



Discussion: Evaluating the Strength of Tax Authorities

JATA Conference 2009

John A. Barrick

February 20, 2009

Joint
Committee on
Taxation



Disclaimer

- Joint Committee on Taxation disclaimer: all remarks are my own, and do not necessarily reflect the views of the U.S. Congress, the Joint Committee on Taxation, its members or staff.



Strengths

- Examines authority assessment which is an essential element of tax JDM process
 - Occurs in virtually all professional tasks
- Timely research question
 - Various §6694 changes
 - FIN48 emphasis
- Interesting results
 - Less experienced subjects fail to accurately assess indirectly relevant authority
 - Tend to focus on surface rather than structural similarities



Questions and Concerns

- ❑ Experimental design choices
- ❑ Generalizability of results to FIN48 environment



Experimental Sequence

- Read client fact pattern
- Read authority and make strength assessment
- Demographics, including their opinion of correct treatment
- Reread authority and make relevance assessment



Implicit Client Preference

- Whether value of life insurance was to be included in an estate
- Professionals should adopt a client advocacy focus—does this subject them to known biases
- Students, not clear whether they adopt a similar reference point
- Does this lead to differences in judgments?



Sequence of Judgments

- Page 15, Identifying the source and assessing the relevance of tax authorities are just the first steps in the assessment of tax authority strength.
- Yet, in a curious design choice, subjects were first asked to assess strength and then asked to assess relevance.
- Why this sequence?
- Does it affect results or the interpretation of results?



Inquiring Minds

- What does experience proxy for?
 - Procedural knowledge
 - Problem solving ability or heuristics
- How much time was spent?
 - Students were controlled
 - Professional were uncontrolled
- Was the authority set satisfactory?
- Which items of authority would they include/exclude?
 - Experimental artifact of irrelevant authority



Questions

- What does the authority assessment function look like?
- Source x Relevance x Persuasiveness = Strength Assessment
- Source (H1) isn't very surprising
- Relevance (H2) is important
- Do professionals develop heuristics to combine (Source x Relevance)?



Additional Information

- Ultimately, tax professionals make judgments
- Search for authority or information
- Discriminate between relevant and irrelevant information
- Make judgment
 - Disclose professional's judgments
 - Link the authority assessment to judgment



Generalizability to FIN48

- Two judgments made
- Management makes initial judgment (or hires experts)
- Auditor, a tax professional from auditing firm, reviews or tests judgment or reperform the work
- Generally, start with reviewing memo or opinion letter which may introduce bias.
- Can tax professionals effectively switch from client advocacy role to healthy skepticism required of auditors
- FIN48 decisions are sometimes a negotiation and agreed upon up front