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Educational Case

Assessing professional ethics in tax: A case on uncertain tax positions

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ABSTRACT

We develop and present an ethics case dealing with an uncertain tax position. The case can be used to assess professional ethics as part of an assurance-of-learning (AOL) plan as well as a component of a course grade. We present data on student performance on this case over a 5-year period. Students consider existing ethical frameworks to identify and frame the potential ethical "dilemmas" they might face in addressing whether to countenance a client's suggested treatment and disclosure of an uncertain tax position. In addition, students evaluate the AICPA guidance and U.S. Treasury standards on taking and reporting uncertain tax positions in the tax return and the FASB and PCAOB standards on reporting and auditing uncertain tax positions in the financial statements. The case allows faculty to assess students' ability to frame potential ethical dilemmas when clients engage in aggressive tax behavior, to recognize with whom and with what professional reference documents they should consult when an uncertain tax position arises, and to choose among alternative actions when faced with client/preparer conflicts.

1. Introduction

Graduate accounting programs likely will have learning goals covering the knowledge, skills, and attitudes expected of entry-level accounting professionals. The American Institute of Certified Public

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Accountants' (AICPAs) Pre-Certification Education Executive Committee developed an interest area on the AICPA's website that provides accounting educators with ''Core Competency Framework and Competency Assessment'' resources. Such resources are very helpful in developing learning assurance goals to meet accrediting bodies' expectations (AICPA, 2012). For example, at Michigan State University, the broad goals for the M.S. in accounting program are stated as follows:

At the end of this program, graduates will:

Goal 1 : *Be prepared to act ethically and in harmony with professional standards and responsibilities.*

Goal 2 : *Be effective accounting and business communicators.*

Goal 3 : *Achieve disciplinary competence in specialized accounting knowledge and processes.*

Goal 4 : *Be competent users of accounting and business – related research resources.*

This paper discusses a case we developed and use at Michigan State University to assess Goal 1 dealing with developing a framework in which to act ethically and in harmony with professional standards relating to the tax and financial reporting of an uncertain tax position. We developed this case based on an uncertain tax position faced by Boeing Company (Boeing) in 2006 involving the tax deductibility of a significant settlement ($615 million) paid to the U.S. government related to a violation of the False Claims Act (see Wood, 2006, for a more thorough discussion of the issues). At the time of the announcement, Boeing stated that it believed that over 90% of the payment ($565 million) was deductible for federal income tax purposes. A front page story in the *Wall Street Journal* (Pasztor, 2006) related to this tax issue prompted members of Congress to express outrage that taxpayers would effectively subsidize this company's ''misconduct'' if the payment was tax deductible (McCain, Grassley, & Warner, 2006). In response, the President and CEO of Boeing announced that the company would not seek to deduct any of the payment on its tax return because it felt that the ''long-term value of Boeing's reputation'' was more important than the ''short-term financial impact of the taxability issue'' (Boeing 2006 Q2 Conference Call, July 26, 2006). Subsequent to the publicity surrounding the case, members of Congress and the Administration have proposed tax law changes that would disallow the deductibility of all punitive damages, as recently as the President's Fiscal Year 2013 Budget Proposal (Joint Committee on Taxation, 2012). At the time of this writing, this proposal has not yet been enacted.

The facts of this case provide a rich context in which to have students explore an uncertain tax position (the deductibility of what appears to be a ''punitive'' payment) that the client desires to take on the tax return because of the company's need for cash flow to keep the company solvent. Using a framework developed by the Institute for Global Ethics and used by an international public accounting firm, students are asked to analyze the potential ethical dilemma faced by the preparer and to apply professional and administrative standards related to taking and disclosing such a position on a tax return, including new Schedule UTP. In addition, students consider the financial reporting standards that apply to disclosing and auditing the tax return position in the tax footnote of the company's financial statements.

2. Assurance of learning goals

Business programs accredited by the Association to Advance Collegiate Schools of Business (AACSB – International) have incorporated formal assessment measures of student learning for a decade or more. As shown in Fig. 1, the continuous improvement loop requires that faculty to set program goals with measurable learning objectives, gather data on whether students met those objectives, consider program enhancements based on the data, and then periodically reassess the goals and objectives.

Broad program goals must be expressed as measurable student learning objectives or learning assurance goals. For example, the program goal regarding ethics and professional responsibilities stated in Section 1 can be measured by gathering data on whether students recognize ethical dilemmas and are able to recall the professional literature that governs their response to the dilemma. At Michigan State University, we test and measure the first learning goal involving ethics in four courses, one from each track in the Master of Science in Accounting program (tax, financial reporting, corporate