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First, Let's Kill All The Tax Lawyers

There has long been debate whether Shakespeare's ['let's kill all the lawyers'](#) line is meant to compliment lawyers or blame them. Dick the Butcher says it in *Henry VI*. Are lawyers bastions of people's rights or are they the problem, not the system? The same debate can surround tax law. The tax laws are complicated, and there is no question that tax lawyers and accountants ply their trade by trying to help clients wriggle through the maze with as little tax as is lawfully allowed.

But what is lawful and what is not? What tax planning is above reproach, and what is sharp practice drawing penalties or even worse? Such questions are more difficult to answer than they should be, and answers can vary significantly. Even that isn't simple. And in our current finger-pointing climate, such questions are being directed in part not to the system but to the tax lawyers and accountants who ply it.



In short, they are being [blamed for our unfair tax code](#). At the recent Senate Finance Committee hearing on Fairness in Taxation, the Democratic Staff took the position that [tax professionals make the code less fair](#). It is true that, almost by definition, if someone is taking a clever, innovative, or tax-efficient way through the maze, there is probably a tax lawyer or accountant involved. How could it be otherwise?

[Warren Buffett](#) feels compelled—for himself and his [Berkshire Hathaway](#) shareholders—to go to great lengths to strike tax-efficient deals. If legal, he will cut taxes to the bone or avoid them entirely. Many other investors aspire to [bend it like Buffett](#), striking shrewd business deals that deftly avoid taxes.

It isn't only Mr. Buffett. Many taxpayers use sophisticated transactions to cut taxes materially. It is true that investors in our tax system often pay effective tax rates that are far lower than American workers who earn a regular paycheck. That is hardly the fault of tax lawyers and accountants. At the same time, it is true that the tax system should have clearer rules. But to be clearer, the system must be simpler.

Tax law is famously quirky and often downright unfair. Do something one way, it's taxed. Do it *slightly* differently, it's not. That's one reason regular people often feel outgunned and discriminated against. Not every wealthy person argues for higher rates like Warren Buffett.

Indeed, Mitt Romney spent time backpedaling about his private equity tax breaks. That surely didn't help his Presidential candidacy. Taxes matter to everybody, and many people go to tax advisers *before* implementing decisions so they don't misstep. That should make tax advisers feel important.

Maybe, yet many tax lawyers feel like second class citizens. Trial lawyers are famous, not tax lawyers. Clarence Darrow, F. Lee Bailey, Johnny Cochran and Melvin Belli? Not one was a tax lawyer. Even in fiction, Perry Mason, Atticus Finch, Ally McBeal, and Matlock weren't tax lawyers. Elle Woods in *Legally Blonde* didn't become a tax lawyer either.

Tom Cruise played a tax lawyer in *The Firm*, but to make tax law exciting, John Grisham invented a Mafia-controlled law firm enmeshed in money laundering and murder. Tax lawyers will never be swashbuckling fixers like [Michael Clayton](#). But tax lawyers can still make a difference. Besides, as Winston Churchill put it: "There is no such thing as a good tax.

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