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THE TAX LAWYER

TAXES | 10/12/2013

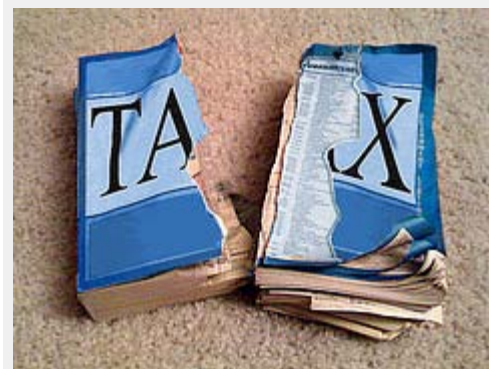
Take Heart, Some People Face Taxes Even More Bizarre Than Yours

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. Mitt Romney spent time backpedaling about his private equity tax breaks. That surely didn't help his Presidential candidacy. Taxes matter to everybody.

People go to tax advisers *before* implementing decisions so they don't misstep. That should make tax advisers feel important, but 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.



(Photo credit: tolworthy)

Tom Cruise played a tax lawyer in *The Firm*, but John Grisham had to invent a Mafia-controlled law firm into money laundering and murder to make tax law exciting. Actually, though, real-life tax lawyers have a neat job. Here's a real-life example.

In most states sales tax doesn't apply to food. Restaurant meals and prepared takeout are usually taxed. So is animal or pet food, but not uncooked human food. Keeping track of these rules can be daunting.

It sure was for a mom and pop wholesale produce seller. Since it sold only produce, it had no seller's permit. Why would it, since all its produce was exempt? As it happened, though, the company delivered fruits and vegetables to city schools, hospitals, and the zoo.

Sales tax auditors hit them with a crippling back tax bill for the produce delivered to the zoo. This produce was consumed by **animals** and that made the sales taxable, the state said. What's more, because they didn't have a seller's permit and weren't filing returns, a whopping 8 years of taxes were due. Only 3 years would have been fair game if the company had been filing returns.

Eight years of taxes, penalties and interest would wipe out the family business. How to fix this? The zoo had human snack bars and cafeterias, but the wholesaler couldn't show which carrots and bananas were consumed by people and which by animals.

So the state said it was **all** taxable. Efforts to compromise with state auditors failed so they went to a full-blown hearing with witnesses before the California State Board of Equalization. They even invited the press. Hey, this case had human interest and entertainment value.

Testimony showed that if you tell a supermarket checker the broccoli you are buying is for your dog, the clerk has no way to charge you sales tax. Plus, if an animal is suitable for human consumption, the food it eats isn't taxable. That meant produce eaten by primates was taxable, but not produce eaten by goats and sheep in the petting zoo.

Besides, some people eat snake, turtle, and game animals. "I've eaten snake," admitted one of the five judges. In fact, the more we pointed out such contradictions, the sillier the state's position seemed. The more crazy

examples we provided, the more the press liked it, and the more the five-member Board didn't want to put this mom and pop produce seller out of business.

It lead to a speedy verdict for mom and pop. Of course, 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."

You can reach me at Wood@WoodLLP.com. This discussion is not intended as legal advice, and cannot be relied upon for any purpose without the services of a qualified professional.