

Public Interest Newsletter

Fall 2016



“Placing the public interest above self-interest is the hallmark of a profession”... Eddie Stamp, 1983...

Special points of interest: **A Letter from the Chair**

- * Letter from the Chair

Dear Public Interest Section Members,

- * 2017 Mid-Year meeting

My name is **Amy Hageman** and I began my term as Chair of the Public Interest Section during the 2016 Annual Meeting. I am privileged to work with a wonderful group of Public Interest members serving in key positions. These include:

- * Editorial Columns

- * Member Notes

Mitch Stein (University of Western Ontario) – Chair Elect

Pat Kelly (Providence College) – Secretary/Treasurer

Anne Schnader (Suffolk University) – Vice Chair of Research

Charles Stanley (Baylor University) – Vice Chair of Education

Mike Kraten (Providence College) – Vice Chair of International Membership

Charlie Cullinan (Bryant University) – Council Representative

Pamela Roush (University of Central Florida) – Editor, *Accounting and Public Interest*

Lawrence Chui (University of St. Thomas) and **Byron Pike** (Minnesota State University - Mankato) – Webmasters

As many of you know, our Section is in the midst of a cooperative effort with the AAA to support our activities, particularly as it relates to our Section Midyear Meetings. This support began in 2014 and lasts for a three-year period, and I am grateful for this support from the AAA.

We have a fabulous Public Interest Section Midyear Meeting and Doctoral/Early Scholar Consortium planned for this year. **Charles Cho** (ESSEC Business School) and **Lisa Baudot** (University of Central Florida) are working hard to coordinate the Midyear Meeting, which will be held in downtown Washington D. C. area on March 31 – April 1, 2017. Please consider submitting a paper or a plenary/paper proposal and please consider volunteering to review or discuss a paper, or serve as a moderator. The deadline for submissions is on Wednesday, January 18, 2017. In addition, please help spread the word about the Doctoral/Early Scholar Consortium on March 31st, which will provide doctoral students and scholars early in their career the chance to receive personalized, constructive feedback and advice from leading Public Interest accounting scholars. Doctoral/Early Scholar Consortium participants will send a CV and a long abstract/working paper; the deadline for submission is also on January 18, 2017. Both events promise to be an engaging experience for public interest scholars.

This year's 22nd Annual Ethics Research Symposium is being co-coordinated by the Public Interest Section's **Brian Shapiro** from the University of St. Thomas. The submission due date this year will be on February 8, 2017. Please plan to submit your work and volunteer to assist as a reviewer, discussant, or moderator.

We are also very fortunate that **Lois Mahoney** (Eastern Michigan University) has agreed to serve again this year as Section Liaison for the 2017 Annual Meeting. Thank you, Lois! The deadline for paper submissions will be on Wednesday, January 4, 2017. Please also consider volunteering to help Lois by serving as a paper reviewer, discussant, or session moderator for the Annual Meeting.

Finally, our Newsletter Editors and Webmasters, **Lawrence Chui** (University of St. Thomas) and **Byron Pike** (Minnesota State University - Mankato) continue to provide valuable and dedicated service to our Section. Thanks to you both!

I look forward to seeing many of you at the Midyear Meeting, Ethics Symposium, and the Annual Meeting. Your feedback on Section activities is most welcome and appreciated. Thank you for everyone's work in making this an active, engaged section, dedicated to advancing public interest issues in accounting.

Respectfully,

Amy Hageman



Amy Hageman

**Chair of the Public Interest
Section, American Accounting
Association**

**Associate Professor,
Department of Accounting,
Kansas State University**

The 2016 Public Interest Section Service Awards

Four of our Public Interest Section members were recognized during the recent AAA business meeting for their outstanding service. They are: **Pat Kelly**, **Michael Kraten**, **Lawrence Chui**, and **Byron Pike** (not pictured) . Please join us to thank them for their contributions to the Public Interest Section!

thank you!



The 21st Annual Ethics Research Symposium at the AAA Annual Meeting



NEW
YORK
2016

*Ethics
Research
Symposium*



Join us in Washington D. C. for the 2017 Mid-Year Meeting!

The Public Interest Section Midyear Meeting will be held March 31- April 1, 2017 at the Westin Washington D.C. City Center in downtown Washington, D.C. The meeting will include a Doctoral/Early Scholar Consortium on Friday morning and plenary and research paper sessions on Friday afternoon and Saturday. The conference fee includes breakfast, section luncheons, and evening receptions.

The common theme for the AAA Public Interest Section is how accounting research and education advance the public interest. We define advancing the public interest broadly as research focused on the societal impact of accounting and its relationship to political, social/organizational and economic issues at the local, national and global levels.

Doctoral/Early Scholar Consortium - March 31 / Doctoral students and early career scholars are invited to participate in the Consortium on Friday morning, March 31. Doctoral students who are in their final years of completing a PhD or scholars who obtained their degree in 2015 or 2016 are welcome to participate. We also invite doctoral students in their initial years of the program to participate as observers. This Consortium will focus on how contemporary issues (including, but not limited to, professional and business ethics, corporate responsibility, sustainability accounting and reporting, as well as political, social and organizational accounting issues) are linked to the public interest.

The Consortium will provide participants with the opportunity to discuss their research with peers and accounting scholars, and receive personalized constructive feedback and advice from the following group of leading Public Interest accounting scholars: **Yves Gendron, Laval University, Québec City, Canada / Den Patten, Illinois State University, Normal, IL, USA / Robin Roberts, University of Central Florida, Orlando, FL, USA**

Please send a CV and a long abstract or working paper not to exceed 12,000 words to [Dana Wallace](#) by **January 18, 2017**. Along with your submission, please indicate your school affiliation, year of PhD or years since completion of PhD, and topical research interests. Notification of acceptance will be sent in early February 2017. Participants will be expected to provide the final version of their working paper (not to exceed 12,000 words) by March 1, 2017.

Thanks to a generous sponsorship from the University of Central Florida's Kenneth G. Dixon School of Accounting, the Doctoral/Early Scholar Consortium is free to selected participants. In addition, we will offer \$500 travel stipend to two participants based on financial need. Note: We cannot provide financial assistance for visa processing; however, we can provide a letter with the date and location of the Consortium once your application has been accepted.

To submit a plenary/panel proposal: Please submit proposals for panel discussions to [Lisa Baudot](#) / Please submit your paper proposal to [Charles Cho](#).

See you in DC!

Editorial Columns



Prem Sikka

University of Essex, UK

All over the world governments talk tough about their intention to curb tax avoidance and corporate excesses. They appeal to public accountability and tougher law enforcement. At the same time, governments seek to attract inward corporate investment by offering business-friendly regulation and enforcement. The above can't easily be reconciled and people are increasingly sceptical of government practices. A good example of this is the UK.

It isn't just Delaware or Nevada which provide secrecy. The UK provides corporate secrecy by concealing the identity of direc-

tors and beneficial shareholders. Subject to certain legal formalities, UK shareholders can conceal their identity by using nominees such as banks and accountants. Under the UK company law, public companies must have at least two directors, but only one of these needs to be natural person. The other can be a legal person, or another company, even though it is registered in a tax haven which guarantees complete anonymity to all the owners and controllers. This opacity makes it difficult to pursue the owners and/or directors for tax avoidance scams and any other wrongdoing.

In common with many tax havens, UK lets corporations write favourable tax laws. A good example of this is the Patent Box legislation. This enables companies to attribute some of their income to patents, which can be hired or registered in tax havens, and pay a lower tax rate of 10% on that income. The working party which designed the legislation consisted entirely

of individuals with links to GlaxoSmithKline, Rolls-Royce, Eisai, Syngenta, Shell, Dyson, Arm, Fusion IP, Vectura and AND Technology Research. KPMG acted as advisers. The Patent Box concession has reduced corporate tax bills by £700m last year and is expected to rise to about £1bn a year.

The UK's business friendly approach to tax enforcement lets multinational corporations off the hook. Corporations have developed a variety of transfer pricing strategies to shift profits to low/no tax offshore jurisdictions. Wealthy individuals hide their wealth in offshore trusts and bank accounts. However, between 2009 and 2015, there have been only 13 prosecutions in relation to offshore tax evasion. Despite critical parliamentary reports no test cases have been brought against Google, Amazon, Apple, Starbucks or any other multinational company for avoiding UK taxes by shifting profits to other jurisdictions.

In 2010, the information provided by Hervé Falciani, former HSBC employee, suggested that the bank's Swiss operations enabled wealthy people and arms dealers to evade taxes. Only one individual from the list of 3,600 potential UK tax evaders has been prosecuted. In January 2016, it emerged that without any prior announcement, the UK tax authority had abandoned its investigation into the role of HSBC in alleged illegal activities.

Beware of the Newspeak of Contemporary Regulation

The UK government also intervenes to shield wrongdoers. A 2012 report by a US Senate Committee noted that HSBC played a central role in enabling drug barons and gangsters to launder vast sums of money through the US banking system. The banks also violated sanctions against Iran, Libya, Sudan, Burma and Cuba. The UK government did not investigate HSBC but instead pushed the US to go easy on the bank. A 2016 report titled "Too Big to Jail" by the US House of Representatives' Committee on Financial Services noted that "The involvement of the United Kingdom's Financial Services Authority in the U.S. government's investigations and enforcement actions relating to HSBC, a British-domiciled institution, appears to have hampered the U.S. government's investigations and influenced DOJ's decision not to prosecute HSBC". The report added that George Osborne, former Chancellor of the Exchequer wrote to the Federal Reserve Chairman and said that HSBC's prosecution could lead to [financial] contagion" and pose "very serious implications for financial and economic stability, particularly in Europe and Asia". HSBC paid a fine of \$1.9 billion and avoided prosecution.

The above should provide some food for thought for scholars studying regulation and enforcement. Governments enhance their legitimacy with promises of transparency and public accountability. At the same time, in a possible quest for competitive advantage they enact a business friendly environment which fails to adequately address social problems and thus encourage people to be sceptical of governments.



Steve Mintz

**Emeritus Professor from
Cal Poly San Luis
Obispo. Follow Steve's
blogs at
www.ethicssage.com**

Wells Fargo is the poster child of an unethical company. It seems to have no regard for responsible corporate behavior. The disclosures about bank practices back in September 2016 bring into question the ethics of the company and top management.

Wells Fargo employees opened more than two million unauthorized bank and credit card accounts to meet sales projections. It cost customers almost \$2.5 million in fees. The company agreed to a record fine of \$185 million and to set aside \$5 million to repay customers. In a letter to employees, CEO John Stumpf called employees' actions "inconsistent with the values and culture we strive to live up to every day." However, his own acts indicate otherwise.

During a Congressional investigation, we learned that six former workers were retaliated against for calling the bank's ethics hot line about opening fake accounts. One such employee, Bill Bado, said he was fired eight days after sending an email in 2013 to HR about unauthorized accounts. Wells Fargo's actions to suppress Bado's claims violates the whistleblower protections under the Sarbanes-Oxley Act.

This is not the first rodeo for the bank. On April 8, 2016 Wells agreed to pay the U.S. government \$1.2 billion for hiding most of its bad loans in the years leading up to the 2008 housing market crash. The bank admitted certifying thousands of subprime mortgage loans that were eligible for Federal Housing Administration insurance.

Why did the bank play fast and loose with the lending rules? The answer is the risk of loss was transferred to the U.S. government. This is another example of the "moral hazard" effect whereby one party takes a questionable action when the risk of loss can be transferred to another party.

Did Wells Fargo act in a responsible manner once the story broke in September about phony customer accounts and pressure on employees to meet sales targets? The bank did fire 5,300 workers over the past few years for their actions in creating phony accounts. But, it took more than a month and tons of bad publicity to hold CEO Stumpf personally responsible for the misdeeds by the bank.

In October the board of directors announced that Stumpf will lose his bonus and unvested stock awards in the amount of \$41 million. However, he had already sold \$61 million worth of Wells Fargo shares in August prior to settling with the government. The SEC should have exercised the “clawback” provision in Sarbanes-Oxley that requires a disgraced CEO like Stumpf to repay executive compensation during the period of the fraud.

Stumpf pocketed \$26 million in proceeds from that August sale – the shares in question were the incentive stock options that were purchased at a discount to Wells Fargo’s current market price and then immediately sold at a profit. The August sale raises questions about possible “insider trading,” rules that prohibit company insiders from profiting on stock purchases and sales based on unpublished information. Insider trading is one of the most egregious actions a member of management can take and one that clearly demonstrates a pursuit of self-interests over serving bank customers and fulfilling the bank’s regulatory mission.

Ethics is all about what we do when no one is looking. Wells Fargo thought it could get away with illegal actions because no one would notice. It didn’t count on some of its employees raising issues about bogus customer accounts.

I believe corporate compliance is all too often a check list for a company and not ingrained in its culture. Moreover, some companies adhere to an “ethical legalism” philosophy that as long as an action is legal, it’s ethical.

Ethics comes from within – the culture of a company and tone set at the top. The answer for Wells Fargo and other organizations is for the board of directors to take a more active role in insuring compliance not only with regulations but the organization’s ethics code. It must be a proactive approach to ethics compliance and not based on what the CEO or CFO tells the board.

Corporate governance at Wells Fargo was missing in action. Stumpf served as CEO and chair of the board of directors thereby creating a conflict of roles and interests. These days most responsible companies have divided the roles. Of course, Wells says it will do so now because of the public shaming of the bank.

We all know that today public companies have an audit committee of the board of directors with one member a financial expert. I would add a requirement that a second member should be an ethicist and task that person with assessing whether the actions of the company are consistent with its ethical obligations and corporate social responsibilities.



Michael Kraten

Providence College

Four years ago, Republican Presidential candidate Mitt Romney severely criticized 47% of the American people. He said, “These are people who pay no income tax. 47% of Americans pay no income tax.” They are wholly “dependent on government,” and taxpayers will “never convince them they should take personal responsibility and care for their lives.”

So let’s fast-forward four years. Does Romney’s Republican Party still support the notion that people who pay no income taxes are failing to take personal responsibility and care for their own lives?

Apparently not. In response to the New York Times’ story that Donald Trump may not have paid income taxes for two decades, Republican Mayor Rudy Giuliani claimed that “The man’s a genius. He knows how to operate the tax code ...” And Republican Governor Chris Christie concurred that “there’s no one who’s shown more genius ...” than Trump.

So which position is correct? Is a person an irresponsible, uncaring free-loader when he doesn’t pay income taxes? Or is that person a genius? For some American politicians, the answers to those questions appear to depend on whether the person is an ally or a foe.

Nevertheless, it may be helpful to consider the facts that we actually know about the Trump tax situation. And, in turn, we may consider (or perhaps reconsider) a central presumption that serves as a foundation of our tax code.

Let’s begin with the fact that the Times revealed pages from Trump’s personal tax returns, and not from his business tax returns. That fact casts a harsh light on Mayor Giuliani’s assertion that Trump “had no choice but to utilize” the tax deductions.

Why does Giuliani believe this? Because, according to the Mayor, “If he didn’t take advantage of those tax deductions of tax advantages that he had, he could be sued, because his obligation as a businessman is to make money for his enterprise and to save money for his enterprise.” Furthermore, claimed Giuliani, these plaintiffs would be “investors in his business, people who loan money to his business, banks that loan money to his business.”

That argument would make perfect sense if Trump declined to claim deductions on his business tax returns. After all, his business stakeholders are impacted by the tax liabilities of his business. But his stakeholders are never affected by anything that Trump chooses to claim on his personal tax returns. That's why the Mayor's argument is simply not correct.

And yet Giuliani's argument raises an interesting question. Why does the tax code allow a business loss in one year to eliminate tax payments in other years? Why should one year affect any other(s)?

The answer to that question reflects a fundamental assumption that underlies our tax code. Although we all file taxes on an annual basis, the code does not presume that a year necessarily reflects an appropriate period of time to determine the profitability of a business.

Here's a simple example. Let's assume that you open a business on December 30th, and that you spend your first dollar on December 31st. But you don't earn your first dollar until January 1st.

Have you made a profit during those three days? Well, no; you haven't done so. Simple arithmetic calculates that a dollar of expense and a dollar of revenue yield no net profit. And thus, based on common sense, you would pay no income tax.

Now let's assume that your tax year ends on December 31st. For the period ending December 31st, you would file a tax return that shows no revenue and a dollar of expense. And for the

subsequent period, you would file a return that shows a dollar of revenue and no expense.

Should you pay any income tax on the dollar of revenue that you earned during the second period? Again, based on common sense, you wouldn't do so. After all, the December 31st filing cut-off date is an arbitrary one; you still haven't earned any profit in total during those three days.

This illustrates a core premise of our income tax code. Namely, its tax period cut-offs are arbitrary dates that do not affect the overall profitability of an entity.

TRUMP TAXES

Therefore, if a businessman loses \$1 billion in a single year but earns \$50 million a year during the twenty year period surrounding or following it, he would earn no profit during the entire twenty year period. And he thus needn't pay income tax on the \$1 billion of revenue, given the aggregate \$1 billion of expenses in other year(s).

To be sure, it is not correct for Trump's Republican supporters to say that he could've been sued if he had declined to claim his business loss on his personal tax return. And yet it is also not correct for his Democratic opponents to claim that he is not "paying his fair share" of taxes.

So which side is correct? Well, neither side is correct. And in a political year when each side simply wants to win at any cost, it may not be surprising that no one is bothering to ask whether a central tenet of the tax code is itself correct.

In Other News...

WATERLOO **ACCOUNTING AND** **FINANCE** | **CENTRE FOR** **ACCOUNTING ETHICS**

CALL FOR PAPERS
3rd Biennial Symposium on Accounting Ethics
Accounting Ethics and Regulation: SOX 15 Years Later
April 2017 Toronto, Canada

The Centre for Accounting Ethics at the University of Waterloo is pleased to announce its 3rd biennial Symposium to be held in Toronto, Canada on the theme Accounting Ethics and Regulation: SOX 15 Years Later.

Business Ethics at the following link: <http://www.springer.com/authors?SGWID=0-111-6-793301-0>. Please submit an electronic copy of the paper through the Journal of Business Ethics submission website <http://www.edmgr.com/busi/> by selecting the "SI Waterloo Symposium" from the list of available article types.

Subject to editorial review and approval, accepted research papers with discussants' comments will be considered for publication in a Special Forum of the **Journal of Business Ethics (JBE)** guest edited by Sally Gunz (University of Waterloo Centre for Accounting Ethics) and Linda Thorne (Schulich School of Business, York University). Travel grants will be provided to one author of each accepted paper and all discussants.

Submission deadline is December 1, 2016: Submitted papers will be subject to blind peer review by academics and practitioners. Authors must adhere to the editorial style of the **Journal of**

Member Notes

Dennis Huber has recently published a paper titled, "The myth of protecting the public interest: The case of the missing mandate in federal securities laws." in *Journal of Business & Securities Law*, 16(2), 401-423.

*Together for the
Public Interest*