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# Introduction: Taxation Geared to Industry

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# MIAMI LAW QUARTERLY

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## INTRODUCTION TAXATION GEARED TO INDUSTRY

WIRT PETERS\*

Five years ago, with the fall semester, 1952, the School of Law of the University of Miami inaugurated a graduate tax training program "geared to industry." Industry had long recognized the need for a type of professional man trained and experienced in business and accounting, in law and taxes, not just to handle its tax matters after the fact but to advise on the conduct of its affairs with the tax consequences deliberately planned. The business-clients of the practicing lawyer also were desperately in need of this same kind of pre-tax advice. But there were few places where a student could have that kind of training, and proficiency in tax consulting could usually be achieved only after years of independent experience in the several related fields.

### YOU CAN'T SAVE TAXES WHEN MAKING A TAX RETURN

Nevertheless, it is only by having such pre-tax planning and knowing in advance the least expensive method of accomplishing any given transaction, then accepting the tax possibilities with calculated risk, that the maximum tax advantage can be secured. Now, the accounting for a transaction is only the visual, mathematical representation of the effects of the changes in the legal relationships of the parties involved, a record after the legal consequences have been established. And, it is only the advice with reference to the planning of those changes in the legal relationships which can save taxes. The recording of the effects, and the preparation of the tax return after the results of the year's operations are already determined, being historical, offers no opportunity of reducing the tax burden; and, of course, the inept arrangement of a transaction without knowledge of its visual representation and significant financial classification is equally ineffective.

### OFFICIAL ADMISSION OF INADEQUACY

Much has been written, and more has been said, about the jurisdictional spheres of the various professions in this area of public service which recalls the fable of the three blind men attempting to describe an elephant, each from his own examination of a different feature. The Board of Governors and the House of Delegates of the American Bar Association and the Council of the American Institute of Accountants have adopted a Statement of Principles constituting an official recognition and admission of the inadequacy of a member of either individual profession to fully and adequately advise a taxpayer about a tax problem from before its inception until after its solution. This Statement of Principles provides, in part:

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In the course of the practice of law and in the course of the practice of accounting, lawyers and certified public accountants often are asked *about the probable tax effect of transactions*. (Emphasis added)

. . . When such ascertainment raises uncertainties as to the interpretation of law (both tax law and general law), or uncertainties as to the application of law to the transaction involved, the certified public accountant should advise the taxpayer to enlist the services of a lawyer. When such ascertainment involves difficult questions of classifying and summarizing the transaction in a significant manner and in terms of money, or interpreting the financial results thereof, the lawyer should advise the taxpayer to enlist the services of a certified public accountant.

In many cases, therefore, the public will be best served by utilizing the joint skills of both professions.

Admittedly, the public will be best served by utilizing the joint skills of both professions, but only when those skills are intermingled and absorbed into the professional qualifications of one individual, not in the efforts of two partially skilled individuals trying to advise each other, as well as the client, and trying to reconcile their differences of vocabulary, approach, and method. This is one situation where two halves do not make a whole. This Statement of Principles proposes to have the member of one profession invite a member of another profession in to sup at the table of the already much too overburdened taxpayer. It is only in a very unusual situation that the client will be able to afford the fees of two professional people to accomplish the job one should do, which, as the Statement says, is to advise "*about the probable tax effects of transactions*." Obviously what is needed is a new professional man who understands the legal effects of transactions as well as the financial classifications and summarizations of the results, and can "advise about the probable tax effects of transactions."

#### TAXITIONER—THE NEW PROFESSIONAL MAN

Acknowledging this necessity, the University of Miami School of Law sought the advice and assistance of many tax counselors and tax executives throughout the country in designing a program specifically for the training of such a tax professional, a tax practitioner, *i.e.*, taxitioner. The program was arranged to require the student to have an adequate training in accounting and business, then in law, and finally a year's study in taxation leading to the degree of Master of Laws.

This Tax Training Program is now finishing five years of, admittedly, experimentation. As this five-year preliminary period is ending, it seems expedient to review the program and compare the curriculum with any practical considerations which may be available from additional tax men. A number of tax executives were requested to write articles on any subject they thought of interest or importance in their particular positions or industries, and these articles are now accumulated in this issue of the Miami Law Quarterly. Your comments and inquiries are solicited.