

Distinguished guests

Graduands

Ladies and Gentlemen,

As Prof Griffin has just so kindly outlined, my early professional career was in corporate tax consulting. My staff and I gave innovative tax advice to our large company clients that complied with the requirements of the tax law, and which met their commercial objectives. Although the Australian tax system is horrendously complex, the things that worried me the most professionally had nothing to do with tax: the things that kept me awake at night were always ethical issues.

One major problem with ethical dilemmas is that you often have to work them out by yourself. In some cases the *law* prevents you from talking to anyone else about your problem – even your family. In other cases professional confidentiality stops you asking for help from colleagues and friends. And in other cases the people who understand all about the problem – your fellow workers or your boss – are the very people who are *causing* the problem, so it is not possible to get their unbiased advice. Ethics is lonely!

I remember one occasion when we were checking the tax returns of a large company, prior to lodging those returns with the Australian Taxation Office. The company had been my client for a long time, and probably comprised about 20% of my total fees. We had a close relationship, and I was considered an integral part of their business success.

In its tax return, the company had claimed a multi-million dollar tax deduction which I did not believe to be deductible. We examined every angle of the transaction, but whichever way we looked at it, the amount was simply not deductible. When the client was told this, they were very annoyed. The client then said that it was going to claim the deduction anyway, regardless of my advice...

I was appalled – in my view this expense was not even in the grey area of tax law: it was just plain non-deductible. The client had never gone against my advice before, ever. And I could see my relationship with my biggest client splintering before my eyes, and perhaps ending our association permanently.

The professional and personal implications of this were huge! If the client left over this issue, it would be difficult to find another large client to replace the 20% hole in my budget - and my own income would suffer considerably. It might mean cutting staff. It would also mean the loss of some very interesting and challenging work, which all my staff had enjoyed. I felt personally betrayed – how could they do this to me?

The client's threat to lodge the incorrect return went against all my personal principles. Some might find it hard to believe that tax accountants have any ethics at all, but that is far from the truth. My own view is that tax legislation is just like any other law: I don't write it; I just tell people what it means. If the law is poorly written and gives a silly result, that is hardly my fault.

And unfortunately, tax law is full of provisions that give silly results – often working directly *against* the national interest and against government policy in other areas. The very worst tax law results from governments who won't ask for industry advice when they are thinking about new taxes, and then get themselves in a huge pickle when, hardly surprisingly, their ideas simply don't work in practice. We have had some recent examples of this, but it happens all the time. Tax law and logic don't always go together.

A good tax advisor can usually find a workable and legal solution for most client problems - simply by being clever and having an excellent knowledge of tax law and practice. There is no excuse for falsifying tax returns, ignoring income, using secret offshore bank accounts or claiming deductions that don't exist. In my view, that sort of behaviour is simple theft, and is a crime like any other fraud.

The ethical code of conduct for the Institute of Chartered Accountants was quite clear on how to deal with my ethical problem: a chartered accountant cannot be associated with any tax return known to be false. Of course, a taxpayer can lodge its tax return any way it likes without using a tax agent – but as a chartered accountant I could not lodge it for them. If that meant I lost the client for good, then so be it.

I was grateful that there was a written code of ethics I could rely on: it was something concrete that I could take to the client and explain my position if I needed to.

I decided *not* to tell my business partners about the issue before I acted. To be honest, I was a little afraid of what they might say. As a junior partner in the firm, I was worried they would pressure me into doing whatever it took to keep the client, and the fees. Looking back, I did both myself and my partners a great disservice by excluding them: I didn't give them the chance to demonstrate ethical behaviour, and I also cut myself off from their years of advice and experience.

After wrestling with the issue for a few days, I took my courage in my hands, and advised the client that I could not sign the incorrect tax return as their tax agent. They were surprised, but said they would get back to me when they had considered their options. Several sleepless nights ensued.

A few days later, the client rang to tell me they had decided to take my advice and *not* claim the incorrect deduction. The relief on both ends of the phone was palpable. We finalised the tax return on the proper basis and it was lodged by me

as their tax agent, and the matter was never referred to again. But my respect for the company diminished as a result of these events, and the relationship was never quite the same again.

Graduands, I am telling you this story to illustrate that ethical problems can pop up at any time. They can occur in new business relationships and in long term ones. They can occur when your career is well established – and they can occur on your first day of work. And they are always very, very hard to deal with - and you will often need to work out the answer by yourself.

Your studies at UniSA have included specific ethics courses, and ethical issues have been embedded in your technical course materials. I hope you have used your years at university to begin to shape your own ethical framework – because ethics is not something you can ignore until you get into a senior position.

- As a junior accountant, you may be asked (as I was once) to put through a fraudulent journal entry whose sole purpose was to halve a businessman's taxable income.
- As a first year lawyer, you might be asked to draft a sales contract clause designed to make consumers *believe* that they have waived their statutory rights of warranty.
- And as a junior marketing consultant you might be asked to design a promotion for pharmaceuticals to third world countries which you know would not be permitted in Western countries.

How you react to these early challenges can affect your whole career. If you establish a reputation for acting appropriately from the beginning, you will find you are not pressured again to do the wrong thing. And you will find that others who are seeking help to resist improper acts, gravitate to you for advice and support. This sort of leadership is highly valued by good employers, precisely because of the moral strength and courage it displays.

As professionals, you understand that the modern world is complex, and problems are not able to be solved in a 30 second TV grab. The ethical implications of flood insurance definitions, mining exploration in established farmlands, water usage along our river systems, and future energy options are all much more difficult to resolve than the TV news would suggest. They have commercial, moral and legal aspects, and they require serious thinking by clever people, who are all looking at these problems with a firm ethical framework in their heads. I am confident that some of the people who will finally solve these problems are in this audience this morning!

I wish you all the best for your future careers, wherever they might take you.
Thank you.