

YOUNG LAWYERS CORNER

**An Introduction to Tax Careers for J.D.s**

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To many people, the tax field seems like a very narrow niche. The tax profession does require specialized expertise, but tax professionals know that there is actually great diversity in the career paths available to law school graduates. Yet for law students and junior lawyers interested in the tax field, it can be difficult to appreciate the range of possible tax careers and to distinguish between what different tax practitioners do.

Thus, to help aspiring tax professionals easily understand the range of tax careers they might pursue, this article offers a 3-pronged framework for describing tax careers available to J.D.s.<sup>1</sup> There are some more comprehensive resources available to help aspiring tax professionals plan their careers,<sup>2</sup> but many law students and junior lawyers who are just beginning to consider the possibility of pursuing tax could benefit from a concise and accessible introduction to tax law careers. That is what this article provides.

**1. A Framework for Understanding Tax Law Career Options**

Tax careers can be categorized along three dimensions: (a) practice area; (b) practice role; and (c) practice setting. Practice area covers the substantive topic(s) about which the tax professional advises. Practice role describes the function that the tax professional serves: Does the tax professional help with planning, compliance, controversy, or some combination? Practice setting describes the type of organization in which the tax professional works.

Any J.D.'s tax career can be categorized using these three dimensions. These dimensions, when taken together, describe the large range of career path options available within tax.

This section briefly explains the options within each dimension.

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<sup>1</sup> Whether a law school graduate interested in a tax career should also pursue a tax LL.M. degree is a separate, but important, question. For valuable insights into this question, see Paul L. Caron, Jennifer M. Kowal & Katherine Pratt, [Pursuing a Tax LLM Degree: Why and When?](#) (2010).

<sup>2</sup> For example, the ABA Tax Section's *Careers in Tax Law* (2009) provides a series of essays from a diverse set of tax practitioners, each of whom provides insights into an important aspect of their career or career path. *The Vault Guide to Tax Law Careers* provides a comprehensive discussion of the tax law industry and opportunities within it. SHANNON KING NASH, *THE VAULT GUIDE TO TAX LAW CAREERS* (2004). Both books are long, and while definitely worthwhile for any student committed to pursuing a tax career, neither provides a quick and easy overview of the field.

## A. Practice Area

Tax practitioners focus their work on a wide array of substantive areas. Common specialties include:

- corporate tax;
- partnership tax;
- U.S. international tax;
- state and local tax;
- individual income tax;
- estate and gift tax;
- tax-exempt organizations; and
- tax issues related to employee benefits & executive compensation.

These and other practice areas are likely familiar to students from the tax classes offered by their law schools.

Some practitioners have broad tax practice areas that include more than one of the above. Other tax practitioners focus more narrowly and become experts in tax sub-specialties such as real estate investment trusts, taxation of financial instruments, tax issues for venture capital and private equity funds, tax issues for closely-held businesses, oil and gas taxation, transfer pricing, property taxes, employment taxes, low-income taxpayers, and more. And some practitioners have practices that include non-tax issues in addition to tax issues. For example, practitioners focusing on estate/gift tax issues often assist with the non-tax aspects of estate planning in addition to the tax aspects.

## B. Practice Role

A tax professional's practice role is about the function they serve when assisting clients. Specifically, does the tax adviser assist with planning, compliance, controversy, or some combination? Thus, is the tax adviser primarily involved before transactions occur, between when transactions occur and when returns are filed, or after returns are filed?

### i. Planning

Tax planners help clients arrange their affairs prospectively in order to achieve the client's business, economic, and financial goals, while minimizing tax. For example, these tax advisers help clients make choice-of-entity decisions, structure cross-border transactions, or plan their estates. Often, tax planning practitioners not only advise clients about how to proceed, but they also draft legal documents to effectuate the planned transactions.

### ii. Compliance

Tax professionals doing compliance work help clients determine how to report their tax matters appropriately to government authorities. These tax advisers analyze events that have already occurred to determine how to reflect them on returns, although a tax compliance professional may also be involved during the planning process if the reporting decisions are expected to be particularly complex. These tax advisers also prepare documentation to support return positions, prepare and file returns, and do other work that enables clients to meet their tax reporting and

record-keeping obligations.

### iii. Controversy

Tax controversy lawyers handle disputes about taxes, including audits and refund requests. These lawyers are typically involved after transactions have occurred and after returns have been filed, but a tax controversy lawyer may be consulted earlier to help pre-emptively prepare for a dispute if a matter is expected to be contentious. Controversy work is essentially tax litigation, but the process typically begins at the administrative level (e.g., with the IRS) and can progress to court if the matter is not resolved at the administrative level. Tax controversy work can involve not only civil matters, but also—in egregious situations—criminal allegations. Tax controversy matters arise at both the federal level and the state and local level (e.g., with the California Franchise Tax Board).

## C. Practice Setting

People with law degrees pursue tax careers with several different types of employers, including law firms, accounting and consulting firms, government, industry, and academia.

### i. Law Firms

Many tax lawyers practice at law firms, and tax work is done at law firms of all sizes, from the firms of solo practitioners to the largest multi-national firms. Tax lawyers at law firms tend to do planning and controversy work, but they typically do relatively little compliance work. In addition, tax work at law firms tends to be more qualitative and less quantitative than the tax work done at accounting or consulting firms. For example, lawyers at law firms are more likely to advise a client about what steps to take to achieve tax favorable treatment and less likely to calculate the amount of the client's tax savings if the favorable treatment is achieved.

### ii. Accounting & Consulting Firms<sup>3</sup>

Quite a number of tax-focused J.D.s also work at accounting and consulting firms that provide tax services. These tax advisers commonly perform planning and compliance work and, as a result, are important parts of a client's team of advisers. It is important to remember, however, that tax J.D.s working at accounting or consulting firms in the U.S. can provide tax advice but may not practice law.<sup>4</sup> As a result, the drafting of contracts or other legal documents that effectuate the results of planning work is generally not done at accounting or consulting firms, and is, instead, typically left to law firms. Similarly, tax advisers at accounting or consulting firms generally do not represent clients in court in controversy matters, and some do not handle controversy matters at all.

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<sup>3</sup> Whether a firm describes itself primarily as an accounting firm, a consulting firm, a firm that provides tax advisory services or otherwise typically depends in part on the range of services it provides (e.g., whether it includes an audit practice or financial statement accounting/preparation services), on the expertise and credentials of its professionals, and on the firm's origins, among other factors. Some such firms do not use a particular label, and instead describe themselves based on the types of services provided. Very generally, this is a group of professional firms that provide tax and other services but that are not law firms.

<sup>4</sup> See MODEL RULES OF PROF'L CONDUCT R. 5.4(a) & 5.4(b).

### iii. Government

Tax lawyers work in many positions throughout government. Tax lawyers handle tax controversies (both civil and criminal) on behalf of the government, respond to ruling requests from taxpayers, and assist with drafting regulations and other administrative guidance, among other responsibilities. Tax lawyers also serve as Tax Court judges or clerks for such judges. In addition, tax lawyers assist with drafting tax legislation (e.g., working in the Office of Legislative Counsel), serve as experts for various legislative committees (e.g., for the House Committee on Ways & Means), and work on the staffs of individual legislators. There are opportunities for J.D.s to pursue some of these careers, particularly in controversy and legislative/regulatory policy/drafting, at both the federal level and the state and local government level.

### iv. In-House

Tax lawyers may also work in-house at for-profit or non-profit organizations. In-house work may involve a combination of planning, compliance, and controversy work. Generally speaking, the larger the organization is, the more specialized the position may become. In most companies, tax professionals work in a tax department that reports up to a Chief Financial Officer, but some in-house tax lawyers may work in a legal department led by the company's General Counsel. Entry into in-house tax positions, whether at for-profit or non-profit organizations, is typically limited to experienced tax professionals. Thus, most tax-interested law school graduates work for at least a few years at a law firm, accounting or consulting firm, or in government before moving to an in-house position.

### v. Academia & Policy Centers

A small number of tax lawyers work in academia, where we teach students about the tax law, perform research, write about the tax law, and participate in the governance of our institutions. A number of tax academics head [low-income taxpayer clinics](#), combining the education of aspiring tax lawyers with a practice that serves vulnerable taxpayers who otherwise may not be able to afford tax advice. Tax lawyers also work for public policy think tanks such as the [Tax Foundation](#) or the [Tax Policy Center](#).

## 2. Applying the Framework to Understand the Range of Tax Career Options

There are numerous possible combinations of practice areas, practice roles, and practice settings, which means that there are many different tax law career paths. For example, a tax lawyer at a large multi-national law firm may do corporate tax planning work (e.g., advising on the tax aspects of M&A transactions) or international tax controversy work, and a solo practitioner or a tax lawyer at a small law firm may represent individuals in tax controversies or may provide estate planning services. A J.D. at an accounting or consulting firm may do state/local tax compliance work or both planning and compliance work for private equity or hedge funds that are organized as tax partnerships. A tax lawyer working in government could represent the government in controversies involving small business tax issues or could assist with planning for new regulations on international tax issues. These are only a few examples of the many tax career options available to J.D.s.

Not every combination is readily available, however. Some practice areas are more common in certain settings than others. For example, estate planning work is more common in mid-size, small, and solo law firms than in very large law firms. Tax planning work for corporate M&A transactions and transfer pricing planning work for multi-national corporations are typically handled by tax advisers in larger firms (whether in law, accounting, or consulting), often with both U.S. and foreign offices, rather than by those in small or solo practices. Further, as mentioned above, lawyers at law firms, rather than those at accounting firms, typically handle more controversy work and any planning work that involves drafting legal documents, and tax J.D.s at accounting and consulting firms tend to handle much more tax compliance work than do tax lawyers at law firms. Despite some limitations on the available combinations, there is a big world of tax careers available to law school graduates.

Remember also that many law school graduates change jobs over the course of a career. So someone may start by doing tax work in government and then move to private practice, or the reverse. A tax practitioner might start out at a law firm or accounting firm and then move in-house. Some tax advisers, particularly at accounting and consulting firms, start by doing mostly compliance and shift to more strategic planning work as they become more senior. Similarly, someone might start by doing tax planning in a particular practice area and then shift to tax controversy on the same topic, or vice versa. Many people broaden or narrow their practice areas over their careers.

Ultimately, if you enjoy the study of tax law, there are likely to be career options that are right for you. This is true whether you like litigation or prefer to avoid it at all costs; whether you love working with numbers or prefer to take a more qualitative approach; whether you enjoy representing individuals who are personally affected by your work or prefer the emotional distance that sometimes comes with representing larger entities; and whether you want to pursue a career in public service or whether you prefer to work in the private sector.

Whatever your tax career goals, don't forget that all of us, across tax practice areas, roles, and settings, also have the opportunity to contribute to the public good (e.g., through pro bono work), to the tax profession (e.g., by participating in professional organizations such as the ABA), and to the development of tax policy and the particulars of tax law (e.g., by commenting on legislative or regulatory proposals). I encourage you to seize the opportunities as part of whatever tax practice path you pursue. ■