparer penalties were low, because the use of tax practitioners was associated with lower compliance and higher audit rates.

Other research in this area has suggested that factors such as advocacy posture, ambiguity and client risk preferences affected a preparer's willingness to recommend aggressive positions (see, for example, Johnson 1993:1; Cloyd 1991:1; Duncan *et al.* 1989:91; Helleloid 1989:22; Roark 1986:1).

It could be argued that practitioners' aggressiveness relating to tax reporting positions may dominate client attitudes to compliance and that it is not the taxpayer who influences the preparer. Hite *et al.* (1992:389) found that 73% of small business owners would claim a deduction if there was a reasonable chance that such a position would be allowed. However, they

wanted to be 70% certain of this before claiming the deduction.

In the same study, Hite and McGill (1992:389) reported that taxpayers strongly asserted their preferences for conservative advice from their preparers. These results were strengthened by the subjects' reported desire to disengage from the preparer when they disagreed with the advice, particularly when it was aggressive advice. The findings hold true for subsets of subjects who are actual users of different types of paid preparers, although prior research suggests that professionally prepared returns may contain more aggressive tax return positions than those in self-prepared returns. Tax preparers have asserted in various studies that their taxpayers demand aggressive tax reporting. The study shows the opposite, namely that taxpayers repeatedly indicate that their primary motivation for using a preparer is to ensure that an accurate return is filed.

No evidence was found that supported taxpayer preference for aggressive tax advice. Instead, taxpayers appeared to prefer conservative advice. Notwithstanding this preference, taxpayers displayed a certain reliance on their tax practitioners, particularly professional advisors.

#### **4.4 Tax practitioners' credentials**

As indicated earlier, a profession is a discipline practised by an individual. The individual represents a profession, and a significant measure of prestige derives from this alone. A profession is judged and measured by the extent of its practitioners' adherence to ethical values, and the failure of one practitioner to meet expectations diminishes the whole (Magill & Previts 1991:1). There is a gap between society's views and expectations of practitioners' duties and the capabilities and views of

those in the profession, an inconsistency which has been of major concern in public accounting. Magill and Previts (1991:1) maintain that the expectation gap justifies the need to educate the public about the responsibilities and capabilities of the professional accountant. They (1991:1) focus on financial accounting and auditing functions, but attestation, advisory services and taxation are included in those two functions.

Tax practitioners' general opinion of their clients' primary motive is that they would like their taxes minimised, while those same tax-paying clients paradoxically think the practitioners' primary responsibility is to prepare their tax returns accurately.

As indicated earlier, there are diverse research results on whether the tax professional's primary goal is to minimise taxes (IRS 1987:1; Ayres *et al.* 1989:300) or to prepare accurate tax returns (Collins, Milliron & Toy 1990:9; Hite & McGill 1992:389). Marshall, Armstrong and Smith (1998:1 265) and Klepper and Nagin (1989:167) also investigated the role of the tax practitioner in preparing tax returns.

Most tax practitioners should be associated with professional organisations that uphold codes of ethics. During their training, practitioners are taught to be loyal to the profession and its standards. According to Makkai and Braithwaite (1993:33), profit motives supposedly foster aggressive tax planning. Other studies report that tax practitioners, specifically CPAs, condone aggressive reporting (Ayres *et al.* 1989:300; Cruz, Shafer & Strawser 2000:223). These findings were quite different from those of prior studies conducted by Klepper and Nagin (1989:167) and Erard (1993:163). All these studies found a materially lower occurrence of tax adjustments in paid-preparer returns than in self-prepared returns. Furthermore,

CPA-prepared returns indicated a lower percentage of audit adjustments than those in non-CPA-prepared returns.

#### **4.5 Technical competence**

Tax practitioners' technical competence could also influence their ethical judgement. Marshall *et al.* (1998:1 265) found that failure to maintain technical competence by not keeping abreast of developments in tax law and administration is an issue for concern. This study cited technical competence (meeting the demands of continually updating and improving professional skills) as the second most frequently observed ethical issue in Australia. These findings provide encouragement and support for the recommendation that all tax practitioners be required to undertake a prescribed minimum amount of structured continuing professional education (CPE) in taxation, on account of the rapidly changing, complex environment in which they work. Incorrect tax advice is usually the result of tax practitioners' failure to keep abreast of developments in the dynamic field of tax.

#### **4.6 Exposure to practice risk**

Regardless of the type of professional, most existing research suggests that client-risk attitudes affect practitioners' willingness to recommend aggressive positions. Coyne's (1987:9) interviews with tax practitioners led him to posit that these differences are based on differing clientele with different attitudes and risk preferences. Tax practitioners are responsible for objectively evaluating tax authorities and evidence relevant to their application and for serving as client advocates. A study conducted by Kadous and Magro (2001:451) indicated that tax practitioners process information differently, depending on their clients' different risk levels. Their study also revealed that tax practitioners do not

evaluate evidence objectively for all types of clients.

Tax practitioners should objectively evaluate all the relevant facts when preparing advice (AICPA 1999:1; Cloyd & Spilker 1999:299). Those who make incorrect or inappropriate recommendations face significant exposure to potential monetary and nonmonetary costs for making them (Ferguson 1996:501). Fiore's (1998:36) research indicated that practice risk varies with client characteristics, in that the expected costs of making inappropriate recommendations to clients with certain distinguishable characteristics are greater than those of making such recommendations to clients who do not have those characteristics. Characteristics synonymous with high practice risk include being unreasonable or uncooperative, being involved in frequent litigation, membership of a high-risk industry or service category, experiencing fee pressure, financial or organisational difficulties and being implicated in suspicious transactions (Bandy 1996:46; Kahan 1996:46; Pascarella 1996:197; Fiore 1998:36).

A client with a history of problematic behaviour, such as the tendency to find fault or demonstrate questionable integrity and weak controls, records a greater practice risk to the practitioner than that posed by clients who do not share these tendencies (Bandy 1996:46). Shields, Solomon and Jackson (1995:77) contend that tax practitioners ought to consider their own risks and rewards as well as those of their clients.

LaRue and Reckers (1989:37) and Duncan *et al.* (1989:91) determined that the perceived likelihood of an IRS audit had no effect on CPAs' willingness to encourage aggressive reporting, but that the perceived likelihood of success in the actual event of an audit did affect their aggressiveness.



According to Reckers *et al.* (1991:30), CPAs were more conservative when the threat of preparer penalties was explicit. By contrast, Cuccia (1994:41) concluded that increased penalties for paid preparers had little effect on how aggressively they interpreted ambiguous issues. With the increased probability of penalty imposition, tax practitioners exert more effort in searching for information (Cuccia 1994:41). They are also less likely to sign a return taking an aggressive position (Reckers *et al.* 1991:30; Newberry, Reckers & Wyndelts 1992:1). However, they do not necessarily change their recommendations if they are not going to be preparing the return (Reckers *et al.* 1991:30; Cuccia 1994:41).

When outcomes are obviously attributable to chance, the decision maker will not be motivated to search for causation, and hindsight effects do not occur (Wasserman, Lempert & Hastie 1991:30). Payne, Bettman and Johnson (1993:1) argue that decision makers have a repertoire of strategies for decision making and that they choose one by trading off the advantages against the disadvantages of these strategies.

According to Kadous and Magro (2001:451), tax practitioners make use of both positive and negative outcome information in making judgements about high-risk clients, but they apparently do not use negative information when making judgements on low-risk clients. As a result, tax practitioners are less likely to recommend aggressive positions for clients whom they perceive to represent a high practice risk, especially when negative outcome information has been provided. Making more conservative recommendations to high-risk clients and evaluating the same information differently for clients at other risk levels may give the tax professional short-term protection against potential legal and other costs.

However, others may not view this as appropriate behaviour.

Prior experimental research has revealed that, in line with their responsibilities of serving as client advocates, tax practitioners make judgements that reflect their clients' wishes. They also make more (or fewer) aggressive recommendations in compliance settings for clients who prefer aggressive (or conservative) positions (Schisler 1994:124; Cloyd 1995:50). When making recommendations based on compliance as opposed to planning, tax practitioners interpret ambiguity in the tax law as supporting the client's desired position (Spilker, Worsham & Prawitt 1999:75).

#### 4.7 Information provided by the taxpayer

The fact that the Commissioner of Taxation has certain discretions and no specific authority means that it is often difficult to know what the correct interpretation is or how the law should be applied to a taxpayer's particular transactions or circumstances (Handelman 1989:77; Carmody 1994:339). Consequently, in an era of increased penalty enforcement, more taxpayers turn to tax practitioners for assistance (Mazur & Nagin 1987; Collins *et al.* 1990:9).

One of the major concerns shown in the study by Marshall *et al.* (1998:1 265) is the failure to make reasonable enquiries when information or documentation provided by a client appears to be inaccurate or incomplete. The writers cite the main ethical problem as being the failure to ensure the confidentiality of privileged client information. When the frequency of occurrence and the importance of means are compared, inadequate technical competence, failure to make reasonable enquiries or to conduct research, continuing to act for a client where there is incorrect information and conflict in distinguishing

between tax planning and tax avoidance emerge as high-frequency or high-importance issues.

Although not all these factors are conclusive, it is evident that a number of them might influence tax practitioners' ethical judgements. If the practitioners' personal and professional ethics were combined with the above factors, it could be argued that the ethical issues encountered by tax practitioners can be extremely complicated. In view of tax practitioners' professional status and the fact that in many instances taxpayers rely solely on their advice on complicated tax matters, it is imperative that taxpayers be given advice of the highest ethical standard.

## 5 Conclusion

This article investigated the factors that may influence a tax practitioner's ethical behaviour. The literature review studied the following aspects: the regulation of professions, client-related issues, taxpayer preference, tax practitioners' credentials, technical competence, exposure to practice risk and information provided by the taxpayer.

It could be argued that the regulation of tax practitioners does not necessarily mean that the advice given to taxpayers is not in their favour. Pressure from a client also has a definite effect on the tax practitioner's ethics. Furthermore, tax practitioners are more likely to recommend an aggressive tax position if a client is more aggressive than conservative in his or her tax affairs.

Moreover, there is no significant evidence that the payment status of a client has any influence on aggressive advice given by a tax practitioner. It has also been determined that a client's financial importance has little or no effect on a tax practitioner's advice.

Taxpayers appear to prefer conservative to aggressive advice from their tax practitioners, on whom they undeniably rely. It would also seem that practitioners with the necessary qualifications are less likely to have adjustments made to the returns they prepare. Lack of technical competence, in other words, failure to meet the demands of continually updating and improving professional knowledge and skills, has been indicated as one of the major factors in the matter of tax practitioners providing advice without ethical considerations. Tax practitioners are also less likely to recommend aggressive positions to clients whom they perceive to be presenting them with high practice risk, especially when negative outcome information is provided.

In the author's opinion, regulating tax practitioners is a tool for promoting core professional values to address the problem voiced in the opening statement. Furthermore, it is clear that other factors also influence the ethical behaviour of the tax practitioner. Great care should be taken in developing a code of best practice for tax practitioners to ensure that all the factors are effectively addressed within this code. The development of such a code is a possible area for further research.

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