Conclusion

Allocation of net income tax liability on business income among multiple jurisdictions is a messy and uncertain affair. It is akin to “slicing a shadow,” whether the slicing is done under an arm’s-length approach or under formula apportionment. Neither approach reaches precisely the “correct” result, and neither is particularly easy to administer.

Under these circumstances, it may be a sufficient argument against change simply to state that formula apportionment is not so clearly superior to current law that we should incur the costs of transition and the exposure to the law of unanticipated consequences. However, we believe that the arm’s length approach would be the clearly superior choice even if we were writing on a clean slate.

The U.S. government should have a strong preference for the arm’s-length approach, because of the promise that it offers for countries to allocate taxing jurisdiction consistently among themselves. The arm’s length standard provides a basis for consistent allocations through application of principles that do not affect the tax and economic policies of the taxing jurisdictions. Furthermore, it is an essential premise of the arm’s-length standard that income should be taxed precisely once, so that a double or multiple tax result by definition violates the standard. Formula apportionment has none of these virtues. Multiple taxation is completely consistent with formula apportionment, and the approach provides no policy-neutral basis on which to resolve particular cases of multiple taxation. Furthermore, formula apportionment would entangle the U.S. government, in its role as tax collector, in administrative difficulties significantly exceeding those of the current system.

The arm’s length method may have its difficulties. However, it also has certain virtues that formula apportionment lacks: the arm’s-length method is a neutral standard that aspires to achieve single taxation; it is internationally accepted; and it does not require knowledge of transactions with no U.S. nexus. These are virtues that U.S. tax policymakers should care about and fight to retain.

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Mamas Don’t Let Your Babies Grow Up to Be Tax Lawyers

By Paul L. Caron

In 2012 Tax Notes will celebrate the 40th anniversary of its inaugural issue, published on September 18, 1972. In recognition of that milestone and to show its appreciation for your continued readership, Tax Notes will be republishing select archived articles from each of the past 40 years. Tax Notes hopes that readers will enjoy these valuable contributions from prominent members of the tax community on issues that were and are of central importance to the field. Readers are invited to submit their own recommendations for our retrospective to taxnotes@tax.org, along with a short explanation for why the article has been recommended.

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This article, originally published July 18, 1994, was excerpted from Caron’s report, “Tax Myopia, or Mamas Don’t Let Your Babies Grow Up to Be Tax Lawyers,” which was published in 13 Va. Tax Rev. 517 (1994). The article discussed two related myths that have a strong currency among law students, lawyers, and the public.

The first myth is that tax lawyers are somehow different from other lawyers. Part I of the article chronicled the disparagement of tax lawyers in a light-hearted fashion and set the stage for the discussion of the second myth that tax law is somehow different from other areas of the law.

As suggested by the abstract reference to “tax myopia” in the title, the article contended that tax law too often is mistakenly viewed as a self-contained body of law. Part II explained how that misperception has impaired the development of tax law by shielding it from other areas of law that should inform the tax debate. It also explained how other areas of law have been impoverished by the failure to consider how tax law can enrich their development. The article advocated a synergistic relationship between tax and nontax law through which each benefits from the insights of the other.

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The myth that tax lawyers are different from other lawyers is perpetuated in various (often humorous) ways in law schools, the legal profession, and the popular culture.  

**Law Schools**

Although a few law schools include the basic federal income tax course either in the first-year curriculum or as a required second- or third-year course, most schools offer it as an elective. In choosing their courses, second- and third-year students follow the conventional wisdom that there are only two types of law school courses: tax and everything else. Tax courses are perceived to be reserved for what in my day used to be called “tax geeks” — accountant-types who carry calculators and plastic pocket-protectors for their multi-color array of pens. Nevertheless, most law students end up taking the basic income tax course, either because they follow the advice (not entirely disinherited) of their tax professors that all lawyers should have a basic familiarity with the tax principles that underlie most of the transactions and disputes they will confront in their professional lives, or (more)

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2Willie Nelson fans will recognize the title as a variation of his song “Mamas Don’t Let Your Babies Grow Up To Be Cowboys,” on Greatest Hits (And Some That Will Be) (Columbia Records 1981). In fact, Mr. Nelson placed lawyers above cowboys in the food chain: Mamas don’t let your babies grow up to be cowboys. Don’t let them pick guitars and drive them old trucks. Let them be doctors and lawyers and such. Mamas don’t let your babies grow up to be cowboys cause they’ll never stay home and they’re always alone even with someone they love.

Recent reports suggest that Mr. Nelson could have used a good tax lawyer. As a result of investments in various tax shelters that subsequently were disallowed by the Internal Revenue Service (the Service), he was faced with a $16.5 million tax liability. With the sale of his seized property unable to make a significant dent, Mr. Nelson sought other ways to satisfy his tax obligations: he instituted a RICO suit against his former accountant, received $6: $3 for the back tax liability, $2 for taxes on the album’s profits and $1 to fund the lawsuit against the accountants. See Alison Leigh Cowan, “Willie Nelson Hopes for a Hit; So Does the I.R.S.,” N.Y. Times, Sept. 2, 1991, at 1; Robert Draper, “Poor Willie,” Tex. Monthly, May 1991, at 101; Geoffrey Himes, “Willie Nelson’s Taxing Career,” Wash. Post, Aug. 2, 1991, at N15; see also Lea Sheppard, “Individual Bankruptcy: The Tax Shelter of the ’90s,” Tax Notes, Oct. 12, 1992, p. 166 (noting that Mr. Nelson could have escaped tax liability through well-timed bankruptcy petition, but refused to do so). Mr. Nelson settled with the Service for less than 50 cents on the dollar, signaling “a significant dent, Mr. Nelson sought other ways to satisfy his tax obligations.”

3There is a strong tradition of jokes and insults by and about tax lawyers and accountants. For example, Professor Gordon has observed that “[a] tax lawyer is a person who is good with numbers but who does not have enough personality to be an accountant.” James D. Gordon III, “A Dialogue About the Doctrine of Consideration,” 75 Cornell L. Rev. 987, 1001 n.98 (1990); see also James D. Gordon III, “How Not to Succeed in Law School,” 100 Yale L.J. 1679, 1697 (1991) (same); Erik M. Jensen, “The Heroic Nature of Tax Lawyers,” 140 U. Pa. L. Rev. 367, 367-68 & nn.4-9 (1991) (collecting various references to tax lawyers and accountants in movies, television, newspapers, and law reviews); cf. Louis Auchincloss, Powers of Attorney 167 (1983) [hereinafter Auchincloss, Powers of Attorney] (“I have become a mere jumble of tax regulations, to be practiced with a slide rule”).

4During the 1984-86 period, 54 (31 percent) of the 175 ABA-approved law schools required students to take a federal income tax course prior to graduation. William P. Powers, A Study of Contemporary Law School Curricula 12 (1987).


6Tax courses apparently have long been perceived by law students to be reserved for accountants. See, e.g., “Interview with Erwin N. Griswold,” 11 ABA Sec. Tax’n News, 56, 57 (1992), (“Federal taxation was widely regarded [at Harvard Law School in the 1920s] as a field for accountants rather than for lawyers.”)

7There is a strong tradition of jokes and insults by and about tax lawyers and accountants. For example, Professor Gordon has observed that “[a] tax lawyer is a person who is good with numbers but who does not have enough personality to be an accountant.” James D. Gordon III, “A Dialogue About the Doctrine of Consideration,” 75 Cornell L. Rev. 987, 1001 n.98 (1990); see also James D. Gordon III, “How Not to Succeed in Law School,” 100 Yale L.J. 1679, 1697 (1991) (same); Erik M. Jensen, “The Heroic Nature of Tax Lawyers,” 140 U. Pa. L. Rev. 367, 367-68 & nn.4-9 (1991) (collecting various references to tax lawyers and accountants in movies, television, newspapers, and law reviews); cf. Louis Auchincloss, Powers of Attorney 167 (1983) [hereinafter Auchincloss, Powers of Attorney] (“I have become a mere jumble of tax regulations, to be practiced with a slide rule”).

8See Dobson v. Commissioner, 320 U.S. 489, 494-95 (1943) (“No other branch of the law touches human activities at so many points.”); Jeffrey H. Birnbaum & Alan S. Murray, Showdown at Gucci Gulch: Lawmakers, Lobbyists, and the Unlikely Triumph of Tax Reform 289 (1987) (“Taxation....is....life. If you know the position a person takes on taxes, you know all their whole philosophy. The tax code, once you get to know it, embodies the essence of life: greed, politics, power, goodness, charity.”); Martin J. McMahon Jr. & Lawrence Zelenak, Bittker & McMahon’s Federal Income Taxation of Individuals: Study Problems iv (1990) (“It is the lawyers’ duty to recognize and solve their clients’ tax problems that lurk in [various types of transactions]. All lawyers must — if they are to practice competently — be proficient in basic federal income tax law.”); see also Louis Auchincloss, The Partners 30 (1974) [hereinafter Auchincloss, The Partners]. (“Everything today is taxes.... What better seat on the grandstand of life can I offer you than that of tax counsel.... Who is the figure behind every great man, the individual who knows his ultimate secrets? A father confessor? Hell no, the tax expert.”)
likely) because tax is on the bar exam of the state in which they intend to practice.9

The students quickly confront the mind-numbing complexity of the Internal Revenue Code (the Code). A few students react by becoming so enamored with the subject that they decide to become tax lawyers or take other tax courses during their law school careers. Most, however, have their initial distaste for tax confirmed and go on to become corporate lawyers, litigators, etc., avoiding all other professional contact with tax during (and after) law school.

Several tax legends recently have bemoaned the difficulty of teaching the subject. What hope can the beginning tax professor10 have when Dean Gris-

At the University of Cincinnati College of Law, the tax professors include with student registration materials an explanation of why even those students planning nontax careers should take two tax courses in law school. For a more complete view, see Marjorie Kornhauser, “From the Editor,” 8-1 AALS Sec. Tax’n News 8 (1991) (“Tax is clearly the quintessential course and the whole law school curriculum should revolve around it.”); cf. William D. Popkin, Introduction to Federal Income Taxation vii (1987) (“The Tax Code is the Chaucer and Shakespeare of the law school curriculum.”); Charles Adams, For Good and Evil: The Impact of Taxes on the Course of Civilization (1992).

1At least 20 states include federal income tax as one of the topics on their bar exam (Alabama, Connecticut, Georgia, Illinois, Indiana, Iowa, Kentucky, Maine, Minnesota, Montana, Nebraska, New Hampshire, New York, North Carolina, Ohio, Oregon, Pennsylvania, Vermont, Virginia, and Wisconsin); a few states include other federal tax subjects such as estate and gift tax (e.g., Connecticut, Iowa, Maine, Oklahoma, and Utah). See generally Martindale-Hubbell Law Digest, U.S. Law Digests (1993) (under topic Attorneys and Counsellors: Examination); BAR/ BRI Digest (1993); see also Katherine A. Davis Roome, The Letter of the Law 4 (1979) (describing “dread terror of the almighty bar exam” as motivation for law students).

10After serving on the University of Cincinnati College of Law’s faculty appointments committee last year (and reviewing all 1,000 resumes from prospective faculty candidates in the AALS’s Faculty Appointments Register), I can attest to the hostility many feel at the prospect of teaching tax. The AALS form requests the candidate to list the subjects she is willing to teach, and the conventional wisdom recommends that the candidate display maximum flexibility and rule out little. Don Zillman, et al., “Uncloaking Law School Hiring: A Recruiter’s Guide to the AALS Faculty Recruitment Conference,” 38 J. Legal Educ. 345, 348 (1988). However, one of the most common responses last year on the list of desirable subjects was “anything but tax.” Cf. Walter I. Blum, “Anthropological Notes on Federal Tax Man,” 68 Taxes 499, 505 (1968) (new professors strenuously avoid being forced into teaching tax courses); Jon W. Bruce & Michael Swygert, “The Law Faculty Hiring Process,” 22 Hous. L. Rev. 213, 253 (1981) (tax draws fewer teaching candidates than other areas); James D. Gordon III, “An Insider’s Guide to the Faculty Recruitment Conference,” 43 J. Legal Educ. 301, 302 (1993) (Faculty candidate should narrow list of subjects “without foreclosing any meaningful options. You could write ‘Any subject but tax,’ but this is too modest a sacrifice. Try to narrow the subjects a little more, so that you don’t appear too protein.”); Deborah J. Merritt & Barbara F. Reskin, “The Double Minority: Empirical Evidence of a Double Standard of Law School Hiring of Minority Women,” 65 S. Cal. L. Rev. 2299, 2351 (1992) (law schools often have difficulty staffing tax courses); Carol A. Roehrenbeck & Gail L. Richmond, “Three Researchers in Search of an ‘Alcove: A Play in Six Acts,”’ 84 Law Libr. J. 13, 23 (1992) (After tax professor dies, fictional law school faculty must hire new professor because “[a]ll of us fall into the anything-but-tax group. We need a tax-only type.”).

11Interview with Erwin N. Griswold, supra note 6, at 68 (“What advice would I give to a beginning tax professor? I think it would be that the professor should think of teaching some other subject.”). Dean Griswold claims that his lifetime involvement with tax law came about by accident after graduating from law school when he accepted a position with the Solicitor General’s Office. Erwin N. Griswold, Ould Fields, New Corne: The Personal Memoirs of a Twentieth Century Lawyer 79-81 (1992). However, Dean Griswold’s role in writing the original Bluebook as a second-year law student suggests a predisposition toward a tax career. See James W. Paulsen, “An Uninformed System of Citation,” 105 Harv. L. Rev. 1780, 1782 (1992).

12Interview with James S. Eustice, 11 ABA Sec. Tax’n News 38, 42 (1992).

13Ginsburg, supra note 1, at 596; see also “Interview with Martin D. Ginsburg,” 12 ABA Sect. Tax’n News 6, 6 (1992) (“Teaching basic tax is, I think, the most fun because it is an enormous challenge.”).

14See, e.g., Roome, supra note 9, at 103 (fictional account of Cornell Law School) (“I remarked how unexpectedly interesting I found Income Tax. . . .”)


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See, e.g., Roome, supra note 9, at 103 (fictional account of Cornell Law School) (“I remarked how unexpectedly interesting I found Income Tax. . . .”)

more than the professor. 16 From the professor’s perspective, the complexity demands vigilance in guarding against oversimplification while at the same time making the students appreciate the policies implemented in the specific statutory or regulatory scheme. 17

Of course, the tax professor’s professional survival and advancement may depend more on scholarship than teaching. 18 Current trends in legal scholarship favoring “abstract theory” at the expense of more traditional, “practical” work, 19 may place tax professors at a competitive disadvantage with their nontax peers. 20

Legal Profession

The perceived differences separating tax law and tax lawyers from their nontax counterparts are reinforced by the legal profession. I received my first hint of this attitude my first day as a summer associate at a Wall Street firm. At a presentation by senior partners of the firm’s various departments, the tax partner extolled the virtues of his department by emphasizing that because of the intellectual rigor of the field, 21 tax associates were encouraged to go home at 5:30 every day; tax practice was simply too complex to be done when an associate was tired. 22 (Only later when I spoke

16 A tax professor recently has argued that tax courses are doomed to fail because of their overreliance on “linear” analysis through casebooks. C. Garrison Lepow, “Deconstructing Los Angeles or a Secret Fax From Magritte Regarding Postliterate Legal Reasoning: A Critique of Legal Education,” 26 U. Mich. J.L. Ref. 69 (1992) (hereinafter Lepow, Deconstructing Los Angeles). Although obscured by the ponderous title, her thesis is that professors should incorporate videos to more effectively teach tax. Coincidentally, Professor Lepow has produced a movie for classroom use: Nobody Gets Married For the First Time Anymore, Part I: How Divorce Became the Last Tax Shelter in America (Thirsty Productions 1990). For the impact of videos on the nontax curriculum, see Christine Alice Corcos, “Colombo Goes to Law School: Or, Some Thoughts on the Uses of Television in the Teaching of Law,” 15 Loy. L.A. Ent. L. Rev. 499, 501 (1993) (“The number of professors who use film and television clips to refer to cinematic characters to illustrate the law at work in society is rapidly increasing.”) (footnote omitted).

17 Professor Eustice describes this process as follows: Obviously, we teach something, but we basically teach a vocabulary, and get people out there so they can learn it on their own. … But it’s better to know what you don’t know than it is to think you know something. If nothing else, I think it’s a useful service to scare people. That we easily do. … There’s an enormous tension between trying to be right, in other words not convey misleading information, and your ability to communicate. Sure, I can simplify it to the point where its comprehensible, but it’s also wrong.

Interview with James A. Eustice, supra note 12, at 42; see also “Interview with Boris I. Bittker,” 12 ABA Sec. Tax’n News, 6, 10 (1993) (“Tax teachers who say, “The field is so complicated that I can’t make any headway,” are overlooking the fact that there is much that can be done with basic structures, and that students can be brought to understand the persistent problems that the current intricacies seek to resolve.”).


22 Unlike, he said, the corporate drones who could mindlessly bill hours at the printer, or the junior litigators who could do the same in a variety of mundane tasks. But cf. John Grisham, The Firm 86 (1991) [hereinafter Grisham, The Firm] (tax partner describing billing practices to first-year tax associate: “Every time you look at the file, charge it for an hour. . . . If [the client’s] name . . . crosses your mind while you’re driving to work, stick it for an hour.”); see also id. at 58 (“Most good lawyers can work eight or nine hours a day and bill twelve.”). Of course, Mr. Grisham’s description of tax practice is often inaccurate. See id. at 28, 50, 66-69 (describing bar review course run by tax partners for firm’s new associate); id. at 306-13 (describing how tax partners and associates spent countless hours before April 15 preparing tax returns for individual clients). Mr. Grisham’s later work also suffers from factual inaccuracies. See John Grisham, The Pelican Brief 63 (1992) (tenured professor at Tulane Law School sleeps late, works five hours per day, and earns a $70,000 salary). As the Society of American Law Teachers’ annual salary survey shows, Mr. Grisham significantly understated the salary. See 1991-92 SALT Salary Survey 9 (reporting $96,500 median salary for full professor at Tulane Law School).
with some of the permanent tax associates did I learn that he was referring to 5:30 a.m.)

Of course, this self-indulgent air of intellectual superiority invites a less flattering view from nontax lawyers. For example, at most firms, tax lawyers typically are not sent to law schools to interview students. Perhaps one fear is that tax lawyers would not be able to “sell” the firm because their work would not sound exciting to the average student. A more likely explanation is that the hiring partner (usually a nontax lawyer) or recruitment coordinator simply believes that tax lawyers are not as presentable as their fellow lawyers from other departments.23 Under this view, tax lawyers simply lack the panache of the litigators or corporate lawyers sent to woo law students.24

The perception that tax law is less interesting or important than other areas of law pervades even the Supreme Court. For example, one proffered explanation is that the conservative chief justices under Supreme Court. For example, one proffered explanation is that the conservative chief justices under whom he served refused to assign him more important cases: “Justice Marshall was forced to write on federal income tax because he was given nothing better to do.”25 Other members of the Court apparently share this view of tax law. For example, when asked why he sings along with the chief justice at the Court’s annual Christmas party, Justice Souter replied, “I have to. Otherwise I get all the tax cases.”26 Although similar remarks have been attributed to other justices,27 the most recent Supreme Court appointee may help change this view of tax law. Justice Ginsburg’s husband is one of the “tax legends” referred to earlier,28 and the gender discrimination case that launched her career was a tax case.29

As increasing numbers of women enter the legal profession, tax practice has become more isolated from other areas of law by remaining primarily a women’s club. The tax bar is commonly referred to as a “special priesthood,”30 and it is only slightly more tolerant than the Catholic Church in ordaining women tax priests.31 For example, in 1991, women comprised 23 percent of the members of the ABA32 but only 15 percent of the members of the ABA Tax Section.33 Similarly, in 1992-93, women comprised

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23Cf. Osborne, supra note 20, at 69 (“[T]ax makes you bald, round and shrinks you. It’s the truth. Tax makes you bald and round . . . .”). For more on hirsuteness and tax lawyers, see infra notes 41-42, 47 and accompanying text.

24But cf. Heinz & Laumann, supra note 21, at 91 (tax received second highest “prestige score” of 30 legal specialties in survey of 224 Chicago lawyers); Grisham, The Firm, supra note 22, at 1-10, 15-32 (describing tax lawyers’ upscale wooing of third-year student to join firm).


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law); Claudia MacLachlan, “Making an Accounting of Top Tax Attorneys,” Nat’l L.J., Feb. 15, 1993, at 34 (listing of most prominent tax lawyers in country included only 6 percent women).

35Telephone Interview with Richard A. White, Research Associate, Association of American Law Schools (Mar. 8, 1993).


37For a British perspective on the male-dominated tax profession, see generally The Beatles, “Taxman,” on Revolver (Capitol Records 1966). The Beatles were unusually prescient in anticipating the Clinton administration’s proposed Btu tax (Department of the Treasury, Summary of the Administration’s Revenue Proposals 64 (1993)).

If you drive a car I’ll tax the street.
If you try to sit I’ll tax your seat.
If you get too cold I’ll tax the heat.
If you take a walk I’ll tax your feet.


39Telephone Interview with Richard A. White, Research Associate, Association of American Law Schools (Mar. 8, 1993).

40Telephone Interview with Richard A. White, Research Associate, Association of American Law Schools (Mar. 8, 1993).


43Telephone Interview with Richard A. White, Research Associate, Association of American Law Schools (Mar. 8, 1993).

44Telephone Interview with Richard A. White, Research Associate, Association of American Law Schools (Mar. 8, 1993).

45See, e.g., Leslie McAneny, “Pharmacists Again Top ‘Honesty and Ethics’ Poll; Ratings for Congress Hit New Low,” The Gallup Poll Monthly, July 1992, at 2 (1992 poll placed lawyers 14th out of 25 professions for honesty and ethics, above car salesmen, insurance salesmen, politicians, and labor union leaders, but below doctors, the media, funeral directors, and building contractors; 1992 results reflect approximately 25- percent decline in public’s perception of lawyers’ honesty and ethics since 1976); Randall Samborn, “Anti-Lawyer Attitude Up,” Nat’l L.J., Aug. 9, 1993, at 1, 20 (31 percent of respondents in 1993 poll claimed lawyers were less honest than most people, compared with 17 percent in 1986 poll).

46See the recent article chronicling the general unhappiness of young lawyers, one wag suggests that tax lawyers are to blame for their lot in life: “[S]ome young lawyers put themselves into situations that bring about loneliness. ‘A lawyer selects his own type of work. If you pick tax work, you’re already picking a job that is going to isolate you. A trial lawyer or corporate lawyer has more access to people and the more access you have, the more likely you’re not going to feel isolated or depressed.’”

47Telephone Interview with Richard A. White, Research Associate, Association of American Law Schools (Mar. 8, 1993).

48Telephone Interview with Richard A. White, Research Associate, Association of American Law Schools (Mar. 8, 1993).

Popular Culture

Tax lawyers long have been portrayed in the popular culture as something other than normal. Although this portrayal has potential advantages when the popular perception of lawyers in general is at an all-time low, in practice the difference has resulted in an unflattering portrayal of the tax lawyer.

The tax lawyer typically is depicted as a balding, white, bespectacled male in varying stages of emotional discord. For example, Louis Auchincloss, perhaps the most prolific novelist of the legal profession, has given us many memorable tax lawyer characters. In Powers of Attorney, we meet a junior tax associate with a “balding dome over which the sparse long hairs were so carefully pasted back,” and a senior tax partner, “an aloof, superior person, at 70 (account of 40-year-old tax partner who quit $1-million-per-year-position at Wachtell, Lipton, Rosen & Katz to live on beach in Costa Rica). For a more upbeat portrayal of the life of tax lawyers, see “Tax Lawyering: A Changing Profession; A Modest Collection of Short Essays,” 46 Tax Law. 665 (1993).

too exalted on his peak of tax brilliance,"43 with a "neurotic fear of women."44 The few women tax lawyers we meet in Aucincloss's legal world generally are more unstable than their male counterparts, including the only female tax partner at a fictional Wall Street firm in The Partners:

[A] well-preserved quinquagenarian, the blond-grey curls, the dry skin, the staring eyes, the sticklike figure, the brusque movements, all suggested a being totally desexed, or at least one deprived of those chemicals designed to attract a mate. [She] was not a masculine woman, but she had the will (if not the physique) of an Amazon determined to subsist alone. [The junior tax associate] doubted that she had the smallest interest in the liberation of her sex. She seemed, indeed, to see no function in the sexual organs beyond their power to create six-hundred dollar tax deductions.45

There are other similar, more mainstream characterizations of the tax lawyer. For example, the opening scene of NBC's L.A. Law46 showed the senior tax partner at McKenzie, Brackman, Chaney & Kuzak dead in his office on a Monday morning.47 The humor in the scene involved the difficulty of physically removing the body, rigor-mortis having set in over the weekend, with a pincer-like grip on his CCH tax service. Michael Tucker portrays the only remaining tax lawyer, Stuart Markowitz, as a short, balding, nerdy character with a low sperm count. After playing mainly a background role on the show, he gained more visibility only by abandoning tax to join the other high-profile lawyers in litigation.48 Although tax lawyers generally have escaped ridicule in other television shows,49 they have been lampooned in television commercials50 and in movies.51

John Grisham's best-selling 1991 novel, The Firm,52 has thrust tax lawyers into the public eye as never before. Professor Jensen has predicted that, despite its many inaccuracies,53 the book's depiction of a tax lawyer as a swashbuckling hero ultimately may improve the image of tax lawyers in the public mind.54 In today's video age, it is unlikely that the book (or indeed, any book) could

48In a recent commercial, when two friends argue over whether to watch calf roping or a show about "big shot lawyers," Miller Lite combines the two elements in "The Big Lawyer Roundup" in which cowboys rope lawyers. The second lawyer out of the chute is an overweight tax lawyer who is quickly hog-tied. See Richard B. Schmitt, "Lawyers Plan to Accentuate the Positive," Wall St. J., June 22, 1993, at B1; Ira Teinowitz, "Reviving Miller Lite: Can New Ads Do This?" Advertising Age, June 14, 1993, at 3.
49See, e.g., Ghostbusters II (Columbia 1989) (featuring Rick Moranis as nerdy tax lawyer); Ordinary People (Universal 1980) (starring Donald Sutherland as tax lawyer-father of emotionally dysfunctional family).
50See, e.g., Corabel Alexander, "The Firm is Legal Thriller," Louisvile Courier-J., June 10, 1991, at 14 ("Any writer, like John Grisham, who converts tax law into a successful thriller, earns his credit."); Tony Mauro, "Lawyer Takes Novel Step Toward Legal Thrillers," N.J. L.J., Apr. 4, 1991, at 11 ("It is a tribute to Grisham that he has made the world of a firm specializing in tax law seem enthralling.").
reverse the cumulative weight of unflattering portrayals of tax lawyers. The movie version of the book, however, holds far greater potential. If Tom Cruise has the same effect on the tax bar as his portrayal of a fighter pilot in *Top Gun* had on the armed forces, tax lawyers may finally take their rightful place in the cultural pantheon.

**Conclusion**

Tax lawyers and professors have only ourselves to blame for the popular perception that Michael Tucker, and not Tom Cruise, is the prototypical tax lawyer. Until we start opening up the tax law to the light of nontax insights, we cannot expect the public to treat us like our nontax counterparts.

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56 (Paramount 1986).