

The Role of Client Advocacy in the Development of Tax Professionals' Advice

By:

Donna D. Bobek
University of Central Florida
Kenneth G. Dixon School of Accounting
Orlando, FL 32816
407-823-3082
Donna.Bobek@bus.ucf.edu

and

Amy M. Hageman
University of Central Florida
Kenneth G. Dixon School of Accounting
Orlando, FL 32816
407-823-4420
Amy.Hageman@bus.ucf.edu

and

Richard C. Hatfield
University of Alabama
Culverhouse School of Accounting
Tuscaloosa, AL 35487
205-348-2901
rhatfiel@cba.ua.edu

The authors gratefully acknowledge the insightful comments of Dale Bandy and participants at the 2008 Accounting, Behavior, and Organizations Research Conference.

The Role of Client Advocacy in the Development of Tax Professionals' Advice

ABSTRACT

A primary responsibility of tax professionals is to be an advocate for their clients (AICPA, 2000). Prior tax research has found that client advocacy affects both the decision-making process and ultimate recommendation provided to clients (e.g. Cuccia et al. 1995; Cloyd and Spilker, 1999; Kahle and White, 2004), and has generally treated advocacy as an exogenous characteristic. A key motive of the present study is to investigate the assumption that advocacy is an exogenous trait held by tax professionals. Consistent with Attitude Theory, we report results of an experiment that suggest advocacy may be client-specific (i.e., endogenous). Further, client specific advocacy outperforms general advocacy as an explanatory variable for judgment variables such as tax professional advice as well as process variables such as weighting evidence. This study improves our understanding of the important construct of advocacy, potentially explaining how characteristics of the tax professional's judgment context may unintentionally influence their tax advice to clients.

The Role of Client Advocacy in the Development of Tax Professionals' Advice

INTRODUCTION

One of the primary roles of a tax professional is to function as a client advocate (AICPA, 2000). Unlike auditors, who are required to be independent of their clients, tax professionals are bound by professional standards to advocate for favorable tax positions that fall within statutory boundaries. In executing their role as client advocates, however, tax professionals must still evaluate evidence and develop recommendations for tax positions objectively. Specifically, in carrying out this role, "tax professionals must objectively evaluate all relevant facts and tax authorities when preparing advice" (Kadous and Magro, 2001, p. 453). Thus, tax professionals must serve as client advocates while attempting to maintain unbiased judgments and evaluations.

Despite this ideal, prior studies have demonstrated that a tax professional's judgments are subject to a variety of biases (e.g. Johnson, 1993; Cloyd and Spilker, 1999; Kadous and Magro, 2001; Kahle and White, 2004). While variables considered in prior research might normatively be expected to influence advice (e.g. client risk (Kadous & Magro, 2001)), if the effect of these variables is due to subconscious biases rather than explicit consideration, negative consequences may ensue. For example, becoming a greater advocate due to client characteristics potentially can influence the research and evaluation process and affect a tax professional's perception of the level of risk associated with a particular tax position (e.g., Andre (2008) finds advocacy to be the strongest factor affecting confirmatory searchers). This is different than objectively determining risk and then considering characteristics of the client explicitly when deciding on the appropriate advice. Understanding the latent causes of such biases is therefore important.

Prior studies have recognized the importance of advocacy attitudes and their effect on judgments (e.g. Johnson, 1993; Mason and Levy, 2001), although some have failed to establish a

direct connection between measured general advocacy levels and tax professionals' recommendations (e.g. Kadous and Magro, 2001; Barrick et al. 2004). However, these prior studies have not considered how advocacy may be context-specific, or how as an attitude, it may change based on the external circumstances (e.g., see Ajzen and Fishbein, 1990). To the extent that advocacy is endogenous it may have greater practical interest. Given that advocacy can influence the cognitive processes of tax professionals (e.g., evidence search and evaluation (Johnson 1993; Andre 2008)), the variables that affect advocacy have the potential to unintentionally affect the judgments and decisions of tax professionals. It is these unintentional effects that are of most interest to researchers as intentional considerations of such external characteristics are presumably normative and unlikely to lead to flawed or deficient outcomes.

The purpose of this study is to investigate the conjecture that advocacy is an exogenous characteristic held by the tax professional and, if not, to assess whether the endogenous nature of advocacy leads to biased judgments. Specifically, we use an experiment to examine whether client characteristics influence the degree to which tax professionals will function as advocates for their clients. We also investigate the degree to which advocacy, client characteristics, and other factors affect tax professionals' judgments regarding tax advice, including both their recommendations and allowance of tax positions. In addition, we consider whether the process by which they determine this advice (e.g. their rating of the relevance of evidence and their assessment of how the IRS would view the situation) is influenced by these factors.

The results of this study provide preliminary evidence that advocacy is partially endogenous, as the 101 tax professionals in our study displayed lower levels of client-specific advocacy for riskier clients. Client-specific advocacy also had a stronger influence on judgments and decision processes than did general advocacy, further reflecting the importance of

considering advocacy as an endogenous construct. Findings also provide evidence that client specific advocacy influences judgments such as the likelihood assessments of favorable IRS outcomes and the weighting of evidence.

These results contribute to the behavioral taxation literature. The primary finding of interest is the endogenous nature of client advocacy. This finding suggests that future considerations of advocacy may want to include how advocacy itself is a function, potentially, of client and context-specific characteristics. While explicit consideration of such characteristics is normative behavior, the subconscious influence of such variables may bias tax professionals' judgments. This bias could potentially lead tax professionals to make inaccurate decisions resulting from nonobjective judgment processes (e.g., inaccurate risk perceptions resulting from biased evidence evaluation potentially leads to flawed tax advice). These results advance our understanding of biases in tax professionals' judgment and decision-making.

The next section presents prior research and develops hypotheses. The third section describes the research method. The fourth section presents results. The fifth section concludes.

PRIOR RESEARCH AND HYPOTHESES

A primary responsibility of CPA tax professionals is to be an advocate for their clients. Whereas auditors are required to be independent of their clients, CPA tax professionals have both the "right and responsibility to be an advocate for the taxpayer with respect to any positions satisfying" a realistic possibility standard as set forth in the AICPA Statement on Standards for Tax Return Services (AICPA, 2000). The responsibility of advocacy is further enhanced by the "economic incentives implicit in the tax professional-client relationship" (Barrick et al. 2004, p. 5).

The construct of advocacy has been an important part of the literature on tax professionals' judgment and decision making for nearly two decades. As advocacy emerged as a topic of research, it became important for the term to be defined consistently. While some earlier studies considered "advocacy" as the tax professional's preference for positions favoring the client (e.g. LaRue and Reckers, 1989; Carnes et al. 1996; Cloyd and Spilker, 1999; Hatfield, 2000), others directly measured this construct (e.g. Johnson, 1993; Levy, 1996). More recent studies examining advocacy have tended toward direct construct measurement (e.g. Kadous and Magro, 2001; Davis and Mason, 2003; Barrick et al. 2004; Kahle and White, 2004; Stephenson, 2007; Pinsker et al. 2008) and have relied on the definition of advocacy developed by Mason and Levy (2001). Based on the AICPA's Statement of Responsibilities in Tax Practice and prior academic tax literature, Mason and Levy (2001, p. 127) define *client advocacy* as:

Advocacy is a state of mind in which one feels one's primary loyalty belongs to the taxpayer. It is exhibited by a desire to represent the taxpayer zealously within the bounds of the law, and by a desire to be a fighter on behalf of the taxpayer.

Thus, client advocacy refers to the degree of *taxpayer loyalty* exhibited by the tax professional (Mason and Levy, 2001; Davis and Mason, 2003).

Many prior studies have examined the relationship between advocacy levels and tax professionals' judgment and decision-making processes (see Roberts, 1998, for a review). Some have implicitly assumed that the tendency of tax professionals to recommend aggressive reporting decisions is due to the inherent advocacy role played by tax professionals (e.g. Cuccia et al. 1995), whereas others have found a direct influence of advocacy on judgments (e.g. Cuccia and McGill, 2000). Additionally, advocacy levels affect confirmation bias (Johnson, 1993; Hatfield, 2000; Kahle and White, 2004), as tax professionals generally place heavier weight on evidence that supports the client-preferred position. A tax professional's degree of advocacy also

affects the review process (see Hatfield, 2001). Furthermore, advocacy may affect search behavior (e.g. Cuccia, 1994; Cloyd and Spilker, 1999; Andre, 2008) and the weighting of evidence used to determine a final recommendation (e.g. Levy, 1996; Davis and Mason, 2003).

Other studies have failed to establish a direct connection between measures of tax professionals' advocacy and their tax advice. For example, Barrick et al. (2004) did not find that general advocacy attitudes influenced tax professionals' recommendations or probability estimates. Likewise, Kadous and Magro (2001) measured levels of advocacy in their examination of the influence of practice risk on tax professionals' recommendations and weighting of evidence, but did not find this measure to explain a significant amount of variance in these judgments.

While many prior studies have demonstrated the importance of advocacy, these studies are united in their tendency to examine advocacy attitudes as an exogenous (independent) variable, with the implicit assumption that client advocacy is an *inherent characteristic* of the tax professional that operates independently of the external environment.¹ However, advocacy is also commonly conceptualized as an *attitude* held by the tax professional (Roberts, 1998; Mason and Levy, 2001). According to Ajzen and Fishbein (1980), an attitude that relates to a particular behavior (for example, advocacy as it relates to a tax professional's judgment) is actually a function of an individual's underlying beliefs about what will occur if he engages in that particular behavior (in this case, being an advocate). Thus, attitudes may change based on the possible economic or non-economic outcomes associated with being an advocate in a particular instance or context.

Advocacy attitudes could therefore change based on shifts in beliefs about the consequences of acting as an advocate. This fluidity of the advocacy construct could explain

inconsistent findings in prior studies with regard to *general* advocacy measures and outcomes (see Appendix A). Such studies have examined advocacy as an inherent characteristic, rather than recognizing that changing environmental factors could affect a tax professional's advocacy attitudes.

In theory, tax professionals should evaluate evidence and make decisions in an objective, unbiased manner. A tax professional's desire to reach a pro-taxpayer recommendation should not influence his cognitive judgment processes regarding the underlying facts and relevant legal authority. In practice, tax professionals are influenced by a wide array of factors, including client characteristics, firm factors, elements of the regulatory environment, and individual differences in cognitive, social, or affective traits (Roberts, 1998). Since advocacy relates to loyalty to the client, it follows that characteristics about clients themselves may be particularly salient to tax professionals in their appraisal of the possible outcomes associated with being an advocate. Of the array of client attributes, prior tax researchers have paid special attention to two such factors: client risk (practice risk) and client importance.

In contrast to the risk held by the client due to tax professionals' recommendation, *practice risk* refers to the risk *held by the tax professional* in making inappropriate client recommendations; this construct may also be termed *client risk*. Kadous and Magro (2001) include a number of factors as being included in this construct. Client risk includes potential exposure to monetary costs associated with the IRS; liability to the client for additional taxes, penalties, and interests on those taxes; other compensatory and punitive damages and the cost of legal representation; and non-monetary costs including the loss of reputation, damage to relationship, and AICPA sanction. Client risk is higher for certain client characteristics identified in the tax practice literature, including uncooperativeness, frequent involvement in litigation,

participation in high-risk industries, fee pressure, financial difficulties, and involvement in suspicious transactions (see Bandy, 1996; Kahan, 1996; Pascarella, 1996; Fiore, 1998).

Kadous and Magro (2001) used an experiment to show that tax professionals weighted information differently when client (practice) risk was higher. Specifically, tax professionals over-relied on *ex-post* information and behaved less aggressively when the client was high risk compared to low risk. In a follow-up study, Kadous et al. (2008) established that biased information searches and aggressive recommendations were more common with low-risk clients. These studies suggest that since client risk has the potential for altering beliefs and actions about ultimate outcomes for tax professionals, that tax professionals may exhibit differing levels of advocacy for clients with differing perceived risk. This leads to the first hypothesis:

Hypothesis 1: Tax professionals will exhibit greater (weaker) client advocacy for low (high) risk clients.

Another salient client characteristic that may influence tax professional beliefs about likely outcomes is *client importance*. Kahle and White (2004) identify the desire to retain an important client and its influence on tax professional decision making as an area for future research in exploring the consequences of client characteristics. Evidence from prior experimental research (e.g. McGill, 1988; Reckers et al. 1991) suggests that the more important a client is, the more aggressive a tax professional is willing to be; self-reports from interviews show a similar relationship (Milliron, 1988). The influence of “important” clients is stronger if they have a greater ability to generate future compensation for the tax professional’s firm. Client importance therefore influences tax professionals’ judgments since these clients have a greater economic influence to the firm, which in turn influences the tax professional. Thus, tax professionals may exhibit higher levels of advocacy for clients that are more important to their

firm, as acting as an advocate for such clients has the potential to result in improved outcomes for the tax professional.

Hypothesis 2: Tax professionals will exhibit greater (weaker) client advocacy for more (less) important clients.

A primary reason for studying the potential endogeneity of advocacy is that prior studies have found a strong relationship between advocacy levels and tax professionals' decisions (e.g. Roberts, 1998; Davis and Mason, 2003) as well as the processes they engage in to make these decisions (e.g., Johnson, 1993; Davis and Mason, 2003; Andre, 2008). If tax professionals are following a strategy of utility maximization, client characteristics such as risk and importance would be expected to have a direct effect on recommendations. However, the influence of advocacy (general in prior literature) has been suggested to have a non-explicit or even biasing influence on recommendations. Advocacy effects are biasing in the sense that they can influence tax professionals' perceptions of components of the decision process such as weighting of evidence or estimate of the likelihood that IRS will allow a particular treatment. There is not a normative reason that client characteristics should influence these judgments.

Therefore, we expect that, beyond the explicit effects of client characteristics on recommendations, advocacy (client-specific) will influence the recommendations of tax professionals, suggesting that the cognitive bias aspect of advocacy explains behavior beyond what would be expected through the utility maximizing influence of client characteristics. Specifically, these cognitive biases are made clear through the influence of client specific advocacy on beliefs that affect the formation of recommendations (e.g., weighting of evidence or likelihood of success). This leads to the following hypothesis set:

Hypothesis 3a: Client-specific advocacy will influence tax professionals' recommendations, even when controlling for client characteristics.

Hypothesis 3b: Client specific advocacy will influence aspects of the tax professionals' judgment process, including: allowance of favorable tax treatment, likelihood judgments, and weighting of the relevance of evidence.

RESEARCH METHOD

In order to examine the endogeneity of client advocacy and its influence on tax professionals' judgments, we conducted an experiment using experienced tax professionals as participants. The section below details the experimental task, experimental procedures, participants, and measurement of the variables.

Experimental Task

Participants responded to a computerized instrument that simulated an engagement to provide tax advice to a client. They were given a short vignette about a hypothetical client's "hobby loss" scenario.² The hobby loss decision context was selected since it involves a high degree of ambiguity (uncertainty). Past tax research has pointed out that tax professionals often exploit ambiguity in compliance situations in order to minimize taxation for their clients (e.g. Kaplan et al. 1988; Helleloid 1989; Krawczyk 1994; Cuccia et al. 1995; Spilker et al. 1999; Magro, 1999). Moreover, the selection of this business vs. hobby decision context ensures comparability with prior research (e.g. Krawczyk, 1994; Carnes et al. 1996).

The facts in the current scenario were designed to maximize ambiguity. Many of the facts suggested that the taxpayer's activities should be considered a business activity (e.g. the taxpayer carried out the activity in a businesslike manner and expected that the value of assets to increase), whereas others suggested it was a hobby (e.g. the presence of personal pleasure in a recreation activity). Appendix B reproduces the text of the tax issue; all participants received these same facts.

Experimental Procedures

All participants completed the task in an online environment. Two independent variables, client risk and client importance, were manipulated, creating four experimental conditions. Participants were randomly assigned to a link to one of four online questionnaires. Participants provided demographic information and answered questions measuring their general levels of client advocacy (scale developed and reported by Mason and Levy, 2001; Appendix C contains the items included on this scale). Next, participants received facts about the client. These were manipulated across experimental conditions, with participants receiving different information based on whether they were in the high or low importance condition and the high or low risk condition. Appendix D contains the differing client facts for each of the four experimental conditions. As a manipulation check, participants were then instructed to answer “how important” the hypothetical client was relative to other clients at their firm, and “how much risk” was created by maintaining the hypothetical tax clients.

Participants then read information on the hypothetical hobby loss tax issue. Next, participants were provided with information from the applicable tax authority for this issue, Treasury Regulation Sec. 1.183-2. This regulation provides nine factors that should be considered when evaluating whether an activity is engaged in for profit; participants indicated how relevant they found each factor in determining the appropriate tax treatment of the hypothetical client’s activities. Subsequently, participants answered questions regarding their tax advice for the decision context, including how they would *advise* the client, what tax treatment they would *allow*, and the *likelihood* that the IRS would consider the activity to be a business. Finally, participants again responded to the client advocacy scale (Mason and Levy, 2001), but in terms of their levels of *client-specific advocacy*, as held toward the hypothetical clients.³

Participants

Participants for this study consisted of 101 experienced tax professionals obtained from a random mailing of American Institute of Certified Public Accountants (AICPA) members and from direct firm contacts. The mailing consisted of 100 AICPA members who received a cover letter with an electronic link to the online experiment. To encourage participation, a \$25 gift certificate was randomly awarded to participants based on the number of responses. We received eight responses from this mailing (response rate of 8%).

The majority of participants were obtained by directly contacting firms. One of the researchers sent email messages to firm contacts at the local offices of Big 4/international and national firms, regional firms, and local firms, requesting email addresses of experienced tax professionals. One of the researchers then emailed the identified tax professionals requesting their participation. We contacted 211 tax professionals and received 93 responses (response rate of 44%). Participation was encouraged by offering a chance to win a \$25 gift certificate or by making donations to one of five possible charitable organizations (chosen by participant) upon completion.

Of the 101 total responses from tax professionals, 24 participants completed the experiment in the low risk/low importance condition, 23 completed the high risk/low importance condition, 26 participants completed the low risk/high importance condition, and 28 participants completed the high risk/high importance condition.⁴ Analysis indicated that participants did not significantly differ between the four experimental conditions on any demographic variable, with the exception of gender; male tax professionals were more likely to be assigned to the “low importance” condition than the “high importance” condition ($p=.065$). We consider the effect of demographic variables in the additional analyses section of the paper.

Table 1 describes demographic information regarding the study's participants. The majority of participants were female (67%), CPAs (62%), and at the staff or senior level (60%). They spent on average, between 20-30% of their chargeable time providing tax advice that required some amount of research, and the average participant had 8.28 years of tax experience.

[Insert Table 1 here]

Participants from the AICPA and participants obtained from direct firm contacts did not vary significantly in their responses for the study's independent or dependent variables. However, those obtained from the AICPA mailing list had significantly more tax experience and held a higher firm position than those obtained from direct firm contacts.⁵

Manipulated Variables

The variables "client risk" and "client importance" were manipulated as between-subject factors across experimental conditions. *Client risk* was manipulated as high or low based on an adaptation of the risk manipulations in Kadous and Magro (2001).⁶ In the high client risk manipulation, the client had unreliable and incomplete financial records, often proposed various questionable tax savings strategies, and previously had sizable adjustments and penalties from IRS audits. In the low client risk manipulation, the client had reliable and complete financial records, always avoided questionable tax savings strategies, and had never had adjustments or penalties from IRS audits. To test the effectiveness of this manipulation, participants rated "how much risk" was created by maintaining the hypothetical tax clients relative to other clients at their firm, ranging from 1 (no risk) to 6 (very high risk). The means and standard deviations of the high and low client risk ratings were 4.02 (1.21) and 2.09 (0.88), respectively, and were significantly different at $p < .001$, suggesting an effective manipulation.

Client importance was manipulated as high or low as modified from past literature (e.g. Reckers et al. 1991). In the high client importance manipulation, the client was a local bank president that was one of the office's largest clients with substantial audit fees, the firm had prepared the client's personal tax return for many years, and the client had been a source of past referrals. In the low client importance manipulation, the bank was not a firm client, the firm's only relationship was preparation of the client's personal tax return for the past two years, and the client had not been a source of referrals. To test the effectiveness of this manipulation, participants rated "how important" the hypothetical tax clients would be relative to other clients at participants' firms, ranging from 1 (very unimportant) to 7 (very important). The means and standard deviations of the high and low client importance ratings were 5.50 (1.47) and 4.26 (1.87), respectively, and were significantly different at $p = .001$, suggesting an effective manipulation.

Measured Variables

We measured both *general* and *client-specific* advocacy attitudes using a nine-item scale developed and validated by Mason and Levy (2001). Mason and Levy's (2001, p. 127) scale measures the degree to which a tax professional exhibits "*primary loyalty to the taxpayer*" (emphasis added); it has been validated through its use by other tax researchers, including Levy (1996), Kadous and Magro (2001), Davis and Mason (2003), Barrick et al. (2004), and Stephenson (2007). General advocacy was measured prior to the hypothetical tax scenario, capturing general attitudes pertaining to "the taxpayer." Client-specific advocacy was measured after the hypothetical tax scenario, capturing specific attitudes toward the experiment's hypothetical client (by substituting the names of the hypothetical client in place of "the taxpayer" on the scale's items).

We used several measures to capture tax professionals' tax advice. Of primary interest were how tax professionals would *advise* the client (measured on 1-7 Likert-type scale, with 1 = "definitely a hobby activity" and 7 = "definitely a business activity") and what tax treatment they would *allow* (measured on a 1-7 Likert-type scale, with 1 = "definitely not allow business treatment" and 7 = "definitely allow business treatment"). Tax professionals' advice was more aggressive (and more beneficial to taxpayers) to the extent that the activity was considered a business. Prior literature has suggested that the distinction between these two judgments may be important given the differing levels of responsibility in the decision (e.g. Reckers et al. 1991). We also captured tax professionals' perception of the *likelihood* that the IRS would consider the activity to be a business (measured on an 11-point Likert-type scale, where 1 = "0%" and 11 = "100%") and their *weightings* of the relevance of the pertinent treasury regulation factors governing this issue (measured on a 7-point scale, where 1 = "very relevant" and 7 = "very irrelevant").⁷

RESULTS

Hypotheses 1 and 2

Hypotheses 1 and 2 examine whether tax professionals' advocacy is endogenous, i.e., whether tax professionals' advocacy differs with client characteristics. Descriptive statistics are provided in Table 2. The analysis of covariance (ANCOVA) used to test these hypotheses is provided in Table 3, Panel A. The ANCOVA results show that when controlling for participants' initial levels of general advocacy as a covariate, the manipulation of client risk has a statistically significant influence on client-specific advocacy ($p < .05$), providing support for Hypothesis 1. In other words, tax professionals exhibit lower levels of advocacy for riskier clients. However, client importance did not influence client specific advocacy ($p > .5$)

[Insert Tables 2 and 3 here]

Further analysis tests the robustness of this finding by examining how the *perceived* level of client risk and client importance influences client-specific advocacy. Tax professionals' experiences with other clients may influence their perception of client risk and client importance; therefore, this analysis regresses client-specific advocacy on participants' assessments of the client risk and client importance relative to other clients in their firm (rather than using the straight manipulations). As reported in Table 3, Panel B, the influence of perceived client risk on client-specific advocacy continues to be statistically significant ($p < .01$). This suggests that tax professionals are less likely to advocate for clients that they perceive as riskier.⁸ However, client importance did not influence client-specific advocacy.

Overall, our prediction in Hypothesis 1 that client risk would influence the level of advocacy a tax professional exhibits for a particular client is supported, while the predicted reaction to client importance, Hypothesis 2, was not supported. Thus, there is some evidence of endogeneity of advocacy. Specifically, tax professionals are less likely to act as advocates for risky clients, and this effect is even more pronounced when assessing the client's riskiness relative to other clients at tax professionals' firms. This is in line with the findings of Kadous and Magro (2001) and Kadous et al. (2008) that tax professionals are more likely to recommend aggressive tax positions with less risky clients. Thus, advocacy changes based on specific client characteristics, rather than functioning as a rigid characteristic.

Hypothesis 3

Hypothesis 3 investigates the influence of advocacy on tax professionals' judgments in terms of their recommendations (H3a) and the process by which they reach these recommendations including allowance of treatment, likelihood judgments, and weighting of

evidence (H3b). All analysis is made using participants' *perceptions* of relative client risk and client importance as independent variables rather than their condition assignment. There were no statistically significant differences in tax professionals' advice due to condition assignment of client risk and client importance. Use of tax professionals' perceptions of risk and importance affords a finer-grained test of how these client characteristics influence tax professionals' advice. Moreover, as participants were from a wide variety of tax firms, they may have had different perceptions of relative client characteristics. We first consider the effects of general advocacy (Table 4, Panel A), followed by client-specific advocacy (Table 4, Panel B).

The first investigation addresses the alternative effects of general and client specific advocacy on tax professionals' *recommendations* of tax advice when controlling for perceived client characteristics. Table 4, Panel A indicates that general advocacy has a statistically significant influence on tax professionals' recommendations ($p < .05$), whereas client characteristics do not. The model containing client characteristics and general advocacy is insignificant and explains approximately 3% of the model's variance. Table 4, Panel B shows that when substituting client-specific advocacy instead of general advocacy, client-specific advocacy has a strong positive influence on tax professionals' recommendations of pro-taxpayer treatment ($p=.001$), whereas tax professionals' perceptions of client risk and client importance do not. Together, the model containing these variables is statistically significant ($p < .01$) and explains nearly 10% of the model's variance. This improvement in model fit provides evidence that client-specific advocacy has a stronger influence on recommendations than does general advocacy and provides support for H3a.

Another facet of tax professionals' advice concerns their *allowance* of a taxpayer's treatment of a tax issue. When controlling for tax professionals' perceptions of client risk and

client importance, client-specific advocacy has a stronger relationship with the dependent variable than does general advocacy. Of further interest is that when controlling for participants' levels of risk perceptions and client advocacy levels, tax professionals are more likely to allow pro-taxpayer treatment of the activity to the extent that the client is perceived as more important ($p < .08$). Since perceived importance does not affect tax professionals' recommendations, the fact that it is tied to allowance of beneficial tax treatment suggests that important clients may have additional leverage over tax professionals that their unimportant colleagues lack.⁹ This corroborates the findings of Reckers et al. (1991) that tax professionals may sign returns containing more aggressive tax positions for clients that are important to their firms.

The overall pattern of the difference in strength between general advocacy and client specific advocacy in explaining tax professional judgment is also prevalent in the *likelihood assessments* of favorable IRS allowance of pro-taxpayer tax treatment. When controlling for perceived client characteristics, general advocacy is not related to tax professionals' likelihood assessments, whereas client-specific advocacy is statistically significant ($p < .05$) (see Table 4, Panels A and B). Thus, to the extent that tax professionals advocate for a *specific* client, they are more likely to view a pro-taxpayer position for that client as more sustainable. There is no reason that advocacy should affect these judgments. The fact that tax professionals with higher levels of client specific advocacy viewed favorable IRS treatment as more likely indicates a bias in judgment.¹⁰

Finally, advocacy has previously been linked to the weighting of evidence (Levy, 1996; Cuccia and McGill, 2000; Davis and Mason, 2003). In our experimental task, the hobby loss scenario is developed so that the factor "elements of personal pleasure or recreation" is the primary factor that suggests hobby loss treatment (i.e., unfavorable treatment for the

taxpayer). This factor is also one of the most difficult elements to surmount in successfully arguing that an activity is engaged in with the objective of making a profit (see Schwartz, 1993). Participants' weighting of the relevance of this factor may be a reflection of their advocacy attitudes. Analysis of the influence of advocacy and perceptions of client characteristics demonstrates that *client-specific advocacy* explains tax professionals' weighting of evidence, whereas pure general advocacy measures do not (as tax professionals with higher degrees of client-specific advocacy rated this factor as less relevant). This further suggests that advocacy is not a pure characteristic, but can change based on the client fact pattern. See Table 4, Panel A and B. One interesting finding is that participants viewed this factor (element of personal pleasure) as *more* relevant when they perceived the client as more important. As the "element of personal pleasure" factor is at the heart of determining the scenario's appropriate tax treatment, this finding suggests that participants may have undergone deeper processing regarding the salience of this factor with a more important client, consistent with Chen and Chaiken's (1999) heuristic-systematic model of cognitive processing.¹¹

[Insert Table 4, Panel A and B here]

Alternate tests with the *manipulations* of client risk and client importance result in inferentially identical results with the importance of client-specific advocacy over general advocacy. As with the models containing perceptions of client characteristics, analyses with condition assignment consistently yield an improved model with the inclusion of client specific advocacy rather than general advocacy (e.g., for tax professionals' recommendations of tax advice, adjusted model R-squared of less than 2% with general advocacy, compared with 9% when using client specific advocacy). Moreover, client-specific advocacy has a statistically significant influence on all of the dependent variables reported in Table 4 ($p < .05$), whereas

general advocacy is only statistically significant for the recommendation and allowance of tax treatment.

Hypothesis set 3 predicts that the endogenous nature of advocacy would be reflected through its influence on tax professionals' judgments. The results provide support to this supposition; client-specific advocacy has a stronger influence on tax professionals' recommendations and allowances of tax treatment than does general advocacy. Moreover, that client-specific advocacy influences tax professionals' likelihood assessments and weighting of regulatory authority – of which advocacy has no theoretical connection – suggests that tax professionals' judgments are biased. Taken together, the study's results provide preliminary evidence challenging the treatment of advocacy as a trait and suggest that advocacy itself may be at least partially an endogenous construct.

Additional Analysis

In addition to the study's hypothesized relationships, we examined whether there were any demographic differences in the results. One interesting finding is that when controlling for other demographic characteristics female tax professionals were less likely to *recommend* a favorable tax position for a client than their male colleagues were ($p < .05$), but were comparably likely to *allow* a client to take advantage of favorable tax treatment. The difference between male and female tax professionals in the *recommendation* of pro-taxpayer advice may be due to gender differences in risk aversion. Prior findings on gender differences in tax professionals' judgment and decision-making has pointed to a discrepancy in risk-taking behavior (e.g. McGill, 1988; Sanders and Wyndelts, 1989; Roberts, 1998; Kelliher et al. 2001), as females tend to be more risk averse than males (see Byrnes et al. 1999).

Finally, other demographic characteristics were related to differences in the level of general advocacy. Tax professionals that were male ($p < .10$) or CPAs ($p < .02$) had higher levels of advocacy, as did those with higher positions in the firm ($p < .001$), more experience ($p < .001$), and who worked at larger firms ($p = .06$).¹²

CONCLUSION

Summary of Findings

Overall, the study's results provide support that client advocacy is partially endogenous (client-specific). Hypotheses 1 and 2 examine whether client characteristics influence the level of advocacy a tax professional exhibits for a particular client. Results indicate that when controlling for levels of general advocacy, tax professionals exhibit lower levels of client-specific advocacy for riskier clients. This finding is consistent with other studies that have found that tax professionals demonstrate bias in their judgments for high- versus low-risk clients (e.g. Kadous and Magro, 2001; Kadous et al. 2008).

Hypothesis 3 investigates how advocacy affects tax professionals' judgments. Results show that client-specific advocacy has a stronger influence on facets of tax professionals' judgment and decision making than does general advocacy. This provides additional evidence that environmental factors such as client characteristics can influence the level of advocacy a tax professional is willing to exhibit.

Limitations

The results of the study should be interpreted in light of its limitations. First, as with any hypothetical case scenario, participants' responses for their intended behavior may not match to what would occur in an actual situation. However, behavioral intentions are theoretically linked to behavior when an individual perceives some degree of control in a situation (Ajzen, 1991).

Another limitation is the study's use of only one case, raising concern that the findings may have been case-specific. To alleviate this concern, we relied on a common ambiguous tax dilemma (Krawczyk, 1994; Carnes et al. 1996). Finally, there may have been potential demand effects since the study's instrument measured two sets of similar questions (general advocacy and client-specific advocacy). The order of these measures was not randomized since responses to the client-specific advocacy scale had to be collected after the participants were exposed to the client description.

Discussion

The results of this study raise further doubt about the objectivity of the tax professional's judgment and decision-making processes. Specifically, our study provides preliminary evidence that advocacy is not a purely exogenous trait held by the tax professional. Tax professionals had lower levels of advocacy for clients with higher risk, and in turn, client-specific advocacy had a much stronger influence on several measures of tax advice than did general advocacy. Prior studies of tax professionals' advocacy may be incomplete due to their treatment of advocacy as a pure trait (e.g. Johnson, 1993; Stephenson, 2007).

Our results also demonstrate the potential for bias to enter into tax professionals' judgments. Theoretically, assessments of the likelihood of favorable IRS treatment and the weightings of the relevance of regulatory authority are not related to tax professionals' levels of advocacy – but results showed that those with higher levels of client-specific advocacy also viewed such judgments in a more favorable light. This indicates that tax professionals may be unintentionally influenced by client attributes when making judgments. By having external characteristics enter the judgment process at this level allows such characteristics to have an effect unknown to the decision maker. Normatively, such characteristics, if important, should be

explicitly considered after objective judgments of risk of a particular tax position have been made.

In conclusion, this study contributes to the behavioral taxation literature by providing preliminary support that tax professional advocacy is at least partially endogenous. Overall, results provide further evidence that tax professionals are not completely objective in executing their role (e.g. Kadous and Magro, 2001; Kahle and White, 2004).

Table 1: Demographic Information

	Sample^a
<u>Years of Tax Experience</u>	
Mean	8.28 years
(S.D.)	(8.06)
<u>Firm Type</u>	
International	32%
National	11%
Regional	17%
Local	40%
<u>Position in Firm</u>	
Partner/Owner	11%
Senior Manager	12%
Manager	17%
Senior	24%
Staff	36%
<u>Gender</u>	
Female	67%
Male	33%
<u>Professional Status</u>	
CPA	62%

^aPercentages are calculated based on the total participants providing information for that category.

Table 2: Descriptive Statistics for Client-Specific Advocacy^a

Marginal Means (Standard Error) of Client-Specific Advocacy, evaluated at General Advocacy covariate

	Low Importance	High Importance	Row Means (Risk)
Low Risk	44.22 (1.03) <i>n</i> = 22	42.52 (1.03) <i>n</i> = 22	43.37 (0.72)
High Risk	41.15 (1.05) <i>n</i> = 21	41.52 (0.95) <i>n</i> = 26	41.33 (0.70)
Column Means (Importance)	42.68 (0.73)	42.02 (0.70)	42.33 (0.51)

^aIncludes the responses for participants that answered all items on both the general advocacy and client specific advocacy scales.

Table 3: Analysis of Client-Specific Advocacy

Panel A: Analysis of Covariance, Using Client Risk/Importance Manipulations

	<u>F-Statistic</u>	<u>Significance Level</u> (Two-Tailed)
Client Risk	4.064	.047
Client Importance	0.426	.515
Client Risk * Importance Interaction	1.013	.317
General Advocacy	238.917	<.001
<u>Model Statistics:</u>		
F-statistic = 61.703		
Significance Level = <.001		
Adjusted R ² = .730		

Panel B: Regression, Using Perceived Client Risk/Importance

Regression Model: $CSA = \beta_0 + \beta_1 RISK + \beta_2 IMPORTAN + \beta_3 GENERAL$

	<u>Parameter Estimate</u>	<u>Standard Error</u>	<u>P-value</u> (Two-Tailed)
Constant	7.180	3.023	.020
RISK	-1.038	.352	.004
IMPORTAN	-.309	.291	.291
GENERAL	.917	.058	<.001
<u>Model Statistics:</u>			
F statistic = 87.194			
P-value = < .001			
Adjusted R ² = .742			
CSA represents client-specific advocacy; RISK is participants' perceptions of the hypothetical client's risk; IMPORTAN is participants' perceptions of the hypothetical client's importance; and GENERAL is participants' general advocacy.			

Table 4, Panel A: Analysis of Tax Professionals' Advice with General Advocacy

	<u>Recommendation^a</u>	<u>Allowance^a</u>	<u>Likelihood^a</u>	<u>Factor Weighting^a</u>
Constant	1.803 (1.165)	1.663 (1.177)	4.123** (1.642)	4.792*** (.918)
Client Risk Perceptions	-.093 (.136)	-.164 (.138)	-.081 (.192)	.146 (.107)
Client Importance Perceptions	.067 (.113)	.199* (.114)	.189 (.159)	.177** (.088)
General Advocacy	.045** (.022)	.047** (.023)	.022 (.031)	-.013 (.018)
<u>Adjusted R-Squared</u>	.031	.096	.000	.019
<u>F-Statistic</u>	1.980	4.240***	1.005	1.591

Table 4, Panel B: Analysis of Tax Professionals' Advice with Client-Specific Advocacy

	<u>Recommendation^a</u>	<u>Allowance^a</u>	<u>Likelihood^a</u>	<u>Factor Weighting^a</u>
Constant	.589 (1.152)	.302 (1.160)	2.099 (1.662)	5.912*** (.920)
Client Risk Perceptions	-.004 (.133)	-.079 (.134)	-.008 (.192)	.112 (.106)
Client Importance Perceptions	.058 (.107)	.195* (.108)	.165 (.155)	.175** (.086)
Client Specific Advocacy	.069*** (.020)	.075*** (.021)	.067** (.030)	-.036** (.016)
<u>Adjusted R-Squared</u>	.097	.170	.048	.063
<u>F-Statistic</u>	4.238***	7.136***	2.523*	3.003**

^aCoefficients (Standard Errors) for OLS Regression Models, by Dependent Variable

*, p < .10; **, p < .05; ***, p < .01; all tests two-tailed

Notes: "Recommendation" is a 7-point scale that refers to what tax treatment tax professionals would advise the client (hobby or business activity), "allowance" is a 7-point scale that refers to what tax treatment tax professionals would allow their clients to take, "likelihood" is an 11-point scale that pertains to the likelihood the IRS would consider the activity to be a business, and "weightings" is a 7-point scale that refers to tax professionals' weighting of the relevance of personal pleasure in determining the appropriate tax treatment. Client risk perceptions are measured on a 6-point scale; client importance perceptions are measured on a 7-point scale, and both client-specific advocacy and general advocacy are measured on a (minimum 9-point) maximum 63-point scale.

REFERENCES

- American Institute of Certified Public Accountants. 2000. *Statements on Standards for Tax Services Nos. 1-8*. New York, NY: AICPA.
- Ajzen, I. 1991. The theory of planned behavior. *Organizational Behavior and Human Decision Processes* 50 (2): 179-211.
- Ajzen, I. and M. Fishbein. 1980. *Understanding Attitudes and Predicting Social Behavior*. Englewood Cliffs, NJ: Prentice-Hall, Inc.
- Andre, S. 2008. Contributing factors of confirmatory information searches and evaluations. Working Paper, University of Wisconsin. Available at: <http://ssrn.com/abstract=1093370>
- Ayres, F. L., B. R. Jackson, and P. S. Hite. 1989. The economic benefits of regulation: Evidence from professional tax preparers. *The Accounting Review* 44 (2): 300-312.
- Bandy, D., L. Betancourt, and C. Kelliher. 1994. An empirical study of the objectivity of CPAs' tax work. *Advances in Taxation* 6: 1-23.
- Bandy, D. 1996. Limiting tax practice liability. *The CPA Journal* (May): 46-49.
- Barrick, J. A., C. B. Cloyd, and B. C. Spilker. 2004. The influence of biased tax memoranda on supervisors' initial judgments in the review process. *Journal of the American Taxation Association* 26 (1): 1-21.
- Byrnes, J., D. Miller, and W. Schafer. 1999. Gender differences in risk taking: A meta-analysis. *Psychological Bulletin* 125: 367-383.
- Carnes, G., G. Harwood, and R. Sawyers. 1996. The determinants of tax professionals' aggressiveness in ambiguous situations. *Advances in Taxation* 8: 1-26.
- Chen, S. and S. Chaiken. 1999. The heuristic-systematic model in its broader context. In S. Chaiken and Y. Trope (Eds.), *Dual-process theories in social psychology* (pp. 73-96). New York: Guilford Press.
- Cloyd, C.B. and B.C. Spilker. 1999. The influence of client preferences on tax professionals' search for judicial precedents, subsequent judgments and recommendations. *The Accounting Review* 74 (3): 299-321.
- Cuccia, A.D. 1994. The effects of increased sanctions on paid tax preparers: Integrating economic and psychological factors. *The Journal of the American Tax Association* 16 (1): 41-57.

- Cuccia, A. D. 1995. Diversity in the professional tax preparation industry and potential consequences for regulation: Linking attitudes and behaviors. *Advances in Taxation* 7: 73-98.
- Cuccia, A.D., K. Hackenbrack and M. W. Nelson. 1995. The ability of professional standards to mitigate aggressive tax reporting. *The Accounting Review* 70 (2): 227-249.
- Cuccia, A.D. and G. McGill. 2000. The role of decision strategies in understanding professionals' susceptibility to judgment biases. *Journal of Accounting Research* 38 (2): 419-435.
- Davis, J. S. and J. D. Mason. 2003. Similarity and precedent in tax authority judgment. *Journal of the American Taxation Association* 25 (1): 53-71.
- Duncan, W. A., D. W. LaRue, and P. M. J. Reckers. 1989. An empirical investigation of the influence of selected economic and noneconomic variables in decision making by tax professionals. *Advances in Taxation* 2: 91-106.
- Erard, B. 1993. Taxation with representation: An analysis of the role of tax practitioners in tax compliance. *Journal of Public Economics* 52: 163-197.
- Flore, N. 1998. From the tax adviser: Minimizing risks in taking on new clients. *Journal of Accountancy* 185 (2): 36.
- Hatfield, R. 2000. The effect of accountability on the evaluation of evidence: A tax setting. *Advances in Taxation* 12: 105-125.
- Hatfield, R. 2001. The effects of staff accountant objectivity in the review and decision process: A tax setting. *Journal of the American Taxation Association* 23 (1): 61-74.
- Helleloid, R. 1989. Ambiguity and the evaluation of client documentation by tax professionals. *The Journal of the American Taxation Association* 11 (Fall): 22-36.
- Johnson, L. 1993. An empirical investigation of the effects of advocacy on preparers' evaluation of judicial evidence. *Journal of the American Taxation Association* 15 (1): 1-22.
- Kadous, K. and A. Magro. 2001. The effects of exposure of practice risk on tax professionals' judgments and recommendation. *Contemporary Accounting Research* 18 (3): 451-475.
- Kadous, K., A. Magro, and B. Spilker. 2008. Do effects of client preference on accounting professionals' information search persist with high practice risk? *The Accounting Review* 83 (1): 133-156.
- Kahan, S. 1996. Fire that client! *The Practical Accountant* (October): 46-53.

- Kahle, J. and R. White. 2004. Tax professional decision biases: The effects of initial beliefs and client preference. *Journal of the American Taxation Association* 26 (1): 1-29.
- Kaplan, S., P. Reckers, S. West, and J. Boyd. 1988. An examination of tax reporting recommendations of professional tax preparers. *Journal of Economic Psychology* 9: 427-443.
- Kelliher, C., D. Bandy, and A. Judd. 2001. An examination of the “realistic possibility” standard’s influence on tax practitioner aggressiveness. *Advances in Taxation* 13: 95-121.
- Krawczyk, K. 1994. The influence of tax law requirements and organization of client facts on professional judgment. *Behavioral Research in Accounting* 6 (Supplement): 97-120.
- LaRue, D. and P. Reckers. 1989. An empirical examination of the influences of selected factors on professional tax preparers’ decision process. *Advances in Accounting* 7: 37-50.
- Levy, L. 1996. Evidence evaluation and aggressive reporting in ambiguous tax situations. Ph.D. dissertation, University of Colorado.
- Mason, J. and L. Levy. 2001. The use of the latent constructs method in behavioral accounting research: The measurement of client advocacy. *Advances in Taxation* 13: 123-139.
- McGill, G. 1988. The CPA’s role in income tax compliance: An empirical study of variability in recommending aggressive tax positions. Ph.D. dissertation, Texas Tech University.
- Milliron, V. 1988. A conceptual model of factors influencing tax preparers’ aggressiveness. In *Contemporary Tax Research*, edited by Shane Moriarity and Julie Collins. Norman, OK: The Center for Economic and Management Research, the University of Oklahoma.
- Pascarella, S. 1996. Client screening: How to reduce malpractice exposure. *The Tax Advisor* (March): 179-180.
- Pinsker, R., R. Pennington, and J. K. Schafer. 2008. The influence of roles, advocacy, and adaption to the accounting decision environment. Working Paper, Old Dominion University.
- Reckers, P., D. Sanders, and R. Wyndelts. 1991. An empirical investigation of factors influencing tax practitioner compliance. *Journal of the American Taxation Association* 13 (2): 30-46.
- Roberts, M. 1998. Tax accountants’ judgment/decision-making research: A review and synthesis. *Journal of the American Taxation Association* 20 (1): 78-121.
- Sanders, D. L. and R. W. Wyndelts. 1989. An examination of tax practitioners’ decisions under uncertainty. *Advances in Taxation* 2: 41-72.

- Schwartz, J. 1993. Avoiding the treasury stigma of a hobby. *The CPA Journal* 63 (5): 72-74.
- Spilker, B. C., R. G. Worsham, and D. F. Prawitt. 1999. Tax professionals' interpretations of ambiguity in compliance and planning decision contexts. *Journal of the American Taxation Association* 21 (2): 75-89.
- Stephenson, T. 2007. Do clients share preparers' self-assessment of the extent to which they advocate for their clients? *Accounting Horizons* 21 (4): 411-422.

Appendix A: Chart of Prior Advocacy Studies

Study	Participants	Advocacy Conceptualization	Advocacy Measure	Dependent Variable(s)	Advocacy Finding
LaRue and Reckers, 1989	110 Big 8 tax managers	Preference for the client-favored position	Indirect	Reporting recommendation	Aggressive (pro-taxpayer) reporting recommendation influenced by interaction between experience, payment status, and tax savings.
Ayers et al. 1989	119 tax CPAs; 49 non-CPAs	Preference for the client-favored position	Indirect	Reporting recommendation	Due to their professional advocacy role, CPAs were more likely to recommend client-favored positions in ambiguous situations than were non-CPAs.
Duncan et al. 1989	133 Big 8 tax managers	Preference for the client-favored position	Indirect	Reporting recommendation	Tax professionals sought to mitigate client biases by recommending more aggressive (pro-taxpayer) positions for less aggressive clients.
Helleloid, 1989	181 tax CPAs; 96 masters' students	Preference for the client-favored position	Indirect	Reporting recommendation	CPAs gave more pro-taxpayer recommendations when greater ambiguity was present, but were not influenced by client attitude.
Johnson, 1993	109 Big 6 tax professionals	Preference for the client-favored position	Developed 17-item advocacy scale	Weighting of evidence; reporting recommendation	Advocacy contributes to tax professionals' use of confirmatory processes (confirmation bias) and directly affects the strength of their recommendations.
Cuccia, 1994	45 non-CPA tax preparers; 36 tax CPAs	Preference for the client-favored position	Indirect	Information search behavior (effort), reporting recommendation	CPAs were less pro-client in their recommendations than were non-CPAs. For CPAs, increased penalties resulted in increased effort in information search.
Cuccia et al. 1995	67 Big 6 tax managers	Preference for the client-favored position	Indirect	Reporting recommendation, probability of success, interpretation of authority	Due to their inherent advocacy role, tax professionals recommended pro-taxpayer positions under both verbal standards (via exploitation of standard) and numerical standards (via interpretation of evidence).

Study	Participants	Advocacy Conceptualization	Advocacy Measure	Dependent Variable(s)	Advocacy Finding
Carnes et al. 1996	77 tax professionals	Preference for the client-favored position	Indirect	Reporting recommendation	Greater risk propensity was associated with pro-taxpayer recommendations.
Levy, 1996	138 tax professionals	Degree of taxpayer loyalty felt by the tax professional (attitude)	Mason and Levy (2001) scale	Evidence judgments, reporting judgments, reporting recommendations	Advocacy influenced evidence judgments and reporting judgments; evidence that environmental conditions affect advocacy.
Spilker et al. 1999	63 Big 6 tax professionals	Preference for the client-favored position	Indirect	Reporting recommendations; explanation of recommendations	Tax professionals were more aggressive in recommending client-favored positions in ambiguous tax compliance (as opposed to planning) situations.
Cloyd and Spilker, 1999	72 Big 5 tax professionals	Preference for the client-favored position	Indirect	Information search behavior, likelihood assessments, reporting recommendations	Due to their advocacy role, tax professionals overweight client-favorable cases in information searches (confirmation bias), which can lead to overly aggressive recommendations.
Hatfield, 2000	56 tax staff accountants	Preference for the client-favored position	Indirect	Evaluation bias (confirmation bias), reporting recommendation	Confirmation bias is dependent upon a preference for client-favorable opinions.
Cuccia and McGill, 2000	94 Big 5 tax professionals	Beliefs regarding appropriate behavior when tax law is ambiguous	Johnson (1993) scale	Probability estimates, reporting recommendations	Advocacy scores influenced judgments (but were not related to evidence order).
Mason and Levy, 2001	34 tax CPAs and 30 IRS agents	Degree of taxpayer loyalty felt by the tax professional (attitude)	Developed 9-item advocacy scale	N/A	Developed a valid, reliable scale to measure client advocacy.

Study	Participants	Advocacy Conceptualization	Advocacy Measure	Dependent Variable(s)	Advocacy Finding
Kadous and Magro, 2001	86 practicing tax professionals	Degree of taxpayer loyalty felt by the tax professional (attitude)	Mason and Levy (2001) scale	Reporting recommendations and the weighting of evidence	Advocacy scores did not explain a significant amount of variance in judgments of recommendations and weighting of evidence.
Hatfield, 2001	65 tax managers	Preference for the client-favored position	Indirect	Weight given to a staff accountant's research report	Due to their inherent advocacy role, supervisors may still be biased toward a preference for client-favorable positions.
Davis and Mason, 2003	91 tax CPAs and 59 IRS agents	Degree of taxpayer loyalty felt by the tax professional (attitude)	Mason and Levy (2001) scale	Weighting of evidence (tax authority judgments)	Advocacy scores influenced the weighting of evidence (stronger advocates were more influenced by favorable judicial precedents)
Barrick et al. 2004	55 practicing tax professionals	Degree of taxpayer loyalty felt by the tax professional (attitude)	Mason and Levy (2001) scale	Reporting recommendations, probability estimates	Advocacy scores did not influence recommendations or probability estimates. (However, due to their inherent advocacy role, tax professionals were more persuaded by biased memoranda that incorrectly supported the client-favored position.)
Kahle and White, 2004	53 practicing tax professionals	Degree of taxpayer loyalty felt by the tax professional (attitude)	Mason and Levy (2001) scale	Belief revision	Measured advocacy levels were similar to other studies. Due to tax professionals' inherent advocacy role, belief revision is greater when it supports client preferences.
Stephenson, 2007	252 non-CPA tax preparers; 286 tax CPAs from regional or local firms	Degree of taxpayer loyalty felt by the tax professional (attitude)	Mason and Levy (2001) scale (dropped 1 item)	Client advocacy scores	CPAs and non-CPAs demonstrated similar client advocacy scores; tax preparers exhibited higher advocacy levels than perceived by their clients.
Pinsker et al. 2008	44 auditors, 38 tax professionals, and 80 master's students	Degree of taxpayer loyalty felt by the tax professional or auditor (attitude)	5 items from the Mason and Levy (2001) scale	Belief revision	The type of decision environment (audit or tax) moderates the influence of advocacy on judgments.

Study	Participants	Advocacy Conceptualization	Advocacy Measure	Dependent Variable(s)	Advocacy Finding
Andre, 2008	64 accounting masters' students; 27 law students; 11 Big 4 tax professionals	Adoption of client-preferred position as a reference frame	Measured with 7 items (e.g. importance of client preferences)	Confirmatory information searches and evaluations	Advocacy scores influenced the degree of confirmatory information searches (e.g. supporting cases examined).

Appendix B: Hypothetical Client Vignette

On June 15, 2007, Jim and Jane Roe came to you requesting your advice on the following tax issue:

Since the beginning of 2005, Jane has become increasingly active in off-road bicycle racing. Since the beginning of 2005 she has participated in approximately 60 races. The National Off-Road Bicycle Association has recently ranked Jane in both the dual slalom and downhill races. This ranking has led to some sponsorships that have provided her with bicycles, clothing and, occasionally, entry fees. Although she has won a few of the races she has entered, her annual expenses related to racing (e.g., bicycle repairs, transportation, lodging and entry fees) far exceed her racing income.

Jane wants to make racing a business. Jim and Jane tell you that she trains daily. During the racing season she works lighter hours to allow her to make the most of the racing events. Jane has kept records of all of her earnings and expenses for the last three years (including 2007). For 2005 and 2006 her winnings were \$990 and \$2,180 respectively. Her expenses for those years were \$11,200 and \$16,700 respectively. With the 2007 season halfway over, she estimates that her earnings will be around \$4,000 while her expenses will be around \$17,000. Cash prizes run as high as \$8,000 or \$9,000 and she believes that her earnings will eventually surpass her expenses.

The issue on which you must decide is whether Jane can treat her bicycle racing activity as a business (making the loss resulting from the activity in 2007 deductible on their tax return) or whether the activity should be treated as a hobby (limiting their ability to deduct expenses associated with this activity). They would also like to file amended returns for 2005 and 2006 so they can use the losses to offset income from those periods.

Treasury Regulation §1.183-2 provides guidance regarding when an activity is considered to be carried on for profit (deductions allowed under sections 162/212). On the following screen are excerpts from this regulation to aid you with your decision. You should assume that there are no reported tax cases that deal specifically with bicycle racing and hobby loss rules, or any other relevant authority other than this treasury regulation.

Appendix C: Mason and Levy (2001) Advocacy Scale

1. In an instance where no judicial authority exists with respect to an issue and where the Code and Regulations are ambiguous, I feel that the taxpayer is entitled to take the most favorable tax treatment.
2. Generally speaking, my loyalties are first to the tax system, then to the taxpayer. (Item is reverse-coded)
3. I feel I should apply ambiguous tax law to the taxpayer's benefit.
4. When examining a tax return, I tend to point out to taxpayers reasonable positions they could have taken which would have contributed to minimizing their tax liability.
5. I believe it is important that I encourage taxpayers to pay the least amount of taxes possible.
6. I always interpret unclear/ambiguous laws in favor of the taxpayers.
7. It is important to use trends in the law by trying to establish a pattern of more favorable treatment for the taxpayer and then extending this pattern to the taxpayer's position.
8. Where no judicial authority exists with respect to an issue, I feel that the taxpayer is entitled to take the most favorable tax treatment.
9. The taxpayer has the right to structure transactions in ways that yield the best tax result, even if the law is unclear in an area.

All items are on a seven-point Likert-type scale, ranging from *strongly disagree* to *strongly agree*. Adding up all nine items results in a (9-point minimum) 63-point maximum scale.

Appendix D: Manipulation of Client Facts

Low Risk/Low Importance Condition

Jim and Jane Roe are high income taxpayers. Jim is a local bank president and Jane is a dietician at an area hospital. The bank is not a client of your firm. The Roes are not considered important clients because your firm's only relationship with them has been preparing their personal tax return for the last two years, and they have not been a source of referrals. Prior to engaging your firm, IRS audits of the Roes' returns have not led to any adjustments or penalties, and their financial records are reliable and complete. They have always avoided questionable tax saving strategies.

Low Risk/High Importance

Jim and Jane Roe are high income taxpayers. Jim is a local bank president and Jane is a dietician at an area hospital. Jim's bank is one of your office's largest clients. The Roes are considered important clients due to the bank audit fees, your firm's preparation of the Roes' personal tax returns for a number of years, and because they have been a source of past referrals. Previous IRS audits of the Roes' returns have not led to any adjustments or penalties, and their financial records are reliable and complete. They have always avoided questionable tax saving strategies.

High Risk/Low Importance

Jim and Jane Roe are high income taxpayers. Jim is a local bank president and Jane is a dietician at an area hospital. The bank is not a client of your firm. The Roes are not considered important clients because your firm's only relationship with them has been preparing their personal tax return for the last two years, and they have not been a source of referrals. Prior to engaging your firm, IRS audits of the Roes' returns have led to sizable adjustments and penalties. You have also found that their financial records are sometimes unreliable and incomplete. In your dealings with them, they have proposed various questionable tax saving strategies.

High Risk/High Importance

Jim and Jane Roe are high income taxpayers. Jim is a local bank president and Jane is a dietician at an area hospital. Jim's bank is one of your office's largest clients. The Roes are considered important clients due to the bank audit fees, your firm's preparation of the Roes' personal tax returns for a number of years, and because they have been a source of past referrals. Prior to engaging your firm, IRS audits of the Roes' returns had led to sizable adjustments and penalties. You have also found that their financial records are sometimes unreliable and incomplete. In your dealings with them, they have proposed various questionable tax saving strategies.

ENDNOTES

¹ Levy (1996) is an example of a study that examined whether advocacy was an inherent trait or could vary based on environmental factors. However, subsequent studies have continued to treat advocacy as an exogenous trait.

² “Hobby loss” rules pertain to IRC Section 183, which prohibits an individual from deducting expenses from an activity that are in excess of that activity’s income if the activity is “not engaged in for profit.” Thus, if an activity is considered a “business,” then a net loss from the activity can be deducted; however, if an activity is considered a “hobby,” while any income earned must be included in gross income, expenses can only be deducted up to the amount of such income, and are considered miscellaneous itemized deductions.

³ Twenty-one practicing tax professionals pilot-tested the instrument and provided extensive feedback in terms of the length of the experiment, realism of the scenario, and clarity of the questions. Based on these pre-testers, we revised the instrument; in particular, we made changes to strengthen the manipulation of “client importance.”

⁴ Participants were randomly assigned to experimental conditions when they were initially contacted with a link to the online experiment, but it was impossible to ensure that all completed experiments were perfectly balanced among the conditions.

⁵ Participants obtained from direct firm contacts did not vary at a statistically significant level on demographic characteristics or in their responses to the study’s independent or dependent variables. Moreover, analysis of the study’s hypothesized relationships excluding those participants obtained from the AICPA yields inferentially similar conclusions.

⁶ Kadous and Magro (2001) used the term *practice risk* to describe this construct.

⁷ One item was reverse-scored so that the direction of the weightings was consistent.

⁸ In additional supplemental analysis (tables not shown), we used paired-sample t-tests to identify items that had the greatest change between the general advocacy and client specific advocacy measures; four of the nine scale items were different between the general advocacy and client-specific advocacy measures at $p < .05$.

⁹ The significance of perceived importance remains ($p = .01$) when also controlling for participants’ weightings of the relevance of regulatory authority (element of personal pleasure).

¹⁰ This finding is consistent with Barrick et al. (2004), which did not find that *general* advocacy attitudes explained tax professionals’ probability assessments of favorable judicial outcomes for client scenarios.

¹¹ Since these dependent variable measures of tax professionals’ judgments may be related, additional analysis uses multivariate analysis of variance to examine the hypothesized relationships. Results are inferentially identical.

¹² Past research has generally established that tax advocacy increases with professional licensure when advocacy is conceptualized as aggressiveness or tax minimization (e.g. Ayres et al. 1989; Erard, 1993; Cuccia, 1995). However, the recent study of Stephenson (2007) found no difference in the advocacy levels of CPAs compared to non-CPAs when using a similar measure of advocacy as used in our study. Thus, our finding is in line with prior research that found that tax advocacy increases with professional licensure, but not with Stephenson (2007).