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PRIVATE CLIENTS, PUBLIC GOOD

I read with some amusement the chapter headings for this volume, implying that a legal career will fit neatly into one category or another. In fact, my career—and, I suspect, the careers of many other tax lawyers—has regularly wandered across these boundaries. I hope that if you, the reader, are contemplating a career in tax law, this will be true for you as well.

My career began inauspiciously as a summer associate. The law firm organized its summer program as a series of rotations through all the firm's departments. Filled with an excess of self-esteem, I refused to rotate through the tax department, certain that it was a dumping ground for nerds.

In the end, I was forcibly thrown into their tax library with an assignment. I still remember the question—a straightforward issue of transferee liability under section 6901. I circled the single desk in the small room, aimlessly scanning the shelves and plotting how to wiggle out of the assignment. A few dozen laps around the desk later, a light bulb suddenly went off, and I intuitively grasped that on those shelves, in a sizeable but not uncountable number of books, was a complete and perfect microcosm of all economic activity, written not in mathematical terms but in English. The more I contemplated the audacity and conceptual elegance of this undertaking, the more excited I became. By the time I left that little room, carrying my sheaves

of yellow legal paper with my handwritten first draft of my memorandum, I was a tax lawyer.

I was fortunate to spend the next 31 years in private practice with terrific mentors, colleagues and clients. I believe strongly that, whatever tax law career path you wish to pursue, you will do well to begin with several years of hardcore private practice. Tax law is about being a lawyer as well as an abstract thinker, and no environment teaches the skill of tax lawyering—applying abstract principles to real problems—better than a stint at a serious tax department in a first-rate law firm.

As a young lawyer, I was triply blessed. First, I had patient, brilliant and thoughtful mentors, who did their best to curb some of my excesses and to train me to be a productive lawyer. Second, I stumbled into the fact that I had a gift for working with investment bankers and traders; I was not put off by profanity (then much in vogue on Wall Street), and I could express complex tax concepts in ways they understood—what I called speaking Tax for Tots.

Third, I began my career just as the modern era of financial innovation was dawning, and I was able to grow with a rapidly-expanding field not yet weighed down with textbooks and forms. From the perspective of the young and ambitious, tax law has a marvelous leveling effect. Experience only goes so far when confronting the constant reinvention of the law itself (through regular legislative revisions) and the application of the law to new forms of business organization or economic activity.

I was fortunate as well to practice in New York City, which had a strong tradition of practitioners writing academic articles, tax club papers and bar association reports. It is a pity that the former close collaboration between practicing lawyers and academics has largely eroded over the last twenty years, as tax law in the academy has become more formal and more dominated by economics. The careers of tax lawyers and the relevance of much academic work are thereby both diminished.

Over the years I applied my intellectual curiosity to tax club and academic papers in substantive areas I'd first encountered in working real problems for clients. I was extremely lucky to have clients who never once attempted to influence the outcome of my academic work.

This porosity between the roles of private practice counselor and policy thinker is one of the great attractions of tax law. A practitioner can contribute to tax policy discourse either in moderation (by participating in bar association reports and private tax clubs, for example) or to excess (through individual articles, or teaching as an adjunct at the many law schools that appreciate the value of experienced practitioners teaching non-introductory courses), as one's interest and time waxes and wanes.

In recent years I found the gravitational pull of policy-oriented thinking to be more and more difficult to resist. The result was a year-long night and weekend project to develop a general theory of the taxation of capital income, ultimately published by The Hamilton Project. I was blessed to have been encouraged in this quixotic enterprise years earlier by David Bradford, one of the greatest and kindest

academics I have ever had the pleasure of knowing. It came as a marvelous bit of serendipity just as that project ended to be approached by Senator Max Baucus, the Chairman of the Senate Finance Committee, and Charles Rangel, Chairman of the House Ways and Means Committee, to become the Chief of Staff of the Joint Committee on Taxation.

The Joint Committee Staff is the nonpartisan tax resource to Congress. We prepare the revenue estimates on which Congress relies in figuring out the cost or incremental revenues attributable to every new tax proposal. We also counsel Members on the development of their own proposals. We prepare background papers describing the legal and economic issues relevant to the tax-writing committees. And we help with legislative drafting and with the preparation of reports explaining new legislation. (You can learn more about the Joint Committee and its work product at www.jct.gov.)

One of the exciting aspects of working here is that the professional staff is roughly half lawyers and half economists, and we all work together on everything. The different perspectives are refreshing, and make for a much higher quality final product.

My job is extremely challenging, and at the same time eye-opening: regardless of how broad-based you believe your tax career to be, you have no idea how narrow your practice really is until you work at the Joint Committee. In my first month on the job, for example, I focused (among many other topics) on excise taxes on student arrows, subsidies for New York City mass transit, quirks in the Uniform Definition of a Qualified Child, incentives for renewable energy production, and the “carried interest” debate.

Tax law is a wonderfully ambiguous career. There are no rigid boundaries between practitioner, academic, policy wonk, and government servant. Tax lawyers regularly move from one to the other—or try to straddle a couple at a time—both early and late in their careers. The result is that this is a field in which we can apply both our brains and our experience every day to new and interesting problems, from the beginning of our careers to the end.