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CPA VOICE

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Last month, your Executive Board met to review OSCPA's progress on several strategic priorities. We've taken important steps to create more value while keeping focused on initiatives we know are vitally important to CPAs. Many of these fall into the advocacy arena. A few noteworthy accomplishments include driving municipal tax reform over the finish line and keeping legislators focused on a more predictable tax environment. These efforts directly involved CPAs leveraging OSCPA's reputation as an influential voice of reason to advocate for positive changes for Ohio's business community. The most recent win involved the removal of harmful CAT and sales tax increases and the approval of OSCPA-backed tax reform provisions in Ohio's biennial budget: a 6.3% across-the-board income tax cut, and expanded small business income tax deductions.

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OSCPA also has been intentionally designing our membership approach to better reflect what CPAs have told us they expect from their professional association. What exactly does that mean for you?

The Ohio Society of CPAs will remain CPA-centric and business driven in developing new programs and services. Last year, your board identified several characteristics that are critical litmus tests we use when making decisions about how we spend time and resources:

CPAs drive business. You play a vital role in Ohio's business growth engine, serving as trusted advisors to leading businesses across many industries. Any program or service we launch must enhance that role and help you advance your business and career goals.

More customer-driven. To increase our value, we will get more customized in our approach, understanding that members have different needs that require different solutions. We have just concluded a six-month project in which we worked with CPAs to identify the most important topics where CPAs need more education and resources. We've created a profile for specific groups of CPAs with common needs—individuals who are the sole CPA in a business, a senior level CPA in corporate industry, CPAs in management and those just starting out. Over the next year, expect to see resources specifically designed for these groups. Our website will be easier to navigate with more resources on niche topics ranging from accounting and auditing to business development and talent management. Thanks to new technology, the news and information you receive from us will be more customized as well, and those topics will change based on what you have most recently read.

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We'll also present information in multiple formats, making sure those with different knowledge levels will have valuable takeaways geared to their level of understanding. A simple example is providing a glossary of terms along with a technical article in our magazine.

With this issue of *CPA Voice*, we are moving to a new schedule of 6 issues per year. We want the information you consume to be as current as possible, so our team will develop longer-lead features for the magazine, and targeted niche content in our electronic publications that reaches you faster.

Targeted member engagement. We are expanding our networking events program as a direct result of member feedback. We've created both OSCPA Connect! And YCPA Connect! events that bring CPAs together with peers and other business professionals — attorneys and bankers, for instance — to expand their network and gain knowledge in a broader business context. I encourage you to attend some of the dozens of events we are planning around the state.

Data-guided in our decision making. We are making it our goal to be more data driven, starting with several research projects to help us better gauge what you need to be more valuable in your role. We are comparing what we learned against other industry data to identify points of intersection and differentiation. More concisely, where is the best opportunity for OSCPA to uniquely fill a need that no one else can? While we always want to know what you think as an individual, we need to pay closer attention to what the numbers can predict for our future success. Our goal is to be a valuable partner to CPAs and the organizations they work for. That means anticipating the evolution of the business world and being first to market on new initiatives that enhance the image of CPAs as objective, strategic business advisors. Above all, we need to make it valuable to you. Our goal is to do both.



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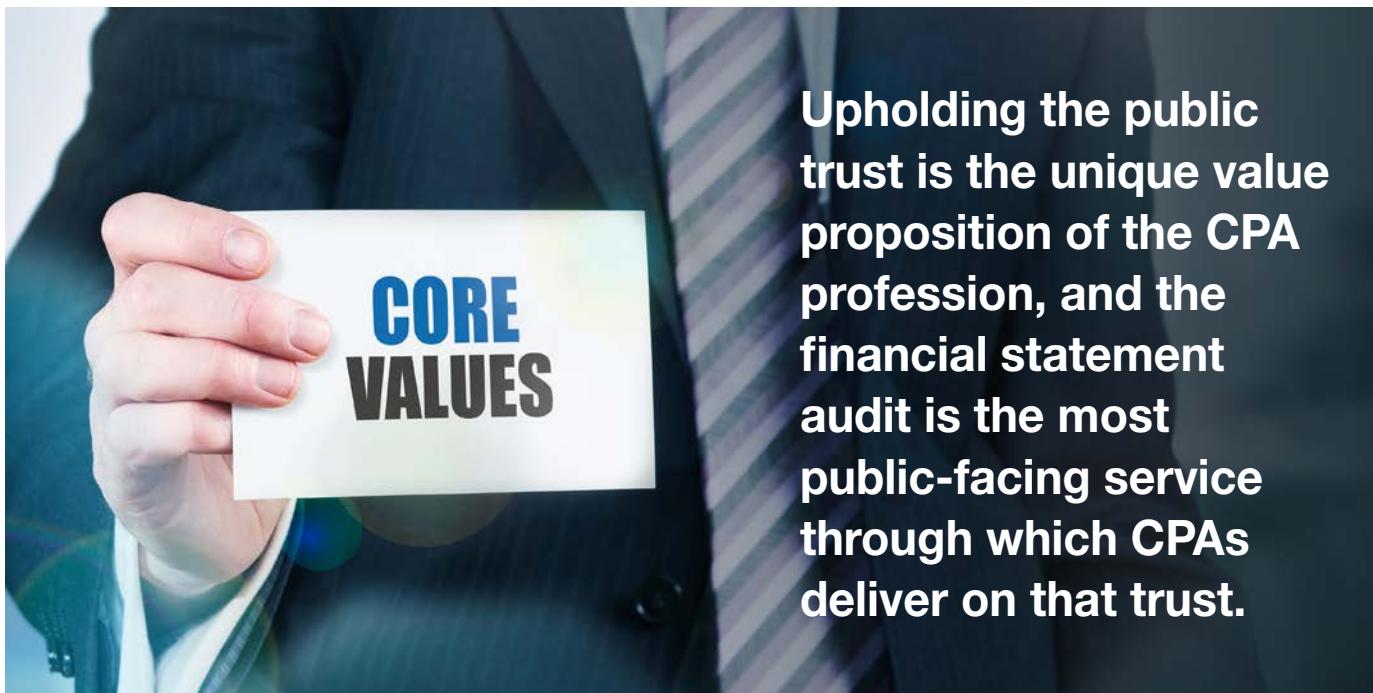
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Audit quality – what happens next?

By Laura Hay, CPA, CAE



Upholding the public trust is the unique value proposition of the CPA profession, and the financial statement audit is the most public-facing service through which CPAs deliver on that trust.

There are many layers of commitment the CPA undertakes to be the most trusted adviser to business, including ethical standards, auditing standards, professional competence, quality control and practice monitoring.

Examining challenges to audit quality for both public and private entities, and recognizing that it is

the profession that must lead in addressing quality challenges, the AICPA launched the Enhancing Audit Quality initiative (EAQ) in May 2014. EAQ utilizes a holistic approach to address audit quality, particularly for the challenges of specialized industries, such as employee benefit plans and governmental entities.

More than 860 responses were received to the AICPA's EAQ discussion paper, including both formal and informal commentary from OSCPA and its leaders. Recommended actions are being forwarded to the AICPA board, committees and task forces, and the profession's response has been summarized in AICPA's new "6-Point Plan to Improve Audits."



TAKEAWAYS

The AICPA has proposed a six-point plan to improve audits.

The action plans are outlined in six focus areas:

- ▶ Pre-licensure
- ▶ Standards and ethics
- ▶ CPA learning and support
- ▶ Peer review
- ▶ Practice Monitoring of the Future
- ▶ Enforcement

The desired outcomes:

- ▶ Continue the strong reputation of the CPA profession for competence, integrity and objectivity.
- ▶ Heighten understanding of the audit's value.
- ▶ Ensure that each and every CPA understands his or her contribution to the profession's reputation.
- ▶ Enhance the relevance of the profession's work in the marketplace.

The action plans are outlined in six focus areas:

Pre-licensure

The AICPA is working with the College Board to establish a high school advanced placement course in accounting to attract highly talented students and promote the requirements of the profession's commitment to the public trust. And the AICPA's Pathways Commission produced several recommendations that are already in process to better align university-level education with practice.

On the graduate level, the Accounting Doctoral Scholars program funds students with real-world auditing experience to pursue a PhD and become faculty in U.S. colleges and universities.

Finally, a comprehensive research effort to develop the next version of the CPA exam is in progress and is scheduled to be exposed for public comment in September 2015. The vision for the new exam includes the critical thinking skills and professional skepticism required for audit quality.

Standards and ethics

The AICPA Auditing Standards Board Clarity Project redrafted auditing and quality control standards for greater understanding and consistency of application.

A number of new tools, resources and courses, including three new practice aids based on firm size, seek to improve compliance with Statements on Quality Control Standards. Industry-specific practice aids are being developed for specialized areas including Single Audit and employee benefit plans.

A new AICPA course will be offered this summer and fall to help firms mitigate quality control risks while performing efficient and effective audits. The course will include a toolkit with a variety of resources developed by the Private

Companies Practice Section and the AICPA peer review team. OSCPA will be one of the course providers.

A five-year Codification of the AICPA Code of Professional Conduct was completed last year. It incorporates non-authoritative guidance and new conceptual frameworks for members in public practice and business and industry. Its topical organization and enhanced search capability improves the ability to identify and comply with rules.

CPA learning and support

Launched in February, the AICPA/CIMA Competency and Learning website allows CPAs to assess technical, business, people and leadership skills and link to tools and resources to help build needed competencies. Employee benefit plan and ethics competencies are already included, and governmental accounting and auditing will be added in summer 2015.

Employee benefit plan and Single Audit certificate programs are being introduced in early 2016.

Through the Future of Learning initiative, AICPA is working with NASBA on a number of recommendations that would change the continuing professional education measurement model to be more competency-driven.

AICPA Audit Quality Centers, including the Employee Benefit Plan and Governmental Centers, offer education, discussion, alerts and other resources to support CPAs working

in specialty practice areas. In addition, the Center for Plain English Accounting helps smaller practices with challenging accounting and auditing issues.

Peer review

Near-term changes to peer review include:

- Improving the quality of peer reviewers by increasing the qualifications to perform a review, enhancing the oversight of reviewers and expediting the removal of problem reviewers.
- Targeting firm quality and accountability, including deeper dives in specialized practice areas, enhanced testing of the quality control system and increased accountability for firms that fail to comply with professional standards.
- Focusing on engagement and firm tracking to improve peer review population completeness, including terminating participants for failure to report engagements.

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Accounting & Auditing

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Practice Monitoring of the Future

AICPA is piloting a concept for a more real-time, technology-based quality monitoring tool for firms that will allow them to monitor their own accounting and auditing practices, and to quickly leverage and implement prescriptive measures. Feedback on the concept paper was due in June, and will be used to help develop the next generation of practice monitoring.

"Many professionals view quality control and practice monitoring standards as a compliance requirement – something you have to check off the list, rather than an opportunity to review your practice and make improvements," said Kathleen Hoover, CPA, Corbets & Associates. "That's the wrong approach – it's a way to become better rather than just to satisfy a requirement."

Enforcement

OSCPA and AICPA are working with state and federal regulators to ensure effective enforcement of ethical and professional standards. When a member is found in violation of the Code of Professional Conduct, it may result in remediation or discipline. Discipline affecting membership rights is published and shared with state boards of accountancy.

"There's no such thing as a foolproof system," said James Gero, CPA, Hobe & Lucas CPAs, Inc. "Any system has a way around it. Somebody needs to put their foot down and say 'This isn't right,' and CPAs are uniquely qualified to be that somebody. The goal is to achieve effective oversight without compliance overload."

Outcomes

The desired outcomes for these combined initiatives are to:

- Continue the strong reputation of the CPA profession for competence, integrity and objectivity.
- Heighten understanding of the audit's value.
- Ensure that each and every CPA understands his or her contribution to the profession's reputation.
- Enhance the relevance of the profession's work in the marketplace.

"CPAs belong to a proud profession with an ongoing commitment to quality and a long history of continuous improvement," the report states. "The profession's core service – the audit – deserves the time, resources and energy needed to achieve the highest level of performance. Financial statement users, company management, employee benefit plan sponsors, governmental entities, regulators and other stakeholders expect no less."

The business environment is continually evolving, and doing so at a quick pace. CPAs must keep up with the complexity and change, and so they continue on the journey to audit excellence. Reinforcing the CPA profession's commitment to the public interest, CPAs are joining together to uphold the hallmarks for which the profession is known."

Laura Hay, CPA, CAE is executive vice president of The Ohio Society of CPAs and staff liaison to the Accounting & Auditing Committee. She can be reached at lhay@ohiocpa.com or (800) 686-2727, ext. 322.

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Building a better finance organization

By James J. Caruso, CPA, CGMA



Early in my tenure as corporate accounting manager for a manufacturing company with several plant locations and a corporate office located apart from any of the factories, I was sent to represent the finance function at an in-house workshop on Eliyahu M. Goldratt's theory of constraints.

One of the plant managers, knowing that I was in earshot and perhaps intending to give me a message to take back home, quipped, "Damn corporate office is a constraint in itself." Considering that the corporate office primarily housed a centralized finance and accounting function and little else besides the CEO, I knew exactly where the wisecrack was aimed.



TAKEAWAYS

The following characteristics can help a finance organization – or many other types, for that matter – achieve strategic, value-added objectives:

- ▶ Leadership – Financial leadership must define a vision for the finance organization that is aligned with the CEO's vision for the company. Financial managers at all levels must offer insights and decision support to positively influence events as they work with their peers from other areas of the company.
- ▶ Culture – The culture of the finance organization will be a microcosm of the overall company culture, but the CFO has the ability to infuse a passion for innovation, lifelong learning and collaboration, in addition to traditional values such as integrity.

- ▶ Structure – The finance organization must be structured to facilitate ownership, accountability and efficiency without creating silos within the finance group or relative to the rest of the company.
- ▶ People – Accounting and finance talent is often recruited and evaluated solely on the basis of tangible technical skills. Intangibles are equally important and more likely to be innate, while technical skills can more readily be taught.
- ▶ Processes and systems – The finance organization must develop processes and systems that align functional areas to achieve business objectives. It must also play a lead role in determining metrics and defining key performance indicators.

Thus came the revelation that finance organizations are not universally revered – a realization that had escaped me in my earlier days as an auditor dealing mostly with other accountants. From that point forward, in numerous middle market companies as both a financial executive and a consultant, I've had ample opportunities to observe the relationship between finance and other functional areas. The view of the finance organization from the perspective of sales, marketing, purchasing and operations was favorable in several companies, but too often it ranged from ambivalence to outright hostility.

Today, the image of the finance organization is much improved. For most of the past decade, CFOs and their teams have evolved into more strategic roles. The recession, the rise of big data and a general increase in

complexity prompted CEOs to turn to their finance organizations for the financial navigation needed to survive and thrive. The evolution, though, is not complete. Finance organizations must continue to optimize their effectiveness and rise to today's newest business challenges.

The finance organization does not sell goods or services, set prices, develop marketing plans, manage the supply chain or manufacture products – functions that ultimately increase revenue and impact profitability. A finance organization's effectiveness is measured by its ability to provide strategic financial perspective, insight and decision support to these areas. It should add value to its internal “customers” and, by extension, to the company as a whole. An effective finance organization constructively

influences events and decisions by virtue of its role as a hub that touches all business activities in the company. At the same time, transaction processing, reporting, and compliance have not gone away; they are simply the price of admission.

So, what are the characteristics of a finance organization that achieves strategic, value-added objectives? The answer is not found in a list of current accounting and financial management buzzwords. Instead, we can best answer this question by using a framework that is not specific to finance. Based upon research by Bain & Company, a framework that analyzes the elements of leadership, culture, structure, people and processes and systems will provide a path for a strong finance organization.¹

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LEADERSHIP – Financial leadership must define a vision for the finance organization that is aligned with the CEO's vision for the company. Financial leadership must distill this vision into executable goals and objectives, setting priorities informed by knowledge of its internal customers' needs. Financial leadership creates an environment in which people are empowered to achieve these goals and are held accountable. Good financial leadership is dependent upon the leadership of the CEO and a healthy relationship with the CFO. But even if the CEO does not have a propensity for financial matters, that does not exonerate the CFO from his or her obligations to get the CEO to listen. Amy Kates of KatesKesler, an organization design consulting firm, said in a presentation that today's organizations need courage to put ideas on the table and the ability to sell those ideas and influence the course of events. That is leadership, and it is not limited to the CFO. Financial managers at all levels must offer insights and decision support to positively influence events as they work with their peers from other areas of the company.

CULTURE – Culture reflects the shared values and behaviors instilled by leadership. The culture of the finance organization will be a microcosm of the overall company culture, but the CFO has the ability to infuse a passion for

innovation, lifelong learning and collaboration, in addition to traditional values such as integrity. Collaborating with other functional areas is as important, if not more important, than collaborating within the finance organization itself. This is how tacit knowledge is shared, and the benefits flow in both directions: the finance organization obtains the necessary understanding of the business and the needs of its internal customers, while financial awareness spreads throughout the business and among nonfinancial managers. This can only occur when company culture supports collaboration and promotes what Kates calls "organizational curiosity."

STRUCTURE – The finance organization must be structured to facilitate ownership, accountability and efficiency without creating silos within the finance group or relative to the rest of the company. Wherever possible, organize around processes. Put employees in positions and situations where they can succeed. While command-and-control structures have given way to matrix organizations, and more is accomplished these days through informal networks of relationships, employees still need to be given explicit authority to execute on the objectives and initiatives they are asked to lead. Similarly, if you want someone in a role where they can see "the big picture" or be more strategic, then free

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him or her from responsibilities that make it difficult to rise up out of the details and “see the forest for the trees.”

PEOPLE – Accounting and finance talent is often recruited and evaluated solely on the basis of tangible technical skills. Intangibles are equally important and, in my opinion, are more likely to be innate while technical skills can more readily be taught. Intangibles include leadership, strategic thinking, critical thinking, collaboration, motivation, discipline, work ethic and communication – in particular, the ability to convey financial concepts to nonfinancial people. As Jim Collins counseled in Good to Great: Why Some Companies Make the Leap ... and Others Don't, get the right people on the bus, and the wrong people off the bus. The right people, operating within the right organizational structure, will give the accounting and finance group the 360-degree view that is needed to serve the company and its constituencies.

PROCESSES AND SYSTEMS – As the hub of all business activities, the finance organization must develop processes and systems that align various functional areas to

achieve overarching business objectives. In this age of big data, processes and systems must quickly and efficiently aggregate and filter data to produce information and knowledge for financial perspective and decision support. The finance organization must play a lead role in determining what metrics matter most, and help define the company's key performance indicators. Processes and systems must make transaction processing, reporting and compliance as efficient as possible. I like to think of the accounting and finance function as a box of activities. The size of that box is limited by the company's budget. The less space in that box taken up by the necessary evils of transaction processing, reporting and compliance, the more space there is for value-added activities, collaboration, innovation and exploratory analysis.

“What makes an effective finance organization?” cannot be answered with a list of specific tools, technologies or best practices. These change with the times, from industry to industry, and from company to company. While the roles of the finance organization will continue to evolve, the characteristics of organizational effectiveness reflect timeless principles. Begin with strong leadership, listen to the needs of your internal customers, recruit and develop talent, nurture a culture that rewards the desired values, and design a structure that helps the team succeed. A strong and disciplined financial management infrastructure will lead your company to the next level.

¹ Kirk Kramer and Daniel Stid, “The Effective Organization: Five Questions to Translate Leadership into Strong Management,” The Bridgespan Group

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Social media pitfalls: Help business owners protect themselves against fraud and other risks

By Bill Kowalski



Social media sites such as Facebook, Twitter and LinkedIn have been a boon to Internet denizens the world over. Personal relationships have blossomed; professional networks have grown exponentially; entire businesses have been created to help companies leverage new, closer relationships with customers.

But for all its benefits, there's a darker side to social media, one fraught with risks for today's business owner. The following are risks for any business owner to keep in mind while implementing social media tactics for their organization.



TAKEAWAYS

- ▶ Social media presents a security risk. Business owners should protect their companies with a sound social media policy.
- ▶ Reputational risk must be considered when using social media. Businesses should have resources – either internal or external – to promptly address issues.
- ▶ It can be tempting to cut corners and post images to social media without permission, but the potential legal implications aren't worth it. Receive the proper permissions before posting.
- ▶ Understand employee's rights related to posting on personal social media accounts. Legal issues could be lurking, and recent court decisions have favored employees.
- ▶ Don't discount the power of social media. Business owners should get involved in the strategy and establish and share expectations for proper usage with employees.

Security risk

As Facebook's user number has grown, so has the number of malware threats. Facebook's various scams are so numerous that they've earned a website of their own: Facecrooks.com. Cybercrime protection firm ThreatMatrix lists social networks such as Facebook as the second greatest malware-related issue out there, behind only the growing malware threat to mobile devices. The Zeus virus, a particularly nasty "Trojan horse" first sighted about six years ago is finding renewed life in part because of social media.

The threats extend beyond malware, unfortunately. A seemingly innocuous post celebrating the office golf event or other off-site celebration could attract undue attention from a criminal looking to compromise the office's physical security and gain easy access to file rooms, IT centers or more.

Reputational risk

It can take many years for a company to build a strong reputation. Thanks in part to social media, lasting, possibly irreparable damage to that reputation can occur in seconds. One of the most well-known cautionary tales comes courtesy of a marketing firm employee who posted an obscene Twitter message insulting his fellow drivers. Ordinarily, such tweets are easy to ignore. Not this one: the employee inadvertently sent out the tweet under then-client Chrysler's Twitter feed, and his vitriol was directed at drivers in Chrysler's birthplace of Detroit. Given the exceptional circumstances, the reputational damage to Chrysler was relatively limited, but damage to the marketing firm in question was more severe: they lost the Chrysler account.

Legal risk

Use of various social media outlets can also increase an organization's legal liability. One area of vulnerability: copyright infringement. One small business owner learned this the

hard way when it was discovered that a former Web designer added a copyrighted image to the company website without purchasing rights to the image. When the company that owned the image discovered the matter, they claimed infringement and demanded redress. (The matter was settled out of court.)

Legal problems can also arise from within. Earlier this year, the National Labor Relations Board ruled that a tour bus company in New York must hire back — and provide back pay to — a driver who was fired in part for posting negative comments about the company on Facebook. And a teacher's aide fired for refusing to provide her Facebook login information to a school official filed a lawsuit against the school district. Finally, company social media policies between managers and their employers, or teachers and their students, should be closely scrutinized for potential problems, specifically related to possible improper relationships.

Protection

With all of these risks, how can any individual or business hope to protect themselves? Here are some tips.

Malware abounds — you've been warned

Facebook is great for spreading all sorts of messages, whether they're promotional, aspirational or strictly social. Unfortunately, Facebook and other social media outlets are also great for spreading viruses and malware. Companies should stay protected by creating a social media policy that can help employees avoid financially devastating mistakes.

Be involved ... if even just a little

Like it or not, social media must be part of a corporate communication strategy. From a reputation standpoint, there are few things worse than a blog

post, forum thread or Facebook page dedicated in whole or part to casting aspersions on a business. Businesses should either have the internal capability or the external readiness to promptly and confidently address such matters as soon as they arise.

Content is king ... but it doesn't need to be costly

Establish and share expectations for what kind of content is appropriate for whatever communication vehicles are employed, be they blogs, email newsletters, Twitter feeds or anything else. Find an image or article that absolutely must be used? Receiving proper permissions can be faster — and less expensive — than you think.

Using social media outlets can be a lot of fun. They can also present various pitfalls. Remind your clients to keep their eyes open and their minds sharp.

Bill Kowalski is the Director of Operations for Rehmann Corporate Investigative Services. Bill began his investigative career in 1983 as a Special Agent with the Federal Bureau of Investigation (FBI), where he received numerous awards and letters of commendation during his 25-year career. Contact Bill at bill.kowalski@rehmann.com.

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Cleveland ‘jock tax’ update: Chalk one up for the visiting team

By Richard Molina, LLM (Tax), MA (Accounting)



TAKEAWAYS

- In the so-called “Jock Tax” case, the Ohio Supreme Court unanimously found that Cleveland’s method of taxing income earned by visiting pro athletes violates the U.S. Constitution.
- The court also ruled in favor of the taxpayer in a due process argument.
- The court rejected several other arguments made by the taxpayer.
- It might not be worth the trouble for many visiting pro athletes and entertainers to seek refunds from Cleveland.
- It’s unusual that a taxpayer prevails under Constitutional claims when challenging a state or local tax.
- Practitioners must think beyond the application of statutes and regulations when calculating tax obligations.

The Ohio Supreme Court in April issued its decision in the so-called “Jock Tax” case (*Hillenmeyer v. Cleveland Board of Review*, Slip Opinion, No. 2015-Ohio-1623). In a unanimous decision, the court found the methodology used by the City of Cleveland to tax the income earned by nonresident professional athletes to violate the Due Process Clause of the 14th amendment to the U.S. Constitution.

Background and facts

Hunter Hillenmeyer played football for the Chicago Bears of the National Football League. For the years in question (2004-2006), he spent parts of two days per year in Cleveland – the day before a game and game day. Pursuant to its practice, the City of Cleveland taxed nonresident professional athletes such as Hillenmeyer based on a calculation that allocated a portion of his football compensation to Cleveland based on the number of games played in Cleveland (one) divided by total number of preseason and regular season games (20). In essence, 5% of Hillenmeyer's football compensation was taxed in Cleveland. Presumably all his base salary, bonuses and other incentive compensation were included as part of football compensation. Hillenmeyer objected to this methodology as he contended that his compensation was related to activities other than just playing on game days. Evidence was introduced at his Board of Tax Appeals (BTA) hearing that demonstrated he was required to participate in preseason conditioning camps, attend minicamps and other team meetings before the season began, and once the season did begin, he participated in team activities about six days per week. In all, his contract required him to engage in about 150-170 duty days for the years involved. Consequently, it was argued the city should have used duty days in the allocation formula instead of game days as other taxing justifications used.

The BTA upheld the city's determination although pursuant to the limits of its authority, the board did not consider Hillenmeyer's constitutional arguments. As a result, he appealed to the Ohio Supreme Court.

Legal analysis

The court considered and rejected several arguments made by the taxpayer. First, the court rejected his contention that the allocation method set forth in the rules and regulations violated the underlying Cleveland City Council Tax Ordinance. The court found that the ordinance gave Cleveland's tax administrator ample authority as to how to determine how much work was done in the city by a nonresident taxpayer. Along much the same line, the court held that Ohio state statutes also imposed no restriction on the tax administrator's authority to promulgate rules and regulations for the purpose of allocating the income of nonresident taxpayers.

The court then addressed several constitutional arguments. It first rejected Hillenmeyer's Federal Equal Protection argument. That argument was predicated on the Ohio

Continued on page 16 ▶

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Continued from page 15 ▶

Statute that exempted nonresident individuals from income tax if they performed personal services in a city for 12 or fewer days in a year. That statute, however, excluded from the exemption professional athletes and others engaged in professional entertainment. The taxpayer argued that special (and negative) treatment of professional athletes (and entertainers) violated Equal Protection Rights offered under the United States Constitution. Using rational basis analysis as is often used in the state tax context, the court found that the Ohio legislature could have had a rational basis for creating the separate treatment for athletes and entertainers although it cited no particular legislative history. The court provided that the legislature could justify its separate treatment because athletes and entertainers are highly compensated, and their work is easy to identify (playing games or holding concerts in Cleveland) or that professional athletes and entertainers, in engaging in their activities, cause large public burdens on performance days requiring police protection plus traffic and crowd control.

“ Due process, in its most general form, provides that a taxpayer shall not be deprived of “life, liberty or property without due process of law.” In state and local tax practice, this means that the taxing jurisdiction shall be entitled to tax no more than its fair share of the activities occurring within its borders.

Next, the court considered and dismissed the taxpayer’s Federal Commerce Clause argument because it had not been fully developed.

Finally, the court considered Hillenmeyer’s due process argument and found in favor of him on this argument. Due process, in its most general form, provides that a taxpayer shall not be deprived of “life, liberty or property without due process of law.” In state and local tax practice, this means that the taxing jurisdiction shall be entitled to tax no more than its fair share of the activities occurring within its borders.



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Oct. 8	48153	OSCPA Connect! - Cleveland Learning Lab

There are two tests that a taxing jurisdiction must satisfy under due process analysis. First, there must be a minimal connection between Hillenmeyer and the taxing jurisdiction – the so-called nexus test. This test was easily met because Hillenmeyer played games in Cleveland. The second test, and the more difficult one for a taxpayer to satisfy, is to demonstrate whether income attributed to the state or city is rationally related to the values (activities) connected with the state or city. Under this test, due process requires an allocation of income that matches the amount of activity occurring within the state or city. The court found in favor of Hillenmeyer under this test. The court concluded – based on all the evidence presented at the BTA hearing – that the game day methodology did not properly allocate Hillenmeyer's compensation to Cleveland because he was required to perform much more in the way of services to the team other than just playing 20 football games. The court concluded that the duty days approach advocated by Hillenmeyer better satisfied the due process tests and that a refund was due.

Conclusion

You might initially assume that many nonresident professional athletes and entertainers will follow this case to seek refunds from Cleveland. But that might well be a function of whether their resident cities allow a credit for taxes paid outside that city. If so, seeking a refund from Cleveland will only cause that person's tax to increase.

This is an extremely interesting case, because it is somewhat rare that a taxpayer prevails under Constitutional claims when challenging a state or local tax; courts are willing to extend substantial deference to tax administrators.

Another lesson to be learned from this case is that the prudent state and local tax practitioner must think beyond the application of statutes and regulations when calculating the taxpayer's state or local tax obligation. Ask yourself: Does the tax regime reach the proper result? Are there extraterritorial values being taxed? If your reaction is that the result does not appear proper, think about whether there might be a due process issue involved.

OSCPA member Richard Molina, LLM (Tax), MA (Accounting), teaches accounting and taxation at Cleveland State University. He previously served as general tax counsel for a major energy company.

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The politics of getting hired: Learning from the pros

By Janice Worthington, MA, CPRW, JCT



I love election years. Not the little ones where we figure out which bond issue to pass but the ones where larger-than-life players stand tall until all but one, like dominos, ultimately fall. As we've learned, sometimes it's difficult to tell exactly who wins. Campaign contributions aside, how are image-makers developed to the point that they become the choice of millions and – most importantly – the majority?

The way I see it, many concepts critical in conducting a successful political campaign are equally important in a job search campaign. It is also no coincidence that contenders in both political and job search arenas are both called "candidates." Here are some proven political job search strategies:

Be everything to everybody – In your job search, this is not an insincere concept, nor will it cause you to have to flip-flop on the issues. The strategy focuses on conducting in-depth,

advanced research on the special interests of each potential employer you meet, and being prepared to impress with your knowledge of her specific financials, the ascension of her stock share price, the company's newest markets and most important, her biggest problems. Feel the interviewer's pain and deliver the solution. Reach into your portfolio of successes with examples of past victories that will create a visual image of you implementing a workplace nirvana. Take ownership of a job you want with a "when I am elected" approach.

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Get endorsements; let others speak for you – When asked to explain his biggest strength in an interview, a savvy candidate once related how his current supervisor mentioned his superior talent at finding alternatives during emergency production stoppages; and how his former supervisor, seeing a different side, observed others coming to him with problems and him finding solutions beyond his assigned responsibilities. Ever thought of inserting a sourced quote from one of your performance reviews in a strategic area of your résumé? That's a creative tactic that, because others are speaking for you, speaks volumes!

Ask for every vote – Not an easy thing to do in job search or politics, but the point here is to do it. At the risk of feeling insincere, job candidates need to commit to wanting to work for each company they visit sometime during the first interview. In many circles only candidates who verbally express their commitments to joining the team ever get a second invitation. In my former life as an executive recruiter, I was repeatedly instructed that no matter how high quality the candidate, if he didn't throw his hat in the ring he was not allowed to compete.

I expressed how unfortunate it would be if the best candidate forgot, and it was quickly pointed out that the best candidate never would.

As in election campaigns, hiring decisions are made by emotion and justified by logic. Handlers are paid big money to dress candidates and teach them everything, from how to enter and work a room to facial expressions, vocal intonation and the least damaging way to spin answers to the toughest questions.

Politics aside, personalities such as Al Franken and Arnold Schwarzenegger were elected with no previous experience. Next year, the person who somehow delivers the most convincing message with the best delivery will be our next president. Wise careerists will be taking notes.

Janice Worthington, MA, CPRW, JCT, is the president of Worthington Career Services, a resume and job search consulting firm that provides strategic career coaching to professionals at all levels of the corporate ladder.

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CINCINNATI

DAVID M. KLOPFER, CPA, and JON PLUNKETT, CPA, have been promoted to principals at Clark Schaefer Hackett.

CLEVELAND

COHEN & COMPANY/COHEN FUND AUDIT SERVICES has ranked third among 50 mid-sized companies in *The Plain Dealer's* 2015 Top Workplaces in Northeast Ohio.

COLUMBUS

NEIL DRAKE, CPA, and SAMANTHA DYE, CPA, have been promoted to assurance managers at GBQ Partners.

SARA GOLDHARDT, CPA, has been promoted to director of state and local tax services at GBQ Partners.

ANTHONY S. LANASA, CPA, CFE, has been appointed managing principal of the Columbus office of HW&Co.

BRIAN MOSIER, CPA, has been promoted to principal at Clark Schaefer Hackett.

ANDY NENTWICH, CPA, has been promoted to manager of state and local tax services at GBQ Partners.

OLES + ASSOCIATES CPAs and BRUCE A. DEWOODY FINANCIAL SERVICES have merged and will operate as Oles + Associates Certified Public Accountants.

MAUMEE

NATHAN BERNATH, CPA, JENNIFER FUREY, CPA and KRISTIN METZGER, CPA have been promoted to senior managers at the William Vaughan Company.

JESSICA SLOAN has been promoted to marketing manager at the William Vaughan Company.

SANDRA TOWNS, CPA/PFS, CFP® has been promoted to partner at the William Vaughan Company.

MAYFIELD VILLAGE
KENNETH M. HAFFEY, CPA, CVA, CGMA, has been reappointed by Gov. John Kasich as the audit committee chair of the Bureau of Workers' Compensation Board of Directors. Haffey has served as chair of the Audit Committee since 2007; he is the only board member to serve three consecutive terms since his initial appointment, and is the only licensed CPA. Haffey is a partner at Skoda

Minotti, and leads the firm's Advisory Services group.

GREGORY J. SKODA, CPA, chair of Skoda Minotti, has been named one of *Smart Business Magazine's* Smart 50 Award Honorees. The magazine said the award "recognizes Northeast Ohio's top business executives who are leading the region's smartest companies for their ability to effectively build and lead successful organizations."

SPRINGFIELD

BRADLEY R. BILLET, CPA, CVA, has been promoted to principal at Clark Schaefer Hackett.

WESTLAKE

LYNDA D. DOLAND, CPA, MT, and MARY (MOLLY) R. STINN, CPA, have been promoted to equity directors at Corrigan Krause CPAs.

CORRIGAN KRAUSE CPAs has been selected as one of *The Plain Dealer's* Top Workplaces in Northeast Ohio for the second consecutive year.

KELLY S. LINDEN, CPA, has joined Corrigan Krause CPAs as a senior associate in their tax services department.

ACAP-Ohio wraps with advice, inspiration and recognition

By Jennifer Rieman, CAE, OSCPA manager, public relations



If you're the smartest one in your group, it's time to make a new group.

That was the advice from Eric Troy, MA, program director, community and cultural transformation, at The Ohio State University, to ACAP-Ohio students during the program's closing banquet on June 19.

Troy, a popular speaker who returns each year to mentor students, didn't mince words when addressing the 45-member graduating class of ACAP-Ohio 2015, a week-long program for minority high school students interested in exploring careers in accounting and business.



"Minorities have not been promoted to professional leadership ranks" often enough, Troy said. "That gives you background on why ACAP is so important. ACAP does a fantastic job with the level of exposure."

Recent AICPA statistics show that Hispanics and African-Americans hold just 4% of partnerships in the profession.



In a nation where minorities are projected to constitute more than half the population in 2043, Caucasians still hold about three-quarters of the professional positions and 90% of partnerships in the accounting profession, the *Journal of Accountancy* reported.

Troy said he has high expectations for both students and employers working to change the statistics. He advises students to be proactive when seeking employment opportunities.

"When you go on interviews, ask what the diversity strategy is," Troy said. "Ask who looks like you at the senior level and see if you can meet with them."

Programs such as ACAP-Ohio are imperative in encouraging minority students to consider accounting. As the competition for the best and brightest talent grows, and with the number of high school graduates in Ohio projected to decline by up to 15% over the next decade, reaching students early is increasingly important.

Austine Clopton, CPA, co-chair of ACAP-Ohio, is a success story. She attended the program in 2004 as a high school student. Now she's a CPA and assurance senior associate at PricewaterhouseCoopers LLP. This year, she returned as a volunteer to spend the week with the students as a chaperone and mentor.

Troy recognized Clopton at the closing banquet, where she received an enthusiastic round of applause from the students, parents and employers. He concluded with more advice for the students.

"Young people need to always think ahead," he said. "Never wait for the assignment to come out. Always be a chapter ahead."

To learn more, go to www.ohiocpa.com/acap.

Thank you, ACAP-Ohio sponsors!

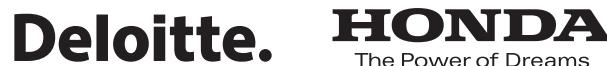
There are no financial barriers for students selected to attend ACAP-Ohio. The program is offered free of charge thanks to generous contributions from CPA firms, corporations, foundations and a leading grant from the Accountancy Board of Ohio. This year's sponsors include:

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Audit quality – what happens next?

1. Which of the following NOT one of the areas covered in the AICPA's new "6-Point Plan to Improve Audits"?
 - A. Standards and ethics
 - B. Practice Monitoring of the Future
 - C. Enforcement
 - D. Punitive measures

2. Launched in February, the AICPA/CIMA Competency and Learning website allows CPAs to:

- A. Review relevant CPE courses taken previously.
- B. Assess technical, business, people and leadership skills.
- C. Access tools and resources to help build needed competencies.
- D. Review employee benefit plan and ethics competencies.

3. Which of the following is NOT a near-term change to peer review:

- A. Deeper dives into firm specialized practice areas.
- B. Enhanced testing of the firms' quality control systems.
- C. Increasing the pool of potential peer reviewers.
- D. Expediting the removal of problem reviewers.

Follow these steps to build a better finance organization

4. The finance organization must help define the company's:

- A. Marketing plans.
- B. Key performance indicators.
- C. Command-and-control structures.
- D. Prices.

5. Which of the following was mentioned as an element of effective financial leadership?

- A. If the CEO does not have a propensity for financial matters, he or she must make an extra effort to listen to the CFO.
- B. Financial managers at all levels must offer insights and decision support to positively influence events at their company.
- C. Both A and B
- D. None of the above.

6. Wherever possible, you should organize around:

- A. People.
- B. Processes.
- C. Your CEO's vision.
- D. Your company's plan of work.

7. ___ is/are as important a consideration as technical skills when it comes to building your finance team.

- A. Motivation
- B. Communication skills
- C. The ability to think strategically
- D. None of the above.

Social media pitfalls: Help your business owners protect themselves against fraud and other risks

8. What does Cybercrime protection firm ThreatMatrix list as the greatest malware-related issue today?

- A. Social networks such as Facebook.
- B. Mobile devices.
- C. Online banking tools.
- D. The Zeus virus.

9. In light of the risks posed by social media, businesses should:

- A. Establish and share expectations for content.
- B. Avoid it.
- C. Include social media in their corporate communication strategy.
- D. Both A and C.

Cleveland "jock tax" update: Chalk one up for the visiting team

10. In *Hillenmeyer v. Cleveland Board of Review*, the Ohio Supreme Court rejected several arguments made by the taxpayer. These included:

- A. The contention that the allocation method violated the underlying Cleveland City Council Tax Ordinance.
- B. A Federal Equal Protection argument.
- C. That the tax methodology violated the Due Process Clause of the 14th amendment to the U.S. Constitution.
- D. Both A and B.

11. Whether many nonresident professional athletes and entertainers will seek refunds from Cleveland depends on:

- A. The number of performance dates in Cleveland.
- B. The tax rate of their resident cities.
- C. Whether Cleveland will allow a credit for taxes paid.
- D. None of the above.

12. Which of the following is NOT one of the tests that a taxing jurisdiction must satisfy under due process analysis?

- A. The taxpayer has not been deprived of life, liberty or property.
- B. There is a minimal connection between the taxpayer and the taxing jurisdiction.
- C. Income attributed to the state or city is rationally related to the values connected with the state or city.
- D. All of the above.

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- Central Ohio: **Columbus area:** OH2075: \$1,800k
- Central Ohio: **Columbus area:** OH2076: \$900k
- Central East: **Zanesville/Cambridge:** OH2077: \$190k
- Northeast Ohio: **Cleveland area:** OH2067: \$2,400k
- Northeast Ohio: **East Cleveland area:** OH2074: \$440K
- Northeast Ohio: **West Cleveland area:** OH2035: \$570k
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- Northern Ohio: **Sandusky County:** OH2058: \$275k
- Southwest Ohio: **Cincinnati area:** OH2071: \$270k
- Southwest Ohio: **Cincinnati area:** OH2072: \$128k
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80 new members and affiliates applied in April; 55 in May

The list of new members and affiliates is available on
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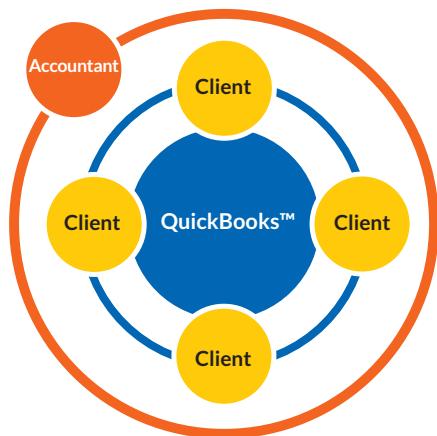
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