

Role of Professionals in Tax Practice

- P. N. Shah, Chartered Accountant

A professional is able to command respect in the society because his motto is "Pride of Service in preference to personal gain". A professional is described as one who places public good above his personal gain. The government, financial institutions, investors, clients, employees and others directly or indirectly connected with the enterprise rely on the objectivity and integrity of the professional. This reliance imposes a public interest responsibility on all professionals whether they render services in the field of taxation or other professional services.

Practice in the field of taxation is considered as a traditional field where members of the legal and accounting profession have made a very useful contribution. Lawyers and Chartered Accountants, with their expertise in the field of law and accounting, have a distinct advantage in tax practice. Some of the professionals who hold dual qualifications as an advocate and as a Chartered Accountant and who are engaged in the tax practice find their accounting background to be very useful in resolving many complicated legal issues in day-to-day practice. Apart from direct taxation, many professionals have now specialised in the field of indirect taxation such as sales tax, excise duty, customs duty, etc.

The tax importance department gives due to professionals who are engaged in the tax practice. The direct tax laws provide for compulsory audit of accounts and certification of certain claims. Chartered Accountants have useful role to play in giving the tax audit reports and other certificates required for the purpose administration of tax laws. of

Lawyers and Chartered Accountants have to play a very useful role in the matter of representation before the ITA Tribunal. In fact, the Income-tax Act provides that a Division Bench of the ITA Tribunal should consist of two members, one of whom should be from the legal profession and the other should be from the accounting profession. Where members from accounting profession are not available, senior officers of the Income Tax Department are considered for appointment as accountant members of the Tribunal.

For the success of any professional, it is essential that there is a strong base provided by the regulating body to which he is answerable. The system of education, training and examination should be such that he is able to command the respect and confidence of the members of the society. The users of professional services require an assurance that the member of the profession whose services are retained is (i) a person of character and integrity and (ii) competent and knowledgeable to render professional services.

The character and integrity of a professional will depend on his personal qualities. This will also be guided by the environment in which he has taken his education and training as well as the environment in which he is working.

His position can be maintained and strengthened only if the regulating professional body is able to guide and encourage its members to live upto the high moral and professional standards. The prestige and confidence enjoyed by a professional, to a great extent, depends on the strictness and scrupulous manner in which the professional code is implemented.

What is necessary is to create a public image that the members of the profession are competent, that they are keeping public interest above self interest, that the members are honest and that the erring members are awarded due punishment expeditiously. This is possible only if each member supports the efforts of the professional body. Legislative support may not be available for all the efforts. This has to be supplemented by self regulatory measures. It is in the field of self regulatory measures that support of the members is more needed for enhancing the public image of the profession. Professional bodies have identified the following fundamental principles by which any professional should be governed in the conduct of his professional relations with others.

(i) **Integrity:** A professional should be straight forward, honest and sincere in his approach to his professional work.

(ii) **Objectivity:** A professional must be fair and must not work with any prejudice or bias; He should always maintain an impartial attitude.

(iii) **Independence:** When in practice, a professional should both be and appear to be independent. Integrity and independence are the essential characteristics of any professional. Independence implies that the judgment of a person is not subordinate to the wishes or directions of another person who might have engaged him or to his own self-interest.

(iv) **Confidentiality:** Information acquired in the course of his professional work has to be treated as most confidential. This should not be disclosed to any one without specific authority of the client or unless it is required to be disclosed for compliance with legal or professional requirements.

(v) **Technical Standards:** He must discharge his duties in accordance with the technical and professional standards relevant to the work assigned to him.

(vi) **Professional Competence:** He must maintain high level of competence throughout his professional career. He should undertake only such work which he or his firm is competent to handle and complete within the given time frame.

(vii) **Ethical Behaviour:** A professional should conduct himself in a manner consistent with the good reputation of the profession and/refrain from any conduct which might bring discredit to the profession.

A professional who keeps the above seven principles before him and adopts them in his day-to-day practice can achieve great success in his tax practice.

One may say it is difficult to adopt all these principles in the present day environment. However, if a professional wants to have peace of mind and get inner satisfaction of having served the society and the profession, he will have no option but to follow the path identified by the above principals.

Professional bodies strive to maintain discipline amongst the members not only in matters relating to their professional conduct but also in relation to their conduct in other fields. It is for this reason that the regulating bodies are given power to take disciplinary action against a member if he is found guilty of 'Other Misconduct'. There is no precise definition of the term 'Other Misconduct'. This is a very wide term. The regulating bodies have, however, taken the view that a member of the profession is expected to maintain the highest standards of integrity in his personal conduct and any deviation from this high standard even in personal (non-professional) affairs would expose him to a disciplinary inquiry.

Members of the public consider, and rightly so, that professionals have expert knowledge and experience in the field of taxation, finance and accounting. Even the Government looks to them whenever problems of taxation, finance and accounting are to be resolved. Therefore, the professionals must maintain high standards of integrity in the sphere of finance, accounting and tax practice.

The professions of law and accounting are the noblest professions and the society expects that each member of the profession should maintain very high standard of integrity not only in his conduct in the professional field but also in his personal (non-professional) conduct. In this context it may not be out of place to mention that the eminent counsel, Shri N.A. Palkhiwala, has in one of the interviews, described a 'true professional' as under.

"First a man must have the courage of his convictions. He must not be coward. He must honestly believe certain things and he must say publicly what he believes privately. Secondly, he must have integrity not only financial integrity, which is much more common than intellectual integrity. He must have intellectual honesty which makes him say what he believes to be right. So, if a Chartered Accountant or a lawyer has intellectual integrity, he will never give an opinion merely to suit the client. I think every professional man must have that ideal before him, when advising clients. Thirdly, humility is just as important as courage and intellectual integrity. The higher a man goes in life the humbler he should be."

In the context of the theme of this publication, one can do no better than emulate the great professional who has set high standards in tax practice. Let us approach 2000 A.D. with this ideal and let each one of the professional become a 'true professional' in the true sense of the term.

Source: CTC- IT Review, "Vision 2000: Tax Laws and Administration", August – September 1996; pages 117-119