

Business of Tax: Tax Pros Like ‘Field Trips’ Too

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Tax practitioners generally agree that having a deep understanding of a client’s business and industry is essential to their practice. Acquiring that knowledge can sometimes be the most fun part of the job.

“I’d never been in a dump truck before, and here I am in my suit and my briefcase, and he’s in work overalls and, you know, covered in dirt,” recounted Travis Thompson of Sideman & Bancroft LLP.

Thompson’s client — a pool installer — was in the middle of an IRS appeals case questioning the client’s business use of property. After he realized that he didn’t have a complete grasp of the client’s day-to-day business operations, Thompson asked the client if he could shadow him for a day.

Their first stop? A quarry, to pick up a load of rocks.

By the end of the day, Thompson had visited several of the client’s project sites — one of which was at a professional basketball player’s home — as well as the client’s own property, where there were two barns stacked full of supplies and equipment like rocks, bags of cement, saws, and tractors used for the pool business. Throughout it all, Thompson took pictures.

Later, using a [video conferencing tool called WebEx](#) that the IRS Appeals Office is testing, Thompson said he was able to walk an Appeals officer through the pictures he had taken, explaining the business purpose behind the property featured in each snapshot.

“Those pictures were what gave me a favorable outcome in the case,” Thompson concluded.

Story Time and Field Trips

U.S. Tax Court Judge Mark Holmes frequently implores taxpayers to “Tell me a story,” according to Thompson.

“It’s important for practitioners to listen to him, because he is telling them what he likes,” Thompson continued, adding that he considers the work of compiling facts into a story a satisfying part of the job.

Some practitioners may settle for relying purely on documentary evidence, but photographs and oral testimony can play a key role in swinging the outcome of a case, Thompson said. “You don’t get that unless you go out on your own,” he said.

And depending on what the client does, it can make for a nice change of pace.

“Honestly, it gets you out of the minutia of the everyday tax practice. It becomes the tax practitioner’s field trip, and that can be fun,” Thompson said.

Widgets and Wall Street

Frank J. Jackson of Jones Day similarly enthused about the value of hands-on experience.

“There’s something about being in a client’s space, seeing how they work, who’s responsible for what, that makes it so much easier for me in my work to explain to the IRS what their product is, what their line of business is,” Jackson said.

Jackson said that principle applies whether he’s visiting a hedge fund manager’s office so a client can walk him through the ins and outs of a sophisticated financial product or visiting a client’s factory and “figuring out exactly how these widgets are rolling off an assembly line.”

The IRS might think, for example, that a particular piece of property is a “front” for something else, but by physically seeing the space himself, Jackson said he then knows how the space is being used for producing, assembling, or shipping a product.

“I can then more effectively represent them, whether that’s being questioned by the IRS during an audit or during a trial. I’ve seen it firsthand; I can explain it,” he said.

Know-It-Alls

For some practitioners, becoming deeply versed in a client’s industry is second nature.

“It’s the culture of my firm,” Catherine B. Engell of Bracewell LLP told *Tax Notes*. “That’s part of the business model: knowing our clients’ businesses well and taking a holistic approach,” she said.

“I can’t even imagine going in for a pitch and not having done the legwork to understand a client’s business with a straight face,” Engell continued. Trying to explain tax law to a client without applying it to their industry is “like speaking Greek to someone — there’s no value added,” she said.

Engell observed that many large law firms categorize attorneys not only by practice field, but by industry as well.

Potential clients have a lot of options for choosing who to represent them, both in litigation and in planning, but “if you can go into a pitch and show them that you understand what it is they’re doing and that you’re interested in what they’re doing, that goes a long way,” Engell said.

Jackson said that over his career in private practice, he’s taught himself habits for staying on top of the latest developments in his clients’ industries that are now built into his practice.

“I think that’s really the only way you can do it, because once it’s organic, that’s how you really become the partner that your client needs,” Jackson said.

For practitioners in tax controversy in particular, it’s not enough to just be immersed in the broader industry — they also need to understand the client’s specific business, according to Engell. The IRS may have a preconceived view of how an industry operates, but a client’s facts could be “discreetly different, enough to have a different impact,” she said.

How-To

Practitioners have developed varied ways of keeping themselves informed.

Thompson said a key part of familiarizing himself with a client’s operations is understanding their “digital footprint,” particularly when he’s considering representing a client. For example, the IRS may be questioning a client’s deductions for business meetings in Hawaii, but looking at the client’s social media page, it becomes clear that the trip was clearly a family vacation that’s being mischaracterized, he said.

The IRS already takes a taxpayers’ digital presence into account, and practitioners need to as well, Thompson said.

“It’s up to you to go and determine the truth for yourself,” Thompson added.

“Every day I look to see what the price of crude oil is, because that can have a huge impact on a deal,” said Engell, whose firm specializes in representing businesses in the tech, energy, and oil and gas industries. She also said she often leans on expertise from other attorneys in her firm, many of whom were landmen in the past and can provide insight on mineral rights and royalty rights.

In addition to visiting clients in their spaces, Jackson said a basic technique is to set up Google alerts for each client’s business. He explained that if a current or past client’s business is mentioned in the news, such as if they’re considering a merger, then he can proactively reach out.

Jackson also emphasized the importance of reading relevant trade publications, not just for self-education, but with a lens for which of his clients could be affected. The simple act of forwarding an article can precipitate a phone call from the client, he said.

Jackson added that he’s had experiences in which the IRS issued an advisory that it’s looking into specific kinds of tax structures, and he’s reached out to clients to make sure that if they were “thinking of doing something, that this isn’t what they’re doing.”

Those kinds of actions show “you’re moving forward with them and you’re thinking about their business,” Jackson said.

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