
Differently Trained Practitioners' Approaches to Tax Work: Divergence, Convergence, and Further Insights for the Profession

Till-Arne Hahn, Tisha King, and Suzanne Landry*

PRÉCIS

Dans de nombreux pays, les fiscalistes ont des formations et des parcours diversifiés. Cependant, comme peu d'études empiriques les comparent directement, on sait peu de choses sur la manière dont les fiscalistes ayant reçu une formation différente (par exemple, les comptables et les avocats) abordent leur travail en fiscalité. À l'aide de méthodes mixtes axées sur la qualité, nous avons premièrement procédé à des entretiens approfondis avec 38 fiscalistes, principalement cadres supérieurs. Ces entretiens nous ont permis d'induire quatre dimensions — orientation de base, mentalité de base, sensibilité élargie et orientation du processus — qui distinguent les fiscalistes, ainsi qu'une philosophie générale qui semble sous-tendre l'approche à leur travail en fiscalité. À partir de ces résultats, nous avons mené une deuxième étude, une enquête à réponses ouvertes, qui nous a permis d'affiner et de corroborer ces dimensions et ces philosophies. Dans une troisième étude sous forme d'enquête, nous avons effectué une triangulation quantitative des dimensions et des

* Till-Arne Hahn and Suzanne Landry are of HEC Montréal (e-mail: till-arne.hahn@hec.ca; suzanne.landry@hec.ca). Tisha King is of the School of Accounting, University of Waterloo (e-mail: tking@uwaterloo.ca). We would like to thank all of the participants in this study. Earlier versions of this manuscript benefited from comments of faculty and students at the Smith School of Business at Queen's University, as well as HEC Montréal, and the Tax Administration Research Centre at the University of Exeter. We also benefited from the comments we received at the 14th Annual Behavioral Tax Symposium at George Mason University, as well as at the 2022 Annual Conference of the Canadian Academic Accounting Association. We would particularly like to thank Jonathan Farrar, Alan Macnaughton, Oliver Okafor, Steve Salterio, and Caren Sureth-Sloane for their extensive comments. We are also grateful to the Association de planification fiscale et financière for its support of both surveys, and to the Canadian Tax Foundation and the Chaire de recherche en fiscalité et en finances publiques at the Université de Sherbrooke for their support of the first survey. We would also like to acknowledge the financial support of the Roland-Chagnon Professorship of Accounting and Taxation, HEC Montréal, as well as the Social Sciences and Humanities Research Council of Canada and the Fondation des comptables professionnels agréés du Québec.

philosophies cernées à partir de nos données qualitatives pour approfondir la question de la mesure dans laquelle les fiscalistes évoluent et s'il existe une convergence au fil du temps dans les approches des fiscalistes ayant reçu une formation différente. Nos trois études contribuent à la littérature de plus en plus abondante sur les fiscalistes et leur travail en faisant progresser la compréhension de la manière dont les approches globales de travail diffèrent généralement d'une personne à l'autre, en donnant un aperçu de la croissance comparative de la compétence, et en offrant une explication possible de la raison pour laquelle certains groupes de fiscalistes sont impliqués plus activement que d'autres dans la planification fiscale. Nos résultats ont des implications pour les associations professionnelles et les autres acteurs du domaine qui supervisent la compétence et la qualité du travail des fiscalistes, ainsi que pour les établissements d'enseignement et autres qui sont responsables de leur formation.

ABSTRACT

In many countries, tax practitioners represent a diverse set of professionals with different backgrounds and training. Yet, because there is limited empirical research directly comparing them, little is known about how differently trained practitioners (for example, accountants and lawyers) approach tax work. Employing mixed methods in a qualitatively driven manner, we first draw on in-depth interviews with 38 mostly senior-level practitioners. From these interviews, we inductively identify four dimensions—basic orientation, basic mindset, broader sensitivity, and process orientation—along which tax professionals are seen to differ, as well as an overall philosophy that appears to guide how they approach tax work. On the basis of these findings, we conduct a second study, an open-ended response survey, that allows us to refine and substantiate these dimensions and the philosophies identified. In a third study, we use a survey to quantitatively triangulate the dimensions and philosophies identified through our qualitative data, and to delve more deeply into the extent to which practitioners may evolve and whether there is any convergence in the approaches of differently trained professionals over time. Our three studies contribute to a growing body of literature examining tax professionals and their work by advancing the understanding of how individuals typically differ in their overall approaches to tax work, by offering insight into the comparative growth in competence, and by offering a possible explanation for why some groups of professionals may be more actively involved than others in tax planning. Our findings have implications for professional associations and others who oversee the competence and quality of work of tax practitioners, as well as educational institutions and others who are charged with their training.

KEYWORDS: TAX PROFESSIONALS ■ TAX WORK ■ MIXED METHODS

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INTRODUCTION

Growing public scrutiny of tax avoidance has spotlighted tax practitioners¹ and sparked increasing academic interest in their work.² Yet, owing to the diverse nature of actors providing tax services, "tax practitioners" remain difficult to define as a

1 See, for example, Harvey Cashore, "KPMG Offshore 'Sham' Deceived Tax Authorities, CRA Alleges," *CBC News*, September 9, 2015 (www.cbc.ca/news/business/kpmg-offshore-sham-deceived-tax-authorities-cra-alleges-1.3209838); "Grand Dodgy," *Economist*, June 30, 2016 (www.economist.com/news/finance-and-economics/21701532-good-deeds-luxembourg-leakers-do-not-go-unpunished-grand-dodgy); and Nick Hopkins, "Why We Are Shining a Light on the World of Tax Havens Again," *Guardian*, November 5, 2017 (www.theguardian.com/news/2017/nov/05/why-shining-light-world-tax-havens-again-paradise-papers).

2 Susan Addison and Frank Mueller, "The Dark Side of Professions: The Big Four and Tax Avoidance" (2015) 28:8 *Accounting, Auditing & Accountability Journal* 1263–90; Emer Mulligan and Lynne Oats, "Tax Professionals at Work in Silicon Valley" (2016) 52 *Accounting, Organizations and Society* 63–76 (<https://doi.org/10.1016/j.aos.2015.09.005>); Anna Feller and Deborah Schanz, "The Three Hurdles of Tax Planning: How Business Context, Aims of Tax Planning, and Tax Manager Power Affect Tax Expense" (2017) 34:1 *Contemporary Accounting Research* 494–524 (<https://doi.org/10.1111/1911-3846.12278>); Vaughan S. Radcliffe, Crawford Spence, Mitchell Stein, and Brett Wilkinson, "Professional Repositioning During Times of Institutional Change: The Case of Tax Practitioners and Changing Moral Boundaries" (2018) 66 *Accounting, Organizations and Society* 45–59 (<https://doi.org/10.1016/j.aos.2017.12.001>); and Till-Arne Hahn and Rodrigo Ormeño Pérez, "Tax Professionals in the Academic Spotlight: A Review of Recent Literature" (2020) 6:1 *Journal of Tax Administration* 96–161.

category,³ potentially muddying the understanding of their work.⁴ For instance, in many common-law countries, lawyers and accountants have traditionally played key roles,⁵ with members of both professions regularly engaging in tax research and planning.⁶ Given the degree of overlap, some suggest that the two professions may be viewed as interchangeable.⁷ However, even if lawyers and accountants often perform similar work, their initial training is clearly different,⁸ and can influence their approach to typical tasks.⁹ Given the limited empirical evidence directly comparing professional groups, we believe that it is important to develop a more comprehensive and nuanced understanding of how differently trained practitioners approach tax work.

Empirically grounded studies of work are necessary for research to keep pace with changes in the division of labour.¹⁰ Adopting a “doing lens”¹¹ and largely relying on an inductive approach,¹² we employed mixed methods to “shed deeper

3 Ken Devos, “The Impact of Tax Professionals Upon the Compliance Behaviour of Australian Individual Taxpayers” (2012) 22:1 *Revenue Law Journal* 1-26, at 5.

4 Lynne Oats and Gregory Morris, “Tax Avoidance, Power and Politics,” in Nigar Hashimzade and Yuliya Epifantseva, eds., *The Routledge Companion to Tax Avoidance Research* (Oxon, UK: Routledge, 2017), 458-71.

5 John L. Carey, “Relationship of Accountants and Lawyers in Tax Practice” (1951) 26:4 *Accounting Review* 449-55; and Jane Frecknall-Hughes and Margaret McKerchar, “Historical Perspectives on the Emergence of the Tax Profession: Australia and the UK” (2013) 28:2 *Australian Tax Forum* 276-88.

6 Mark J. Cowan and Joshua Cutler, “Cross-Fertilizing the Tax Classroom” (2022) 19:2 *Pittsburgh Tax Review* 329-69 (<https://doi.org/10.5195/taxreview.2022.161>).

7 For example, Jacob L. Todres, “Malpractice and the Tax Practitioner: An Analysis of the Areas in Which Malpractice Occurs” (1999) 48:2 *Emory Law Journal* 547-645; Brian M. Studniberg, “The UK Supreme Court Rekindles the Debate over a Privilege for Accountants,” *Current Cases feature* (2013) 61:2 *Canadian Tax Journal* 435-60; and C.D. MacArthur, “Legal Advice Privilege for Accountants’ Tax Advice,” in C.D.L. Hunt, ed., *Perspectives on Evidentiary Privileges* (Toronto: Carswell, 2019), 167-92.

8 Katherine D. Black and Stephen T. Black, “A National Tax Bar: An End to the Attorney-Accountant Tax Turf War” (2004) 36:1 *St. Mary’s Law Journal* 1-98; and Cowan and Cutler, *supra* note 6.

9 C. Bryan Cloyd and Brian C. Spilker, “Confirmation Bias in Tax Information Search: A Comparison of Law Students and Accounting Students” (2000) 22:2 *Journal of the American Taxation Association* 60-71 (<https://doi.org/10.2308/jata.2000.22.2.60>).

10 Stephen R. Barley and Gideon Kunda, “Bringing Work Back In” (2001) 12:1 *Organization Science* 76-95.

11 Michel Antebi, Curtis K. Chan, and Julia DiBenigno, “Three Lenses on Occupations and Professions in Organizations: Becoming, Doing, and Relating” (2016) 10:1 *Academy of Management Annals* 183-244.

12 Kathleen M. Eisenhardt, Melissa E. Graebner, and Scott Sonenshein, “Grand Challenges and Inductive Methods: Rigor Without Rigor Mortis” (2016) 59:4 *Academy of Management Journal* 1113-23.

light”¹³ on how tax practitioners broadly approach tax work.¹⁴ Following an exploratory sequential design,¹⁵ we first conducted a qualitative study consisting of in-depth interviews, mostly with tax partners and other experienced practitioners. We entered the field with the initial question: How do differently trained professionals typically approach tax work? We identified four dimensions—basic orientation, basic mindset, broader sensitivity, and process orientation—along which professionals are perceived to differ, as well as an overall philosophy that appears to guide their work. In our second study, we triangulated these dimensions,¹⁶ using open-ended responses collected through an independently administered survey. To build on these findings, we conducted a third study in which we examined more systematically our initial observations, using a survey involving self-assessments by 208 practitioners. In addition to quantitatively corroborating the dimensions, we explored the question: What is the relation between experience and the approaches to tax work? As expected, we found that practitioners generally evolve, growing the most in traditional areas of weakness and leading to an overall, though incomplete, convergence in the approaches of differently trained professionals.

The resulting insights into practitioners’ approaches to tax work offer several contributions to theory and practice. At an empirical level, we contribute to a small but growing body of literature that examines tax professionals and their work.¹⁷ We also answer calls for more mixed-methods research,¹⁸ as well as for more detailed investigations of work.¹⁹

13 Margaret A. McKerchar, “Philosophical Paradigms, Inquiry Strategies and Knowledge Claims: Applying the Principles of Research Design and Conduct to Taxation” (2008) 6:1 *eJournal of Tax Research* 5–22, at 21.

14 We recognize that some division of labour exists within the tax field, with variations among different jurisdictions. See V. Thuronyi and F. Vanistendael, “Regulation of Tax Professionals,” in V. Thuronyi, ed., *Tax Law Design and Drafting* (Washington, DC: International Monetary Fund, 1996), 135–63. Litigation is normally the purview of lawyers, and accountants typically assume more of the compliance work. To the extent that professionals deal with different kinds of problems, their approaches will naturally differ. The aim of our study is to understand how differently trained professionals—specifically, lawyers and accountants—approach tax work overall, with a particular focus on those tasks that both regularly perform, such as tax planning and research. Further, while we acknowledge that firms providing tax services may also differ in their approaches, our focus is on the individual.

15 Robert L. Harrison, Timothy M. Reilly, and John W. Creswell, “Methodological Rigor in Mixed Methods: An Application in Management Studies” (2020) 14:4 *Journal of Mixed Methods Research* 473–95 (<https://doi.org/10.1177/1558689819900585>).

16 Margaret McKerchar, *Design and Conduct of Research in Tax, Law and Accounting* (Toronto: Lawbook, 2010).

17 See the sources cited in note 2, *supra*.

18 Sven Modell, “Bridging the Paradigm Divide in Management Accounting Research: The Role of Mixed Methods Approaches” (2010) 21:2 *Management Accounting Research* 124–29; and Jennifer Grafton, Ann M. Lillis, and Habib Mahama, “Mixed Methods Research in Accounting” (2011) 8:1 *Qualitative Research in Accounting & Management* 5–21 (<https://doi.org/10.1108/1176609111124676>).

19 Barley and Kunda, *supra* note 10.

From a practical perspective, this study should be of interest to anyone who is charged with the hiring and training of tax professionals. As tax complexity increases, expertise becomes crucial.²⁰ Most specialized training typically occurs after the completion of undergraduate studies,²¹ leaving new professionals with skill gaps.²² As learning periods become shorter,²³ owing to the outsourcing of certain tasks²⁴ and advances in technology,²⁵ getting specialized tax training right will be increasingly important. Moreover, the inability to adequately perform tasks can be a source of frustration for junior staff and lead to turnover, which should matter to employers, given the shortage of skilled professionals.²⁶

This article begins with a literature review, followed by an outline of how professional work can be theoretically understood according to Abbott.²⁷ We then discuss our three studies in turn, first summarizing the method and participant background,

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- 20 Thomas Hoppe, Deborah Schanz, Susann Sturm, and Caren Sureth-Sloane, "The Tax Complexity Index—A Survey-Based Country Measure of Tax Code and Framework Complexity" (2021) 32:2 *European Accounting Review* 239–73 (<https://doi.org/10.1080/09638180.2021.1951316>).
- 21 Black and Black, *supra* note 8.
- 22 Timothy J. Fogarty, R. Drew Sellers, and David E. Jones, "Reverse Engineering Tax Education: How Tax Practice Can Inform the Classroom Experience" (2023) 21:1 *International Journal of Management Education* (<https://doi.org/10.1016/j.ijme.2022.100761>).
- 23 Noel Rowland, "A Review into the Future of the Tax Profession" (2017) 52:2 *Taxation in Australia* 51.
- 24 Jesse Robertson, Dan Stone, Liza Niederwanger, Matthew Grocki, and Ed Smith, "Offshore Outsourcing of Tax-Return Preparation" (2005) 75:6 *CPA Journal* 54–57; Jay A. Soled, "Outsourcing Tax Return Preparation and Its Implications" (2005) 75:3 *CPA Journal* 14–15; and Brian E. Daugherty, Denise Dickins, and M.G. Fennema, "Offshoring Tax and Audit Procedures: Implications for US-Based Employee Education" (2012) 27:3 *Issues in Accounting Education* 733–42.
- 25 Richard Susskind and Daniel Susskind, *The Future of the Professions: How Technology Will Transform the Work of Human Experts* (New York: Oxford University Press, 2015); Carl Benedikt Frey and Michael A. Osborne, "The Future of Employment: How Susceptible Are Jobs to Computerisation?" (2017) 114 *Technological Forecasting and Social Change* 254–80 (<https://doi.org/10.1016/j.techfore.2016.08.019>); Benjamin Alarie, Anthony Niblett, and Albert H. Yoon, "How Artificial Intelligence Will Affect the Practice of Law" (2018) 68, supplement 1 *University of Toronto Law Journal* S106–24; Renée Iori and Susie Cooke, "Technology and the Tax Adviser of the Future," in *Report of Proceedings of the Seventy-First Tax Conference*, 2019 Conference Report (Toronto: Canadian Tax Foundation, 2020), 11:1–16; Patrick Buckley, Elaine Doyle, Brendan McCarthy, and Ruth Gilligan, "Artificial Intelligence and the Tax Practitioner" (2022) 7:2 *Journal of Tax Administration* 6–26; and Benjamin Alarie, "The Rise of the Robotic Tax Analyst" (2023) 178:1 *Tax Notes Federal* 57–63.
- 26 Jay Nibbe, "Talent Spotting—Are You Ready for the Next Era?" (2016) 15 *Tax: Insights for Business Leaders* 3; and Heather L. Evans, "Message from the Executive Director" (November 2023) (www.ctf.ca/EN/Newsletters/Directors_Message/2023_Monthly_Messages/November_Message_2023.aspx).
- 27 Andrew Abbott, *The System of Professions: An Essay on the Division of Expert Labor* (Chicago: University of Chicago Press, 1988).

and then presenting the findings. An overall discussion and a conclusion follow, outlining potential implications and some possible future research directions.

LITERATURE REVIEW

Although the literature has been described as piecemeal,²⁸ possibly owing to the multiplicity of actors,²⁹ the work of tax professionals has been extensively studied.³⁰ Because tax practice involves many forms of work,³¹ practitioners will often not perform the same tasks (at least regularly). The division of labour varies by context,³² but in Canada, tax practice has historically been characterized by extensive collaboration between the legal and accounting professions.³³

In a comprehensive review of the early literature, Roberts³⁴ offers a model summarizing the factors that potentially influence practitioners' judgment and decision making. Most studies focus on individual and environmental influences.³⁵ As an individual cognitive factor, knowledge is sometimes measured directly, but experience is the single most frequently considered variable, often serving as a proxy for expertise, notwithstanding its mixed results.³⁶ As individual affective factors, advocacy and ethical attitudes matter, and a long stream of studies has extended research into both.³⁷

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- 28 Brian Erard, "Taxation with Representation: An Analysis of the Role of Tax Practitioners in Tax Compliance" (1993) 52:2 *Journal of Public Economics* 163-97, at 164-65; and Jane Frecknall-Hughes and Erich Kirchler, "Towards a General Theory of Tax Practice" (2015) 24:2 *Social & Legal Studies* 289-312, at 289.
- 29 Mattia Anesa, Nicole Gillespie, A. Paul Spee, and Kerrie Sadiq, "The Legitimation of Corporate Tax Minimization" (2019) 75 *Accounting, Organizations and Society* 17-39 (<https://doi.org/10.1016/j.aos.2018.10.004>).
- 30 Michael L. Roberts, "Tax Accountants' Judgment/Decision-Making Research: A Review and Synthesis" (1998) 20:1 *Journal of the American Taxation Association* 78-121; and Hahn and Ormeño Pérez, *supra* note 2.
- 31 John Hasseldine, Kevin Holland, and Pernill van der Rijt, "The Market for Corporate Tax Knowledge" (2011) 22:1 *Critical Perspectives on Accounting* 39-52 (<https://doi.org/10.1016/j.cpa.2010.06.019>); and Jane Frecknall-Hughes and Peter Moizer, "Assessing the Quality of Services Provided by UK Tax Practitioners" (2015) 13:1 *eJournal of Tax Research* 51-75.
- 32 Thuronyi and Vanistendael, *supra* note 14.
- 33 Tamar Satov, "Canadian Tax Foundation Celebrates 50 Years" (1995) 128:6 *CA Magazine* 12-13; and Robert D. Brown and Paul D. Paton, "Public Interest, Public Accountability, and Canadian Tax Professionals After Sarbanes-Oxley," in *Report of Proceedings of the Fifty-Fourth Tax Conference*, 2002 Conference Report (Toronto: Canadian Tax Foundation, 2003), 35:1-45.
- 34 Roberts, *supra* note 30.
- 35 *Ibid.*
- 36 *Ibid.*
- 37 Cheryl A. Cruz, William E. Shafer, and Jerry R. Strawser, "A Multidimensional Analysis of Tax Practitioners' Ethical Judgements" (2000) 24:3 *Journal of Business Ethics* 223-44; Scott A. Yetmar and Kenneth Eastman, "Tax Practitioners' Ethical Sensitivity: A Model and Empirical Examination" (2000) 26:4 *Journal of Business Ethics* 271-88; Donna D. Bobek and Robin R.

Despite the diversity of the field,³⁸ most research does not explicitly consider professional background. Some studies compare professional accountants with those without a chartered professional accountant (CPA) designation;³⁹ more recently, Klassen, Lisowsky, and Mescall⁴⁰ have contrasted the tax aggressiveness of external advisers and in-house professionals. Some studies that Roberts reviews include other professionals, but he focuses on tax accountants. With the notable exception of Cloyd and Spilker's investigation of the confirmation bias of law and accounting students in tax information search,⁴¹ empirical research directly investigating categories of practitioners remains remarkably limited.

There are clear differences in the undergraduate education of lawyers and accountants.⁴² To become client advocates, law students learn to argue. As Cloyd and Spilker suggest, this helps them to explain their position better and prepares them to anticipate opposing positions.⁴³ With a focus on legal reasoning and research skills, and exposure to the reading of court cases, the training of law students also sensitizes them to the importance of negative precedents, encouraging them to hone their analogical reasoning.⁴⁴ However, some have suggested that lawyers may be

Radtke, "An Experiential Investigation of Tax Professionals' Ethical Environments" (2007) 29:2 *Journal of the American Taxation Association* 63–84; Elaine M. Doyle, Jane Frecknall-Hughes, and Keith W. Glaister, "Linking Ethics and Risk Management in Taxation: Evidence from an Exploratory Study in Ireland and the UK" (2009) 86:2 *Journal of Business Ethics* 177–98; Donna D. Bobek, Amey M. Hageman, and Richard C. Hatfield, "The Role of Client Advocacy in the Development of Tax Professionals' Advice" (2010) 32:1 *Journal of the American Taxation Association* 25–51; Cynthia Blanthorne, Hughlene A. Burton, and Dann Fisher, "The Aggressiveness of Tax Professional Reporting: Examining the Influence of Moral Reasoning," in Donna Bobek Schmitt, ed., *Advances in Accounting Behavioral Research*, vol. 16 (New York: Emerald, 2014), 149–81; and Jane Frecknall-Hughes, Peter Moizer, Elaine Doyle, and Barbara Summers, "An Examination of Ethical Influences on the Work of Tax Practitioners" (2017) 146:4 *Journal of Business Ethics* 729–45.

38 Devos, *supra* note 3, at 5.

39 For example, Peggy A. Hite and John Hasseldine, "Tax Practitioner Credentials and the Incidence of IRS Audit Adjustments" (2003) 17:1 *Accounting Horizons* 1–14 (<https://doi.org/10.2308/acch.2003.17.1.1>).

40 Kenneth J. Klassen, Petro Lisowsky, and Devan Mescall, "The Role of Auditors, Non-Auditors, and Internal Tax Departments in Corporate Tax Aggressiveness" (2016) 91:1 *Accounting Review* 179–205.

41 Cloyd and Spilker, *supra* note 9.

42 Cowan and Cutler, *supra* note 6.

43 Cloyd and Spilker, *supra* note 9.

44 Garry Marchant, John Robinson, Urton Anderson, and Michael Schadewald, "Analogical Transfer and Expertise in Legal Reasoning" (1991) 48:2 *Organizational Behavior and Human Decision Processes* 272–90; Garry Marchant, John Robinson, Urton Anderson, and Michael Schadewald, "Analogy and Tax Problem Solving" (1992) 4 *Advances in Taxation* 225–46; Garry Marchant, John Robinson, Urton Anderson, and Michael Schadewald, "The Use of Analogy in Legal Argument: Problem Similarity, Precedent, and Expertise" (1993) 55:1 *Organizational Behavior and Human Decision Processes* 95–119; and Anne M. Magro and Sarah E. Nutter, "Evaluating the Strength of Evidence: How Experience Affects the Use of Analogical Reasoning and Configural Information Processing in Tax" (2012) 87:1 *Accounting Review* 291–312.

more innumerate compared to other professionals.⁴⁵ Law schools typically neglect the financial or mathematical aspects associated with tax compliance, with the view that “[t]hat’s what accountants are for” being common,⁴⁶ perhaps reflecting the stereotype that accountants are methodical number crunchers.⁴⁷

As for accountants, given the importance of audit, students of accounting are taught professional skepticism.⁴⁸ To properly assess and protect against audit risk, they also learn how to acquire an in-depth understanding of their client’s business, the importance of documenting positions in files, and how to use the threshold of materiality as a guide. However, their education, as it pertains to tax, is typically more about learning how to apply the rules⁴⁹ or follow a recipe to get to “the answer,”⁵⁰ rather than how to interpret the rules. Thus, accountants’ initial legal skills tend to be weaker, and because they learn about tax (at least initially) through structured and largely linear processes, they are often less comfortable with ambiguities in the law.⁵¹

Beyond obvious differences in early training, there are also clear distinctions in the respective codes of ethics of the two professions.⁵² Lawyers’ professional duties require their primary loyalty to be toward their clients.⁵³ Notwithstanding arguments against zealous advocacy in non-adversarial situations,⁵⁴ its commonly accepted

⁴⁵ Lisa Milot, “Illuminating Innumeracy” (2013) 63:3 *Case Western Reserve Law Review* 769-814; but compare Arden Rowell and Jessica Bregant, “Numeracy and Legal Decision Making” (2014) 46:1 *Arizona State Law Journal* 191-230.

⁴⁶ Black and Black, *supra* note 8, at 80.

⁴⁷ Andrew Lloyd Friedman and Stephen Lyne, “The Beancounter Stereotype: Towards a General Model of Stereotype Generation” (2001) 12:4 *Critical Perspectives on Accounting* 423-51; and Tony Dimnik and Sandra Felton, “Accountant Stereotypes in Movies Distributed in North America in the Twentieth Century” (2006) 31:2 *Accounting, Organizations and Society* 129-55 (<https://doi.org/10.1016/j.aos.2004.10.001>).

⁴⁸ R. Kathy Hurtt, “Development of a Scale To Measure Professional Skepticism” (2010) 29:1 *Auditing: A Journal of Practice & Theory* 149-71; and Christine J. Nolder and Kathryn Kadous, “Grounding the Professional Skepticism Construct in Mindset and Attitude Theory: A Way Forward” (2018) 67 *Accounting, Organizations and Society* 1-14.

⁴⁹ Cloyd and Spilker, *supra* note 9.

⁵⁰ Cowan and Cutler, *supra* note 6.

⁵¹ *Ibid.*

⁵² Maria Italia, “Tax Ethics: Accountants and Lawyers” (2008) 4:4 *International Review of Business Research Papers* 118-27.

⁵³ L. Ray Patterson, “Legal Ethics and the Lawyer’s Duty of Loyalty” (1980) 29:4 *Emory Law Journal* 909-70; and Arthur Cockfield, *Introduction to Legal Ethics*, 2d ed. (Markham, ON: LexisNexis Canada, 2016).

⁵⁴ Murray L. Schwartz, “The Professionalism and Accountability of Lawyers” (1978) 66:4 *California Law Review* 669-97; Linda M. Beale, “Tax Advice Before the Return: The Case for Raising Standards and Denying Evidentiary Privileges” (2005) 25:3 *Virginia Tax Review* 583-669; and Richard Lavoie, “Am I My Brother’s Keeper? A Tax Law Perspective on the Challenge of Balancing Gatekeeping Obligations and Zealous Advocacy in the Legal Profession” (2013) 44:3 *Loyola University Chicago Law Journal* 813-64.

primacy may lead lawyers to adopt more aggressive tax positions.⁵⁵ Accountants, for their part, are guided by a professional code that focuses mainly on their role as auditors. Even if the advocacy role in tax matters may be recognized,⁵⁶ the public interest is stressed.⁵⁷ Further, in contrast to the lawyer's duty of loyalty, in the case of audit, professional independence is emphasized.⁵⁸ Thus, while both professions are bound by their respective code of ethics, the influence on tax work may be limited, since those codes have been drafted, for the most part, with more traditional legal or accounting work in mind.⁵⁹

Although the differences noted can affect how practitioners will initially approach tax work, most specialized tax training usually occurs after individuals have completed their primary degrees.⁶⁰ Tax practice, by definition, clearly requires an understanding of the law,⁶¹ but many undergraduate law degrees in North America largely ignore the subject.⁶² With the exception of one or two tax courses, professional accountants will normally receive no legal training beyond an introductory business-law course.⁶³ Many may opt for tax careers during their initial studies,⁶⁴ but

55 Tanina Rostain, "Sheltering Lawyers: The Organized Tax Bar and the Tax Shelter Industry" (2006) 23:1 *Yale Journal on Regulation* 77-120; Tanina Rostain, "Travails in Tax: KPMG and the Tax-Shelter Controversy," in Deborah L. Rhode and David J. Luban, eds., *Legal Ethics: Law Stories* (New York: Foundation Press, 2006), 89-118; and Leigh Rosenthal, "Evaluating the Demand for Tax Professionals: Tax Accountants or Tax Attorneys" (PhD dissertation, Florida Atlantic University, College of Business, 2016).

56 See, for example, American Institute of Certified Public Accountants, "Statements on Standards for Tax Services," January 1, 2024 (<https://insights.aicpa.org/story/ssts/page/1>).

57 C. Richard Baker, "What Is the Meaning of 'the Public Interest'? Examining the Ideology of the American Public Accounting Profession" (2005) 18:5 *Accounting, Auditing & Accountability Journal* 690-703; and Dean Neu and Cameron Graham, "Accounting Research and the Public Interest" (2005) 18:5 *Accounting, Auditing & Accountability Journal* 585-91.

58 Rick Antle, "Auditor Independence" (1984) 22:1 *Journal of Accounting Research* 1-20; Max H. Bazerman, Kimberly P. Morgan, and George F. Loewenstein, "The Impossibility of Auditor Independence" (1997) 38:4 *Sloan Management Review* 89-94; and Yves Gendron, Roy Suddaby, and Helen Lam, "An Examination of the Ethical Commitment of Professional Accountants to Auditor Independence" (2006) 64:2 *Journal of Business Ethics* 169-93.

59 Italia, *supra* note 52.

60 Theodore S. Sims and Emil M. Sunley, review of Myron S. Scholes and Mark A. Wolfson, *Taxes and Business Strategy: A Planning Approach*, in (1992) 45:4 *National Tax Journal* 451-55; and Black and Black, *supra* note 8.

61 Robert A. Prentice, "The Case for Educating Legally-Aware Accountants" (2000) 38:5 *American Business Law Journal* 597-631; and Brian Studniberg, "A Privilege Primer, Part III: Reconsidering Accountants' Tax Services as Legal Services," *Canadian Accountant*, June 26, 2024 (www.canadian-accountant.com/content/thought-leaders/a-privilege-primer-part-iii).

62 Cowan and Cutler, *supra* note 6.

63 Black and Black, *supra* note 8, at 79.

64 Derek W. Dalton, Steve Buchheit, and Jeffrey J. McMillan, "Audit and Tax Career Paths in Public Accounting: An Analysis of Student and Professional Perceptions" (2014) 28:2 *Accounting Horizons* 213-31 (<https://doi.org/10.2308/acch-50665>).

to become tax practitioners, most will pursue further training once they are professionally qualified,⁶⁵ or will acquire requisite skills on the job through a form of situated learning.⁶⁶ Given that tax is recognized as a specialty area requiring additional expertise, this extra training is crucial for professionals to develop the competency levels demanded.⁶⁷

Overall, the common forms of specialized training in tax, the view that lawyers and accountants who work as tax professionals are interchangeable,⁶⁸ and the finding that, regardless of background, most who pursue tax careers are largely motivated by the intrinsic nature of the work,⁶⁹ all suggest that practitioners might eventually converge in their approach to tax work, notwithstanding their initial education.⁷⁰ In the next section, we discuss how professional approaches to tax work can be theoretically understood.

THEORETICAL UNDERSTANDING OF PROFESSIONAL WORK

According to Abbott,⁷¹ professions must be understood first and foremost through the tasks that they perform. In his seminal book, he identifies three modalities of action that form the trichotomy of professional work: diagnosis, inference, and treatment. Diagnosis, as the client brokering process at the front end, involves taking “information into the professional knowledge system”⁷² or the process of understanding a problem.⁷³ As Abbott elaborates, diagnosis entails both colligation and classification, or processes of structuring and ordering problems. Whereas colligation involves the gathering of relevant facts or the “assembly of a picture,” classification refers this assembled picture to a “dictionary of professionally legitimate problems.”⁷⁴ Treatment is the mediating act at the back end, providing a prescription

65 In this regard, individuals from different professions may enrol in the same formal programs. For example, in Canada, most who decide to specialize in tax will pursue a tax-related master's degree or the in-depth tax courses offered by CPA Canada. See Gabe Hayos and Joseph Petrie, “The Role and the Contribution of the Accounting and Legal Professionals in the Canadian Income Tax System,” in Jimyan Li, J. Scott Wilkie, and Larry F. Chapman, eds., *Income Tax at 100 Years: Essays and Reflections on the Income War Tax Act* (Toronto: Canadian Tax Foundation, 2017), 24:1-14.

66 Fogarty et al., *supra* note 22.

67 Todres, *supra* note 7.

68 Ibid.; Studniberg, *supra* note 7; and MacArthur, *supra* note 7.

69 Till-Arne Hahn and Tisha King, “When I Grow Up . . . Understanding the Motivations That Individuals Have for Pursuing a Career in Tax” (2021) 36:3 *Issues in Accounting Education* 1-21 (<https://doi.org/10.2308/ISSUES-19-118>).

70 Cowan and Cutler, *supra* note 6.

71 Abbott, *supra* note 27.

72 Ibid., at 40.

73 Ibid., at 40-44.

74 Ibid., at 41.

or solution to clients. Ranging from the general to the more specific, treatments must ultimately fit a client's circumstances.⁷⁵ The link between diagnosis and treatment can at times be simple, but whenever the relation is obscure, resort must be made to inference.⁷⁶ As Abbott explains, inference, or the "thinking" about problems, is less formulaic than the two other processes.⁷⁷ This "middle game" is what ultimately distinguishes professional work from more routine or non-professional work. Actual strategies of inference pursued depend on how many chances professionals typically have at providing a treatment. Those with only one chance will build longer chains of inference and work by processes of construction, whereas those with multiple chances work by processes of exclusion, regularly tacking back and forth between diagnosis and treatment.⁷⁸ As Abbott states, though, all professions must ultimately be effective in the treatments that they offer in order to maintain the jurisdictional claims to the work that they perform.

Directly applying Abbott's theoretical framework to the tax field, Hahn⁷⁹ summarizes how tax work and expertise are fundamentally different from more traditional accounting work and expertise. For example, in searching for a "truth,"⁸⁰ auditors focus on the identification of problems and the resulting impact on financial statements, whereas tax practitioners, seeking to find optimal solutions for clients,⁸¹ will try to identify both problems and opportunities. In terms of the thinking process, the former involves "backward reasoning from 'symptoms' (financial indicators and other information) to causes (possible errors)," and the latter, "forward reasoning from 'symptoms' (facts) to consequences (tax effects)."⁸² Relating to closed-fact situations, auditing largely involves reductive processes. In contrast, tax practitioners are often faced with open-fact situations, at least in the context of tax planning, and will thus rely more on constructive processes.⁸³ As Hahn suggests, these are akin to the processes of exclusion and construction, which Abbott identifies in describing professionals' strategies of inference.

75 Ibid., at 44-48.

76 Ibid.

77 Ibid., at 48-52.

78 Ibid.

79 Till-Arne Hahn, "The Practice of Tax in Canada: Understanding the Community, the Work and Structural Initiatives of an Emergent Profession" (PhD dissertation, Queen's University, 2021).

80 M. Shields, I. Solomon, and K.D. Jackson, "Experimental Research on Tax Professionals' Judgment and Decision Making," in Jon S. Davis, *Behavioral Tax Research: Prospects and Judgment Calls* (Sarasota, FL: American Taxation Association, 1995), 77-126.

81 Sarah E. Bonner, Jon S. Davis, and Betty R. Jackson, "Expertise in Corporate Tax Planning: The Issue Identification Stage" (1992) 30, supplement *Journal of Accounting Research* S1-28.

82 Ibid., at S2-3.

83 Shields et al., *supra* note 80.

Overall, the expertise associated with inference and the other modalities of action may entail the exercise of certain mental powers or abilities, such as “intuition,”⁸⁴ “special judgement,”⁸⁵ or talent that “cannot be taught.”⁸⁶ On a more basic level, though, it relies on procedural knowledge or the “rules for doing skilled tasks.”⁸⁷ Such deliberative skills can be taught, and even if many undergraduate tax courses focus on transmitting the required declarative knowledge (“knowing that”), professionals entering the field will normally also have acquired some of the “knowing how” that matters in tax, otherwise described as the “logical rules, tactical maxims and technical canons” that guide the “half-trained.”⁸⁸ Given that tax laws are the primary object of reference, practitioners, regardless of background, should enter the field with similar forms of “knowing that,” certainly with respect to the basic rules. However, as Cowan and Cutler discuss,⁸⁹ there can be important divergences in the “knowing how.” While lawyers may have learned how to argue their position well, accountants have been conditioned to getting to “the answer.” Further, because lawyers are trained in the law more generally and accountants learn financial reporting rules, each will start their career with additional forms of “knowing that” on which they can draw (and which the other will not have). Ultimately, though, to the extent that both perform the same tasks, to be equally effective they must eventually acquire similar skill sets. In short, while lawyers and accountants enter the field with different forms of background knowledge and are trained to approach tax work differently, as they learn to address many of the same problems with similarly effective solutions, one can expect there to be a convergence over time, at least in terms of diagnosis and treatment. However, whenever the link between these two modalities is ambiguous, professionals will have to resort to inference, and it is not clear whether those who have been trained differently will adopt the same approaches in engaging in this process.

Given the range of potential influences, we entered this field of study without any specific expectations. Because our objective was to investigate how practitioners broadly approach tax work, we adopted a sequential mixed-method design, with our initial findings informing our later studies.⁹⁰ We first discussed practitioners’

84 Hubert L. Dreyfus and Stuart E. Dreyfus, “Peripheral Vision: Expertise in Real World Contexts” (2005) 26:5 *Organization Studies* 779–92.

85 Feller and Schanz, *supra* note 2.

86 Magali Sarfatti Larson, *The Rise of Professionalism: Monopolies of Competence and Sheltered Markets* (Oxon, UK: Routledge, 2013), at 41. (This work was originally published in 1977 by the University of California.)

87 Bonner et al., *supra* note 81, at S7.

88 Gilbert Ryle, “Knowing How and Knowing That: The Presidential Address” (1945) 46 *Proceedings of the Aristotelian Society* 1–16, at 14.

89 Cowan and Cutler, *supra* note 6, at 343.

90 McKerchar, *supra* note 13; and McKerchar, *supra* note 16.

perceptions of typical differences between the two professions in a set of semi-structured interviews (study 1). We then conducted a survey (study 2) to assess the wider applicability of the differences identified. On the basis of our initial findings, we designed a further study (study 3) involving a second survey, which allowed us to quantitatively triangulate the dimensions and to explore the degree to which there might be a convergence in the approaches. The three studies and their findings are discussed in turn in the sections that follow.

STUDY 1: TAX PRACTITIONERS' APPROACHES TO TAX WORK

Method and Interviewee Background⁹¹

In studying practitioners' approaches to tax work, we started with an inductive approach. As Eisenhardt, Graebner, and Sonenshein explain, "inductive research usually begins with a research question, but without predefined constructs and theoretical relationships."⁹² This approach is "particularly useful for exploring constructs that are difficult to identify or measure."⁹³

We directly engaged practitioners by conducting 38 in-depth interviews. Broadly adopting a comparative design,⁹⁴ we used a purposeful sampling approach⁹⁵ to recruit a diverse group of practitioners with a legal, accounting, or other background, working in a range of organizations and locations in Canada. We began with existing contacts, but as the interviews progressed, we used the snowballing technique.⁹⁶ To strengthen our findings, efforts were directed toward identifying negative cases,⁹⁷ or individuals with differing views. While we developed a preliminary interview protocol based on McCracken's guidance,⁹⁸ the actual questions that were asked evolved, often depending on the interviewees and their responses. Appendix 1 reproduces the questions related to study 1.⁹⁹

91 Study 1 and study 2 are part of a larger project examining the practice of tax in Canada. The method and participant background sections are derived from Hahn's prior study, *supra* note 79, which draws on different material from the same interviews and survey.

92 Eisenhardt et al., *supra* note 12, at 1115.

93 *Ibid.*, at 1117.

94 Anteby et al., *supra* note 11.

95 Amy Koerber and Lonie McMichael, "Qualitative Sampling Methods: A Primer for Technical Communicators" (2008) 22:4 *Journal of Business and Technical Communication* 454-73.

96 Michael D. Myers, *Qualitative Research in Business and Management* (London, UK: SAGE, 2013), at 129-30.

97 Susan Spiggle, "Analysis and Interpretation of Qualitative Data in Consumer Research" (1994) 21:3 *Journal of Consumer Research* 491-503.

98 Grant McCracken, *The Long Interview* (Newbury Park, CA: SAGE, 1988); and McKerchar, *supra* note 13.

99 The full protocol received ethics approval (as did all parts of this study). It is available upon request.

Interviews were carried out in 2015, and conducted to the point of initial saturation.¹⁰⁰ Discussions averaged 67 minutes. All but two of the interviews were recorded and professionally transcribed.¹⁰¹ Express permission was obtained prior to recording. After verifying the accuracy of the transcriptions, we made initial notes on copies of the texts, reflecting our spontaneous reaction to what we read. Drawing on Charmaz's guidelines,¹⁰² we prepared a summary of the themes identified, which was repeatedly updated and modified as additional interviews were analyzed. Our dimensions emerged conceptually as the data were manually organized into a framework through this open coding process.¹⁰³

Table 1 lists the 38 interviewees.¹⁰⁴ By background, 19 (50 percent) were CPAs, 13 (34 percent) were lawyers, 2 (5 percent) were both, and 4 (11 percent) were neither. As for their current or most recent tax-related position, 12 (32 percent) worked for large law or accounting firms, 12 (32 percent) worked for small firms, 4 (11 percent) worked in industry, 4 (11 percent) worked in government, and 6 (16 percent) worked for organizations such as CPA Canada or the Canadian Tax Foundation (CTF), or were full-time students in a master of taxation program.

On the whole, our interviewees had extensive experience on which they were able to draw. With an overall average of 23 years in the workforce, most participants were in either the middle or the late stage of their career. Further, 22 (58 percent) had reached the level of partner, and at least 7 (18 percent) held more senior positions (for example, as head of a department, or of the firm's local or national practice). Thus, having managed teams of professionals, many were able to provide insights extending beyond their own direct experience. Finally, at least 12 (32 percent) had worked in more than one environment (for example, had switched from an accounting firm to a law firm, or vice versa, or from public practice to industry) and thus could offer more than one perspective.

We embarked on this study with the broad objective of determining how differently trained professionals typically approach tax work. The intent was to discuss the approach toward tax work in general, rather than to examine practitioners' ability to carry out certain tasks. While the approach to the various forms of work will

¹⁰⁰ Myers, *supra* note 96. Saturation was considered from an interpretivist perspective. See Bertrand Malsch and Steve E. Salterio, "Doing Good Field Research": Assessing the Quality of Audit Field Research" (2016) 35:1 *Auditing: A Journal of Practice & Theory* 1-22 (<https://doi.org/10.2308/ajpt-51170>). Since there is almost always something new in any data collected, interviews were conducted up to the point where the additional insights being obtained had become too marginal to warrant continuation.

¹⁰¹ Extensive notes were taken for both interviews that were not recorded. For one of the recorded interviews, a transcription was not possible because there was too much background noise.

¹⁰² Kathy Charmaz, *Constructing Grounded Theory: A Practical Guide Through Qualitative Analysis* (London, UK: SAGE, 2006), chapter 3, "Coding in Grounded Theory Practice," at 42-71.

¹⁰³ McKerchar, *supra* note 13.

¹⁰⁴ Because many of the interviewees preferred to remain anonymous, pseudonyms (reflecting the assumed gender of individuals) have been used throughout.

TABLE 1 Study 1: Background of Interviewees and Duration of Interviews

| | Interviewee ^a | Interview length (minutes) | Professional background | Work organization ^b | Career stage ^c |
|----|--------------------------|----------------------------|-------------------------|--------------------------------|---------------------------|
| 1 | Arthur | 72 | CPA | Other | Late |
| 2 | Yadin | 62 | Lawyer | Big law firm | Mid |
| 3 | Donald | 75 | Lawyer | Industry | Mid |
| 4 | André | 66 | Lawyer | Other law firm | Mid |
| 5 | Liam | 98 | Lawyer | Big 4 | Mid |
| 6 | Ophelia | 93 | Lawyer | Government | Mid |
| 7 | Andrew | 57 | CPA | Other | Late |
| 8 | Ryan | 62 | Lawyer | Big 4 | Late |
| 9 | Evelyn | 46 | Lawyer | Big 4 | Late |
| 10 | Everett | 70 | CPA | Other | Late |
| 11 | Nico | 46 | CPA | Government | Late |
| 12 | Lucy | 80 | Lawyer | Big 4 | Mid |
| 13 | Ivan | 61 | CPA | Big 4 | Late |
| 14 | Alex | 75 | Lawyer | Other law firm | Late |
| 15 | Immanuel | 60 | Lawyer | Big law firm | Mid |
| 16 | Audrey | 75 | Lawyer | Other law firm | Mid |
| 17 | Anne | 56 | CPA | Midsize accounting firm | Mid |
| 18 | Henri | 74 | CPA | Industry | Mid |
| 19 | Ibrahim | 69 | CPA | Small accounting firm | Mid |
| 20 | Anthony | 70 | Other | Big 4 | Mid |
| 21 | Robert | 70 | Lawyer and CPA | Big law firm | Late |
| 22 | Eric | 89 | Other | Government | Late |
| 23 | Ian | 89 | CPA | Government | Late |
| 24 | Naomi | 51 | Lawyer | Other | Early |
| 25 | Leilani | 61 | CPA | Small accounting firm | Early |
| 26 | Andrew | 78 | CPA | Industry | Mid |
| 27 | Allison | 63 | Lawyer | Other | Late |
| 28 | Natalie | 86 | CPA | Small accounting firm | Mid |
| 29 | Amir | 88 | CPA | Small accounting firm | Mid |
| 30 | Leah | 43 | CPA | Big 4 | Mid |
| 31 | Luc | 83 | CPA | Small accounting firm | Late |
| 32 | Raymond | 83 | CPA | Small accounting firm | Late |
| 33 | Ulrika | 62 | CPA | Big 4 | Mid |
| 34 | Hector | 37 | CPA | Big 4 | Late |
| 35 | Albert | 91 | Lawyer and CPA | Small accounting firm | Late |
| 36 | Lauren | 55 | Other | Industry | Early |
| 37 | Kaylee | 72 | Other | Other | Early |
| 38 | Benoit | 78 | CPA | Small accounting firm | Late |

(Table 1 is concluded on the next page.)

TABLE 1 Concluded

CPA = chartered professional accountant.

- a Because many interviewees preferred to remain anonymous, pseudonyms have been used.
- b The big law firms are the 6 firms with the largest tax practices in Canada (Lexpert [www.lexpert.ca], under "Practice Area Rankings," 2016). The Big 4 accounting firms include the respectively associated legal firms, and the mid-size firms are the 6 that round out the 10 largest accounting firms in Canada (Gundi Jeffrey, "Canada's Accounting Top 30," *Bottom Line*, April 2016, at 13). All other accounting firms, including sole practitioners, are classified as small accounting firms. Those who did not work for a firm or in industry or government have been classified as Other. Individuals were classified according to their position at the time of the interview, except for two former tax professionals, who were classified according to their last tax-related position.
- c Interviewees with less than 8 years of experience are considered to be at the early stage of their career; those with 8 to 25 years of experience, at the middle stage; and those with more than 25 years of experience, at the late stage.

Source: Till-Arne Hahn, "The Practice of Tax in Canada: Understanding the Community, the Work and Structural Initiatives of an Emergent Profession" (PhD dissertation, Queen's University, 2021). Hahn's study draws on different material from the same interviews and survey employed in the present study. Reproduced by permission.

inherently vary, any differences would be attributable more to the nature of the task itself than to the individual performing it or their training. Consequently, particular attention was paid to interviewees' descriptions of how individuals in the respective professions approach work that both accountants and lawyers commonly engage in, such as tax planning more generally, and structuring more specifically.

Findings

We identified four dimensions along which accountants and lawyers were perceived to differ (at least initially), as well as a philosophy that appears to guide their overall approach. In this section, we discuss each of these in turn.

Basic Orientation: Focus on (the Impact of) Numbers Versus (the Meaning of) Words

Well, I guess at the most fundamental level, the lawyer's work is working with words, and the accountant's work is working with numbers. So, lawyers are very focused on the language, the statute of case decisions, of administrative decisions. And of course, when you work with language, it's all a question of interpretation, of understanding. So, all of these things are the lawyer's skill set—is being a wordsmith and a word interpreter or a language interpreter, understanding what's being said, what it means, what are the options. Is it vague? Is it not? What is it saying? [Immanuel, lawyer]

As Immanuel said, the first and most basic dimension is the orientation toward either words or numbers. Confirming existing stereotypes,¹⁰⁵ accountants were described

¹⁰⁵ See Friedman and Lyne, *supra* note 47; and Dimnik and Felton, *supra* note 47.

as being more comfortable with numbers and lawyers with words, the former being focused on counting or calculating, and the latter on reading or writing.¹⁰⁶ The following is illustrative of this notion:

People tend to laugh at this fact that lawyers always produce memos, and accountants always produce Excels. So whatever question, you can ask the same question to both, and one will write to you a memo that will potentially not have a single number in it. It may have the answer in written form, but not necessarily “\$20,000 of tax.” The accountant will typically send you an Excel that has only numbers and very few letters in it, and it will be “\$20,000.” So that’s the distinction, I guess. [Immanuel, lawyer]

This quotation again highlights the orientation of the respective professions toward words or numbers, but it also suggests that, regardless of their professional background, differently trained practitioners will often ultimately arrive at basically the same response. In short, accountants and lawyers recommend identical treatments, even if their approaches and ways of expressing a solution may differ.

While it was suggested that accountants may be more aware of what things translate into “in terms of monetary impact” (Ibrahim, CPA), many interviewees stated that accountants were less sensitive to nuance. On the other hand, lawyers, as “word-smiths” (Immanuel, lawyer), were described as being sensitive to interpreting subtleties in language, as illustrated by the following comments:

It’s hard to explain the differences that lawyers are more focused on words—why the Act uses this word or some other words or a combination of words. I remember spending hours thinking and researching what’s the difference between “consists of” and “derived from” and phrases like this. And we focus more on case law and the differences in case law, and even different opinions expressed by the judges. And sometimes we would even explore a particular dissent, opinion of dissent, and how this developed during the years, and whether this would at one point become the dominant position or not. So, we tend to focus more on the words and how commentators, judges, have interpreted those words, and how this can be useful for a file. [Ophelia, lawyer]

The ability to better understand the use of language is arguably the basis for lawyers being more skilled at interpretation. Specifically, it alerts them to vagueness in language, or in the case of the Income Tax Act,¹⁰⁷ the many grey areas of the law, which can often be understood only in the context of other laws, as further elaborated below. Most interviewees confirmed that lawyers tend to be more proficient at interpretation. However, although words were generally viewed as being more open to interpretation, some suggested that in a way numbers were also “codes” (Henri, CPA)

¹⁰⁶ As Ivan (CPA) and Ibrahim (CPA) suggested, though, compared to lawyers more generally, tax lawyers often also have a relative ease with numbers; otherwise, they would likely not have pursued a career in tax.

¹⁰⁷ RSC 1985, c. 1 (5th Supp.), as amended (also referred to herein as “the ITA” or “the Act”).

and thus subjective as well. This observation is linked, partly, with the broader understanding of a client's reality, discussed later.

Basic Mindset: Compliance Versus Advocacy

[My] sense at the beginning when I started practising was that the accountants were more deferential to the tax authorities, and the lawyers are more willing to go to bat for their clients. I don't know if that's because the legal training, it's an adversarial way of training. Right? Think about the litigation elements and others. You're representing your client. Whereas [for] the accountants and the CPAs, in particular, the fundamental professional responsibility is independence. Right? It's a very different way of coming at that public service aspect. [Evelyn, lawyer]

The second dimension that we identified is the basic mindset, which is closely linked to some of the basic tax work commonly performed by the accounting and legal professions. For accountants, the product is often a number in a tax return or a financial statement, in the case of tax provisions, whereas for lawyers it may be the wording in a contract or other legal document, which might eventually be contested. As Evelyn's comments above suggest, accountants—particularly those with an audit background—are taught to be independent of their clients; thus, they may enter the field with more of a compliance mindset.¹⁰⁸ Lawyers, on the other hand, are more inclined “to go to bat,” or be resolute advocates, for their clients.¹⁰⁹ This more adversarial approach may be tied to litigation, but—being part of their basic training—it can lead to a deeply rooted mindset among lawyers, as the following comment suggests:

[Attorneys] are taught all along to think how the other one is going to hit us and how we should hit back, or hit first, to protect our client. So it gives a totally different approach when you are looking at a problem. [André, lawyer]

It is important to note that, regardless of their background, few of the individuals that we interviewed actually worked full-time in compliance or litigation.¹¹⁰ Nevertheless, it was suggested that accountants would generally be more familiar with tax forms and their instructions, which would give them “a very complete picture of, and

¹⁰⁸ Although accountants may enter the field with more of a compliance mindset, we acknowledge that this does not preclude them from sometimes engaging in aggressive tax planning. As others suggest (Feller and Schanz, *supra* note 2; and Hahn, *supra* note 79), creativity matters in tax planning, which, as we explain later, may be more directly associated with some of the other dimensions.

¹⁰⁹ See Patterson, *supra* note 53; and Cockfield, *supra* note 53.

¹¹⁰ This is not unusual. Full-time tax litigators are a minority among tax lawyers, since most work is in the planning area. As for those trained as accountants, many have compliance experience, but most of it will have been obtained early in their career. Routine work in compliance is typically performed by junior staff or, more recently, outsourced by the larger firms: see Robertson et al., *supra* note 24; and Daugherty et al., *supra* note 24.

of exactly how the system works" (Yadin, lawyer). As Yadin elaborated, though, "[the] flip side . . . is [that] sometimes accountants will treat these forms and guides and tax returns as though they're gospel." In this sense, the compliance mindset can manifest itself in the deference to tax authorities to which Evelyn and others referred. As another interviewee suggested, this may be the opposite of an advocacy mindset:

[A] lot of the accountants, will say, "Okay, what will the CRA [Canada Revenue Agency] say," and they'll stop there. If the CRA's not gonna bless them, they're not gonna do it. The lawyers will say, "Well, the CRA says that, but they probably can't win in court." So, on that side, the lawyers tend to be more aggressive. [Ryan, lawyer]

At the same time, a compliance mindset may also instill a certain sensitivity, particularly to something that might raise a red flag (Robert, lawyer and CPA), as the following illustrates:

[Accountants] are much more sensitive to information that can be gleaned from the filings that support tax planning or positions taken, because they're doing the compliance. Right? Lawyers typically don't do compliance. If they do, they're not very good at it. I can say that as a lawyer. Whereas I think accountants, even the very junior ones, understand [that] when you put something on a form that's filed with the government, especially now where it's electronic, the CRA can use data analytics and other technology tools to basically extract information and analyze significant volumes of data. You're basically communicating things in a way that may not be obvious to others, and I think accountants are in tune to that, and they're much more sensitive to what they would call filing positions. What does this filing position reveal about the underlying tax approach that a client is taking? [Evelyn, lawyer]

While this sensitivity to what might be gleaned from the information contained in filing positions might be born of a compliance mindset, it could also be viewed as a more defensive equivalent to the advocacy mindset.

As stated, only a minority of tax lawyers are actively involved in litigation, yet the advocacy mindset engendered by it pervades their approach to tax work. Tied to their previously discussed facility with language, this will often be discernible in their writing:

[Lawyers] always think about "How will we express this in the contract?" So, they can express things better because they know that someone will have to write it in plain English so that it's understandable and it doesn't lead to 10 different interpretations. It's not subject to contestation 10 years down the road. [Ivan, CPA]

Being effectively a way to preclude multiple interpretations and to avoid future disputes, the attentiveness to words that Ivan describes is defensive in nature. However, as Lucy (lawyer) explains, the advocacy mindset can also manifest itself in more elaborate and assertive ways:

I see the closing agenda. And then I start thinking about how I'm going to evidence my story. Where I can leave traces, clues, as to . . . Maybe there's a grey area in the law and I'm trying to make an argument, and this is my story, then I ensure, I leave traces of that everywhere to make sure that this implementation has the best argument. If I were going to get audited, what document would I show? Where, strategically, would the document be? Would it be in a separate document? Would it be an appendix? Even really basic things, is it going to be in the appendix? Is it going to be misconstrued because it's mixed in with another document? . . . So, it's about clarifying your intent, and ensuring that your objective is as well documented as possible in order to be supported if there was a litigation situation. So, we always think, how do I build my file in case there's litigation? [Lucy, lawyer]

While the aspect of clarifying or avoiding ambiguity remains, Lucy's approach is more strategic. Crafting her "story" with what she labelled as "self-serving evidence," she systematically builds up support for her arguments. Despite having done "zero litigation" herself, Lucy demonstrates that, as a lawyer, she is sensitive to how something may be viewed in a dispute, or to the definitive test that a tax plan might face in the courts. This aspect of tax practice is linked with the broader understanding of the law discussed next, as well as the emphasis on achieving the right result, as discussed later.

Broader Sensitivity: Understanding the Broader Client Reality Versus the Broader Law

It's crazy how I never realized this. As a tax lawyer, you don't know the client, because you don't know anything about them. You never did their tax returns, you don't know the CFO [chief financial officer], you don't know the controller; you don't [know] anything. You don't have any historical information. [Lucy, lawyer]

The third dimension relates to the broader context that influences or informs the approach of practitioners. While accountants often have a better awareness of a client's specific circumstances, lawyers are more sensitive to any broader legal issues. Interviewees suggested that those trained as accountants have a broader view of the overall context and a narrower view of the relevant legislation, typically being more focused on the facts of a situation rather than the applicable law. The differences hint at somewhat distinct approaches to diagnosing problems. As Ophelia (lawyer) stated, "the accountant's background is more fact-specific." The greater focus on facts may be due to the fact that accountants—if they have experience working as auditors—are specifically trained to acquire sufficient knowledge of their client's business. It may also relate to the more repetitive nature of the other work routinely performed by accountants and their "ongoing relationship" with clients (Albert, lawyer and CPA).

As suggested by Lucy's comment above, more continuous relationships provide accountants with a better understanding of a client's history. Others observed that "accountants are generally more business oriented" and "more in the front lines"

(Albert, lawyer and CPA). As Lucy explained, the lack of background information could leave her detached from certain practical realities:

So, you're coming in there with very little historical information. And it's a very abstract concept to put together a step plan. So, let's say I would say, "Oh roll over"; my step plan would say, "Roll over, using the smallest elected amount possible." I don't know what the elected amount is going to be; I don't do that. I don't know. I don't compute the ACB [adjusted cost base]. I don't know. The concept is that's what you do. And then I might put in the agreement, "The parties will agree to select an elected amount chosen by the bank." And then I never know what happens. So, it's very easy to sit on your ivory throne and say, "Roll over, just roll over." [Lucy, lawyer]

Lucy's further discussion revealed, however, that this disconnect was potentially related to her work environment. She claimed that after switching to an accounting firm, she became more sensitive to what might be operationally feasible. Providing the example of a monthly markup to be calculated for the purposes of a tax plan designed for a client with a "terrible" computer system, she elaborated:

I know for a fact that they will never be able to punch out and get the number that I want in order to compute this markup that needs to be done every month. So, this is completely impossible for them to do. So, what I do is, now I know, . . . I call and say, "What number can you come out with easily if you punch in three keys from your computer system?" They're like "Oh yeah, yeah, gross revenues. Yeah, that's easy. That, we have." Or whatever, or like net revenues, "That number we have." Just perfect; I'll just use that number. So had I not been aware of that, I would have made up something completely in the abstract, and the client would have been required to live with that. [Lucy, lawyer]

As described, being more mindful of a client's reality allows a practitioner to be more aware of what might inadvertently create problems in implementation. As Abbott emphasized, treatments must ultimately fit a client's circumstances.¹¹¹ Beyond this better understanding of what might be practically possible, it was also suggested that accountants might have a greater sensitivity to more far-reaching potential consequences:

In terms of lawyers and accountants, sometimes the lawyers don't really understand the impact the plan will have on the financial statements, and the accountants understand that if the financial statements don't look right, that may affect the financing. [Alex, lawyer]

The attentiveness to the financial implications that Alex describes is linked to the basic orientation and accountants' tendency to focus on the impact of numbers.

111 See *supra* note 78 and the related text.

While accountants might be more conscious of the realities of the client's context, lawyers were described as having a better grasp of the legal context, which is often relevant in tax practice, as illustrated by the following comments:

[W]hen it gets to estate tax planning, for instance, you have to refer to the Civil Code in Quebec and common law in other provinces, and know and understand the difference between a usufruct and legal beneficiary or de facto beneficiary. Many concepts, lawyers have more ease at understanding when it gets very conceptual or it refers to a legal concept, especially. [Ivan, CPA]

Given their training, lawyers tend to see the Act not only as a "completely legal thing" (Yadin, lawyer), but also in the context of wider laws:

[T]here's a lot of private-law issues that arise in tax files, which an accountant, I would assume, is not really in a position to comment on, because while an accountant would have a lot of familiarity with the Income Tax Act, they wouldn't have received training in property law, contract law, the applicable private-law principles that are driving what's going on in the Income Tax Act. [Yadin, lawyer]

Elsewhere in the discussion, Yadin offered an example of how he would be able to draw on broader fields of the law to understand a term that might be relevant for tax:

[A]s a lawyer, I'm familiar with all kinds of case law and all kinds of topics [that are] relevant in the context of interpreting the Income Tax Act. If I'm interpreting a provision of the Income Tax Act that uses the word "seizure" (or whatever it is), I may be aware of jurisprudence that has nothing to do with tax on the meaning of the term "seizure." [Yadin, lawyer]

As Yadin stated, the ability to draw on a wider range of jurisprudence allows him to better interpret certain provisions of the Act. In many regards, this capacity is linked to greater proficiency, overall, in matters of interpretation. Not having this broader understanding, accountants may be prone to reading the Act more literally or "as is" (Anne, CPA), as the following suggests:

[C]ourts have told us to read the Act, contextually, purposefully. I think because probably the accountants do not have a legal background . . . they tend to read the words textually. They're not as used to reading the words contextually or purposefully. They don't have the background to go on to see how words are interpreted in other statutes in other areas of law. [Ryan, lawyer]

Given their background, lawyers are generally more adept at understanding the law, on the basis of its broader intent. As Ryan explained later in the interview, lawyers are consequently more aware of what may work legally, compared to practitioners trained as accountants:

[A] lot of times the accountants will read the Act very contextually and so say, "I can do this," and the lawyers will say, "Wait a minute. Yeah, you can interpret the

words to say that, but I don't think you're ever gonna succeed if it gets to court.”
[Ryan, lawyer]

Relating to the appreciation of what may be feasible from a legal perspective, lawyers were also described as being more sensitive to specific issues in the legal execution of tax plans. For example, while from a tax perspective the differences between a merger and a liquidation may not be very significant, legally the latter can create many more complexities:

A merger is much simpler, commercially, often than a liquidation. A liquidation entails a transfer, in a sense, and if it's a regulated organization, if it's [a] regulated industry, if there are a lot of permits, if [incomplete] . . . I know the legal documents often will include a merger as a non-event, often in a lot of the material contracts. But a liquidation is a transfer of assets, so it's a completely different legal transaction. So it's much more complicated. So, let's say if you don't appreciate that difference, and this is a very basic example, if you don't appreciate that difference, you say, “Oh, an amalgamation creates a year-end, a liquidation doesn't. Let's just liquidate.” But if you know that it's much more complicated to liquidate from a commercial standpoint, then you wouldn't propose a liquidation. [Lucy, lawyer]

As Lucy stated elsewhere, “knowing how it's going to be implemented makes you a better planner.” In the other examples previously discussed, she explained how practitioners trained as lawyers would perhaps be less inclined to have a practical view of the implementation of a tax plan, one that takes a client's realities into consideration. Here, she illuminated how lawyers would be more cognizant of how a plan would work legally. In short, while lawyers might be less proficient at tailoring treatments, they might have a better sense of the effectiveness of proposed solutions.

Process Orientation: Application Versus Procedure

[L]aw is more abstract, conceptual, whereas accounting is very geared toward finding a specific number, counting things properly, and making things balance out together. It's maybe part of the training, so your mind . . . that's your first reflex, right? It's got to balance out; it's got to add up. Whereas a lawyer doesn't . . . there's no such . . . it doesn't have to add up. That's why I'm asking myself the question, and I could argue the answer that I want. Your end result is not finding an answer to put on the balance sheet, or to rectify or to ensure that that's the right answer. [Lucy, lawyer]

The last dimension relates to the approach typically adopted by practitioners in the performance of their work. Simply put, accountants were perceived to be more adept at applying the rules, and lawyers at interpreting and arguing, with the former focusing the process on the result and the latter on the process itself. The distinctions identified suggest that individuals may approach the task of inference in fundamentally different ways, reflecting their initial training. As Lucy and others explained, accountants tend to be more fixated on arriving at a definitive answer. Starting with “your basic debit equals credit,” they “have to come up with something that balances”

(Albert, lawyer and CPA). While experienced practitioners are unlikely to simply follow the cookbook approach to which Cowan and Cutler refer,¹¹² those who were trained as accountants were nevertheless described as being more focused on the application aspect of the rules, and overall, given their tendency to look at “the structural way things get done” (Andrew, CPA), more structured or result-oriented in their approach. For those who were trained as lawyers, concepts were perceived to matter more than calculations. Lawyers were described as not being nearly as driven by the end result; possibly on account of their greater level of comfort with interpretation, argument, and ambiguities in general, their approach was perceived to be guided by an ongoing questioning rather than a gravitation toward premature responses. Perhaps because they are more procedurally oriented by training, lawyers were seen as more methodical and rigorous in their analyses. Being less directly focused on the outcome, the answer to a question is whatever is supported by sufficient reasoning or a systematic following of the process.

Overall, the application focus of accountants goes beyond the need “to find the right number” (Lucy, lawyer) for compliance purposes. Relating to the broader sensitivity discussed earlier, interviewees suggested that accountants had a better overview of the implementation of plans, partly because they are frequently responsible for the specific filings. As Lucy explained, for tax plans to work, all the steps must actually be implemented:

So, [...] you could have a tax plan, the most beautiful tax plan in the world, and if it's not implemented in the legal transactions as such, you have nothing. Okay, so fine, you've implemented perfectly in the legal transactions and [if] it hasn't been filed properly, there's no point in having that beautiful plan in your slide deck. So, I never thought of the compliance part before I joined [a Big 4 accounting firm], but then I realized how that's also a very critical point. That hasn't been played up enough, I think [...] you do the plan, you implement it, and then you never see the tax return reflecting it. How is [...] the person doing the tax return going to know what to reflect? And the way they reflect it is also part of your story. [Lucy, lawyer]

As Lucy suggests, the compliance aspect—with which accountants are more comfortable—is critical to the proper execution of plans. However, her comment also hints at accountants’ ability to “take it to the end” (Albert, lawyer and CPA), or in the words of Ibrahim (CPA), helping clients to “get there”:

I find that non-accountants have trouble helping you get there. They can tell you what it is, but they can't help you to actually get to the end destination by implementing and saying, “Okay. This is what we recommend you to do, and now we're going to do it for you. You're going to need to fill this out. You're going to need to reflect it like that in your tax returns. You need to think about these other forms that need to be filed,

¹¹² Cowan and Cutler, *supra* note 6, at 339.

and these are the numbers. This is how you reflect it in your financial statement.” So, all of that goes with a certain planning. Accountants, I feel . . . and I’ve always felt that way, that we can go all the way, rather than stopping at some point and saying, “Okay. I gave you the plan, but I don’t know how to implement it.” [Ibrahim, CPA]

While accountants’ application mindset may help them to navigate through the different steps required to carry out tax plans more proficiently, this skill may also permit them to evaluate different options better, for example in the case of a sale of a business:

[Accountants] are really good at running through the numbers and building one step slowly until you come up to the end result. [Accountants] are very good at presenting different scenarios—let’s say, sale of shares as compared to sale of assets and how the different tax attributes would play into this. In this respect, I find that the tax accounting profession is really ahead of the lawyers. You have a mastery of this which not many lawyers do have. Like, I know lawyers that are brilliant in all they do, but I don’t think it comes at such an ease as for accountants. [Ophelia, lawyer]

Although accountants may be more focused on the “solution” and its implementation because of their orientation toward the application of the law, it was suggested that they are less naturally adept at the process of working through some problems, particularly those requiring research. As Anne (CPA) confessed, when she started working, she would avoid reading the Act “like the plague” because it is “a law book.” Expanding on this, she explained that she learned the importance of methodically referring back to the law to resolve issues only during her advanced training:

You’ll see the [CPAs], for the first couple of years I find—and I think it’s normal because we have had no training, right—we’ll always go to commentary, we’ll always go to IT [interpretation] bulletins. And then you start reading now, especially when I started going into In-Depth and they start teaching you right away, well, there is an ordering to, let’s say, how respected is your research and your tax position. And initially when you come in, they try, they would sit you down and explain that, but you’d still try and go to the commentary. And I remember I’d get flak. I’d go to my partner, I’d be like, “Oh, I found the answer. It’s here in this article.” And they’d be like, “Well, what does it say in the law?” They’re like, “I didn’t read the law.” And he’s like, “Go back and read the law.” It was a constant battle for, like, a year. You never had that with lawyers. [Anne, CPA]

Others similarly observed that the methodical approach to looking at tax problems would come more naturally to lawyers:

It’s just we have a methodology that was taught to us in a certain way. It’s like, “You all look at the Act and then you look at the case law, and case law is super important,” and you just think in that way. I think it’s more natural for us to start from that methodology. [Lucy, lawyer]

As Lucy's comment suggests, the methodical approach encompasses more than just rigour in research, because it prompts lawyers to think in certain ways. As she explained later, lawyers learn to become more skeptical when it comes to interpretation:

And you become a lot more skeptical, where it's, "Is that really what it says? Is this really what they mean?" Because you're always wondering about how they interpret, how this provision can be interpreted completely differently from the other provision in the Act that has the same words. [Lucy, lawyer]

The skepticism that Lucy described manifests itself in constant questioning. Albert, who became a lawyer after being an accountant, confirmed that it was law school that taught him to question more and, overall, "how to think":

But I learned maybe more questioning, more understanding that every word has a meaning and how to find that meaning, in terms of jurisprudence, administrative law, stuff like that. It taught me how to think. And I was a good thinker before. [Albert, lawyer and CPA]

Elsewhere in the discussion, Albert offered an example of how this way of thinking and approaching problems in general would prompt him to investigate issues more deeply than accountants:

I remember sitting here once and there was an accounting issue. And a bunch of people around the table, [...] they just took up the handbook and they started reading it. And saying maybe it means this, maybe it means that. And over, and over, and over again. And I just said, "Look," I said, "This doesn't help. You've got to this point. Now do your research into it. There are commentaries. There are experts in the field. Don't just stop here and read it and debate amongst yourselves." And that's a law thing, to my mind. That's what lawyers learned. They read cases. Some of them even argue cases. Not that many, from what I see. But some of them argue cases. And they know that just doing a moot court teaches you how to do this, how to find a reasoned answer. You may be wrong, but you've reasoned it. [Albert, lawyer and CPA]

As Albert explained, it is through the systematic process of research that lawyers learn to reason and build up arguments, ultimately allowing them to arrive at a "motivated opinion" or "reasoned answer." In short, in working through problems, lawyers may gravitate more naturally to constructive processes of inference.

Overall, in comparing the approaches of accountants and lawyers, Albert offered an analogy from mathematics:

[L]et's remember back to your math days. Algebra was formulas; that's like accounting. Geometry was logic. You start here and you come to here, saying this is your proposition, this is your proof, and here's how you get to the proof and you say, "Yes. It's true." So, law could be more of a geometric process. And accounting is more formulaic. [Albert, lawyer and CPA]

Whereas the approach of accountants may be akin to stepwise working through a formula to arrive at a specific solution, the approach of lawyers consists of arriving at a certain “truth” through systematic reasoning. While the approach to tax work can be summarized along the four dimensions discussed, a difference in overall philosophy also emerged.

Overall Philosophy: “Does It Matter?” Versus “Is It Right?”

It's not that lawyers are not practical. The thing is, [...] I didn't appreciate the concept of, you may be wrong, but if you correct something, it comes to the attention of the tax authorities. Therefore, sometimes it pays to be consistently wrong. So, consistency has a very important value. So, you have to then say, “What are my risks?” That's being practical. Now if you say, “We always have to do everything correctly,” then consistency is not . . . it's not an issue. But you're representing your client, so you have to tell your client, “These are the risks, this is what happens if you do make a change.” That's a matter of practicality. [Alex, lawyer]

Stated glibly, the respective overall philosophies of accountants and lawyers can be summarized as the former focusing on the question “Does it matter?” and the latter on the question “Is it right?” Like Alex, many suggested that accountants generally have a more practical or pragmatic attitude, possibly because they are typically “closer to the ground” (Robert, lawyer and CPA). In turn, lawyers were seen as being more guided by principles,¹¹³ or by a more conceptual, abstract, or theory-driven approach. In offering the example of two mentors, Albert (lawyer and CPA) stated that the one who was an accountant was “more practical” because he had “a lot more client contact,” while the other, a lawyer, was “very much an academic” and “much more of an ivory tower person.”

Overall, as Ibrahim (CPA) described it, the distinction can be viewed as the difference between finding a “suitable solution” for a “particular situation,” and the “best” or “theoretical answer,” or, alternatively, determining “What works in this particular case?” rather than “What is the ultimate perfect scenario?” The impulse to get to a useful or relevant answer as opposed to a “right” answer may be explained by the financial reporting objectives that accountants are taught. Beyond the notion of consistency to which Alex (lawyer) referred, accountants may be influenced by the concepts of decision usefulness and materiality. Lucy (lawyer) elaborated on the latter:

[I]f you're looking at a tax cushion, the accountant will look at the technical provision, but there's a pretty big margin to apply in law whether you're right or wrong. Or “Do you think, more likely than not, that this is right or wrong?” . . . there's a threshold of materiality that [accountants are] ready to take, whereas lawyers are much more keen.

¹¹³ To be clear, “more guided by principles” does not mean more ethical. While perceived differences related to aggressiveness were discussed, overall there was no suggestion that lawyers were more ethical or moral than accountants, or vice versa.

There's no materiality; the answer is the answer to the question. The legal arguments need to be set out in a certain way. The intellectual, the logical, things have to be set out in a certain way. There's no materiality concept. That's one of the things that I found strange. And I say that because what's strange is, when I look at a question, the level of materiality to me is not relevant. What's the answer? What's the likelihood of risk? My goal is to try to find the answer, and if there's no answer, I try to make it; I try to define the level of risk as clear, as accurate as possible for the client. And they make the decision based on my assessment on the level of risk, whereas an accountant, what's built into their reflection is this materiality. It's like "if this is not important, why do you care?" [Lucy, lawyer]

As Lucy stated, lawyers tend to be “more keen” to find “the answer” and to be “as accurate as possible.” On the other hand, accountants—perhaps on account of being more practically minded—may be more willing to accept a broader range of responses, provided that they satisfy a basic threshold, and they will question the value of refining an answer beyond that point. While the overall philosophy can be seen as the general mindset guiding each profession in its approach to tax work, the philosophies are clearly linked to the four dimensions. Our second study permitted us to corroborate and refine both, as discussed next.

STUDY 2: REFINING DIMENSIONS AND PHILOSOPHIES IN PRACTITIONERS' APPROACHES TO WORK

Method and Respondent Background

Recall that in studying tax practitioners’ approaches to work, we employ multiple methods, because these can offer insights into “different aspects of empirical reality.”¹¹⁴ Thus, for our second study, we conducted an independently administered web-based survey in 2017 to refine the findings from study 1. Supplementing interviews with a survey is not new¹¹⁵ and is how methods are most frequently mixed.¹¹⁶ This triangulating strategy is effective¹¹⁷ because it combines a less structured approach, entailing a high level of researchers’ involvement with a chosen population, and an approach that is more structured, involving researchers less directly.¹¹⁸

¹¹⁴ Norman K. Denzin, *The Research Act: A Theoretical Introduction to Sociological Methods* (Oxon, UK: Routledge, 2009), at 26 (original work published in 1970).

¹¹⁵ Sam D. Sieber, “The Integration of Fieldwork and Survey Methods” (1973) 78:6 *American Journal of Sociology* 1335–59.

¹¹⁶ Alan Bryman, “Integrating Quantitative and Qualitative Research: How Is It Done?” (2006) 6:1 *Qualitative Research* 97–113 (<https://doi.org/10.1177/1468794106058877>).

¹¹⁷ McKerchar, *supra* note 13; and McKerchar, *supra* note 16.

¹¹⁸ William G. Axinn and Lisa D. Pearce, *Mixed Method Data Collection Strategies* (New York: Cambridge University Press, 2006).

For the distribution of the survey, we solicited and obtained support from the CTF and the Association de planification fiscale et financière (APFF).¹¹⁹ The executive director of the CTF endorsed it in her monthly message, and an announcement with a link was posted on the CTF website.¹²⁰ The APFF similarly endorsed the survey in its quarterly publication.¹²¹ Overall, 116 completed responses were collected, corresponding to a participation rate of 55 percent and a completion rate of 79 percent.¹²²

As for the respondents, 45 (39 percent) were legal professionals, 49 (42 percent) were CPAs, 2 (2 percent) were both, and 20 (17 percent) were neither. Most (103, or 89 percent) were full-time tax practitioners with advanced tax training in the form of either a tax-related master's degree (72, or 62 percent) or the in-depth tax course offered by CPA Canada (35, or 30 percent).¹²³ The largest proportion (57, or 47 percent) worked in public practice for accounting firms (39, or 34 percent), law firms (12, or 10 percent), or as sole practitioners (6, or 5 percent), whereas 15 (13 percent) worked in industry and 24 (21 percent) worked in government. The remaining 20 respondents worked for other organizations (including academia) or preferred not to provide this information. As to age, 25 (22 percent) were under 30, 43 (37 percent) were between 30 and 45, and 42 (36 percent) were between 45 and 65. The remaining 6 were over 65 or preferred not to provide this information. Overall, compared to the interviewees in study 1, the survey sample was more balanced in representing a range of ages, suggesting that we managed to access a wider population through our survey.¹²⁴

119 The APFF is a Quebec-based organization that focuses on both tax and financial planning. Similarly to the CTF, many of its members are lawyers or accountants, but the APFF also appeals to a range of financial advisers.

120 Heather L. Evans, "Message from the Executive Director" (May 2017) (www.ctf.ca/EN/Newsletters/Directors_Message/2017_Monthly_Messages/May_Message_2017.aspx).

121 Maurice Mongrain, "Éditorial" (June 2017) 22:2 *Stratège* [Association de planification fiscale et financière] 5.

122 Response rates cannot be determined for web-based surveys without knowing how many individuals have seen the survey or its links. See Barbara K. Kaye and Thomas J. Johnson, "Research Methodology: Taming the Cyber Frontier: Techniques for Improving Online Surveys" (1999) 17:3 *Social Science Computer Review* 323-37; and Martine Van Selm and Nicholas W. Jankowski, "Conducting Online Surveys" (2006) 40:3 *Quality and Quantity* 435-56. Accordingly, Eysenbach proposes other metrics for online surveys. The participation (or recruitment) rate measures how many of the unique visitors to the first page of a survey commenced a response, and the completion rate measures how many of those commencing the survey also completed it. See Gunther Eysenbach, "Improving the Quality of Web Surveys: The Checklist for Reporting Results of Internet E-Surveys (CHERRIES)" (2004) 6:3 *Journal of Medical Internet Research* (<https://doi.org/10.2196/jmir.6.3.e34>). In the case of our survey, 268 individuals visited the first page, and 147 effectively started the survey.

123 The relatively high proportion of individuals who had completed a tax-related master's degree reflects the fact that a disproportionate share of respondents were located in Quebec, where this form of training is more common.

124 McKerchar, *supra* note 13.

While the dimensions of practitioners' approaches and their overall philosophy emerged from study 1, the survey allowed us to further examine the perceived differences between the approaches of accountants and lawyers to tax work, and to refine our findings. Respondents who indicated that they viewed the two professions as at least somewhat different in their general approach were asked in an open-ended question to elaborate on what they believed to be the biggest differences.¹²⁵ Open-ended survey questions are a useful tool for further exploring broader populations and collecting data from which to make analytical generalizations.¹²⁶

Overall, 94 participants responded to the open-ended question. For the most part, the responses were relatively short, averaging 28 words, but they ranged up to 143 words. One author analyzed these responses and, coming up with 30 different codes, coded them 211 times. A second author independently applied the same set of codes to the responses, and the rate of initial agreement was 73 percent. Differences in the coding were discussed and resolved.

Findings

The Question of Wider Applicability

Table 2 provides a summary of the codes and the grouping of these codes in relation to the four dimensions and the overall philosophy described in study 1.¹²⁷ The single most frequent code concerning the approach adopted by accountants related to their orientation toward the impact of numbers ($n = 32$), whereas for lawyers, the most frequent code related to their sensitivity to the legal context ($n = 35$). In both cases, the second most frequent code corroborated the overall philosophy guiding practitioners in each of the two professions. Although the survey did not permit us to delve as deeply into the perceived differences, it triangulated the findings of study 1¹²⁸ and

125 Respondents were specifically first asked, "Thinking now of how lawyers or accountants, in general, approach tax problems, to what extent, if any, do you believe accountants and lawyers differ (or not differ) in their approaches?" Those who responded, "Somewhat different," "Very different," or "Extremely different," were then prompted with the open-ended question "Please describe what you believe are the biggest differences." Both questions were part of the broader survey exploring several themes related to the practice of tax in Canada. The full survey instrument is available upon request.

126 McKerchar, *supra* note 13; and Margaret McKerchar, "Designing and Administering Surveys," in Lynne Oats, ed., *Taxation: A Fieldwork Research Handbook* (Oxon, UK: Routledge, 2012), 34-41.

127 Table 2 contains only 27 codes, excluding 3 codes that did not directly relate to the survey dimensions or philosophies. Those other codes were as follows: "Gaps tend to diminish with experience" (coded five times), "Differences depend on area of practice or the actual person" (coded four times), and "Other" (coded nine times).

128 McKerchar, *supra* note 13; and McKerchar, *supra* note 13.

TABLE 2 Perceived Differences in Approaches to Tax Work According to Survey Respondents

| Dimension | Description | Accountants | Lawyers |
|---------------------|---|--|---|
| Basic orientation | Basic focus (or aptitude) of practitioners when they approach tax work | Oriented/sensitivity toward numbers/results/quantitative aspect, financial/economic implications/outcome, monetary impact n = 32 | Sensitivity to legal subtleties/nuances in language/less "black and white" n = 9 Better at writing |
| Basic mindset | Actual client objective (or deliverable) that influences approach to work | Focus on compliance | Focus on advocacy |
| Broader sensitivity | Wider contextual understanding that influences the work | Understanding the broader client reality | Understanding the broader law Focus on the facts |
| | | | Business oriented/sensitivity n = 4 (Table 2 is concluded on the next page.) |

TABLE 2 Concluded

| Dimension | Description | Accountants | Lawyers |
|---------------------|--|--|--|
| Process orientation | Aspect of the process that is emphasized in the approach | <p>Real (versus purely legal) application of the law/non-tax implications Sensitivity to client (accounting) information</p> <p>Approach focuses on the result (or the implementation of the solution)</p> <p>Focus on (applying/following) the “rule” (versus the ITA) = “nuts & bolts”/ mathematical approach</p> <p>Mechanical approach</p> | <p>n = 6 n = 3</p> <p>Approach focuses on the process itself (or working through the problem—the result is secondary)</p> <p>Guided by a methodical/analytical (rigorous/theoretical) approach = better researchers</p> <p>n = 9</p> <p>Detail oriented/focus on technicalities in the law (versus broader application)</p> <p>n = 7</p> <p>Better at analogous reasoning</p> <p>n = 1</p> |
| Overall philosophy | What tends to guide the overall approach | <p>Cartesian approach</p> <p>Guided by comparative models</p> | <p>n = 1 n = 1</p> <p>Oriented toward theoretically correct result—“Is it right?” (driven by principle/idea of getting to “right” result)</p> <p>Conceptually oriented, holistic view (of the law)/ focused on principles/policy/theory</p> <p>n = 16</p> |
| | | <p>Practical/pragmatic approach (focus on risk, probability, experience)</p> <p>Focus on materiality</p> <p>Focus on obtaining a consistent result</p> <p>More concise</p> <p>Seeking tax savings/financial/pecuniary advantage/more aggressive</p> | <p>n = 18</p> <p>n = 2</p> <p>n = 1</p> <p>n = 2</p> <p>n = 3</p> |

CRA = Canada Revenue Agency; ITA = Income Tax Act.

confirmed that the dimensions initially identified were not an artifact of the way we conducted the interviews.¹²⁹

Overall, the four dimensions outlined—the basic orientation, the basic mindset, the broader sensitivity, and the process orientation—along with the overall philosophy, provide deeper insight into the predispositions with which differently trained professionals typically approach tax work, at least initially. However, because in both study 1 and study 2 the participants were directed to compare the two traditional professions, the dimensions highlight the relative differences between practitioners, rather than assess the aptitude of differently trained tax professionals. Further, because the interviewees in study 1 were asked to focus on what struck them when they first entered the field, the distinctions could be based on magnified contrasts. As one survey respondent suggested, “with experience, these differences fade greatly.” Because many interviewees also stated this, we discuss the question of convergence next.

The Question of Convergence

I would say that junior tax lawyers and junior tax accountants are trained very differently. That's stating the obvious. The professional skills they bring to the table are quite distinct in the early years, but I would say to be a successful and well-rounded tax advisor to clients, you really have to acquire some of the skill sets from the other profession. So, I'd say the people who are successful, around about six, seven, eight years of experience, do practise in a way that's substantially similar. That would include detailed ability to engage in statutory analysis and research, critical thinking, writing, presentation of ideas to clients, understanding and assessing and explaining risk and consequences to clients, interfacing with the tax authority and understanding how to do that in the appropriate professional manner. [Evelyn, lawyer]

As Evelyn stated, lawyers and accountants enter the field with different training, but to succeed as tax practitioners, they must acquire some of the skills from the other profession. As she suggested, successful individuals will practise in “substantially similar” ways within about seven years, regardless of their background. Most interviewees agreed that the approaches largely converge, at least with respect to the “tax” aspect:

[I]f you think only taxes, I think there is no difference. After a few years of practice what attorneys do and what accountants do will be pretty much the same. [André, lawyer]

129 Denzin, *supra* note 114; Sven Modell, “Triangulation Between Case Study and Survey Methods in Management Accounting Research: An Assessment of Validity Implications” (2005) 16:2 *Management Accounting Research* 231–54 (<https://doi.org/10.1016/j.mar.2005.03.001>); Sven Modell, “In Defence of Triangulation: A Critical Realist Approach to Mixed Methods Research in Management Accounting” (2009) 20:3 *Management Accounting Research* 208–21; Grafton et al., *supra* note 18; and David L. Morgan and Kim Hoffman, “Searching for Qualitatively Driven Mixed Methods Research: A Citation Analysis” (2021) 55:2 *Quality & Quantity* 731–40.

Particularly with respect to the forms of work that both professions regularly perform, such as tax planning, most believed that “good” practitioners would attain the “same level” of competence:

I believe that tax accountants, tax lawyers, they’re pretty much on the same level. I don’t think there’s any magic, in the sense of a good tax accountant can do the tax plan, or a good tax lawyer can do the tax plan. [Alex, lawyer]

Even if lawyers and accountants may continue to assume different tasks, there was still a sense that a “good” practitioner “can do the other party’s work to a great extent” (Immanuel, lawyer):

A good accountant would know how to read legislation and interpret it and read case law and interpret it. A good tax lawyer would know how to compute tax and review tax returns and understand what’s going on. [Immanuel, lawyer]

The common perception that most practitioners eventually acquire similar skill sets, despite differences in their original training, may be attributable to their aptitude more generally, as one interviewee suggested:

[S]ome accountants could have been lawyers[,] they just chose to be accountants[,] and some lawyers could have been accountants. They have this particular intelligence with numbers but they just chose to be a lawyer. [Ivan, CPA]

Notwithstanding the widespread view that the approaches to tax work would converge, there were also suggestions that some differences might persist:

I would say in 90% of the situations, we come to the same answer, but sometimes in a different way. [Robert, lawyer and CPA]

As Robert suggested, the convergence is not complete, and even if professionals may arrive at the same answer or treatment most of the time, their manner of doing so may still differ, implying distinctions in terms of inference. Henri (CPA) offered the following insight in this regard:

I think over time, the difference between a tax practitioner who comes from an accounting or a legal background, I think it will become less and less. So over time, you gain more experience so you become better or you reduce your weaknesses. Over a long period of time, accounting and lawyer come fairly close to one, but again, personally, I would never be as comfortable interpreting the law, the legislation, as a lawyer. Because, well, at least my perception is that law, it’s more natural to lawyers, because they go to school and they have much more experience in how to read, than myself. So, I think overall, yes, accountants, lawyers should come closer to one, but me personally, I think I would never be able to become as sufficient, or proficient, as a lawyer practising tax law. [Henri, CPA]

As Henri stated, the differences between the two professions will diminish over time because individuals will grow in areas of initial weakness. Despite this growth, though, a practitioner may never fully attain the same level of competence or comfort in the areas in which they were not professionally trained.

To explore more systematically the question of convergence and individual growth, we designed a further study. As described below, study 3 allowed us to probe more deeply into this relationship and to quantitatively confirm the dimensions that we identified in our first two studies.¹³⁰

STUDY 3: TRIANGULATION AND THE QUESTION OF CONVERGENCE

Method and Respondent Background

As mentioned, the objective of study 3 was twofold: (1) to collect further data to provide quantitative support for the dimensions and overall philosophies; and (2) to examine more systematically the relation between experience and the approaches to tax work, including the question of convergence. To achieve this, we followed a multi-step approach.

First, informed by 23 statements initially included in study 2, we drafted a series of statements based on the four dimensions and the overall philosophies. The statements were drafted as self-assessments, but ones in which respondents were not asked explicitly to compare themselves with other practitioners. Since the themes of ethics and tax aggressiveness also emerged in our interviews, we developed and included several statements on these topics. Second, we refined the series of statements by consulting with colleagues and other experts in tax. This allowed us to design statements suitable for conducting a factor analysis, since our goal was to quantitatively corroborate the dimensions.

To further refine the statements, we performed a card-sorting task, drawing on Moore and Benbasat¹³¹ and Santos¹³² for guidance. The card-sorting technique is a qualitative alternative to exploratory factor analysis. Broadly, it consists of subject experts acting as judges to organize a list of potential items into conceptual categories. Several further colleagues and experts agreed to act as judges for our card-sorting task. In an initial sort, the judges define categories on their own, and in later sorts, another set of judges will organize the items into predetermined categories. If judges consistently sort items into the same categories, this will help to demonstrate

130 McKerchar, *supra* note 13.

131 Gary C. Moore and Izak Benbasat, "Development of an Instrument To Measure the Perceptions of Adopting an Information Technology Innovation" (1991) 2:3 *Information Systems Research* 192–222.

132 Gilmar J. Santos, "Card Sort Technique as a Qualitative Substitute for Quantitative Exploratory Factor Analysis" (2006) 11:3 *Corporate Communications: An International Journal* 288–302.

both convergent and discriminant validity of the constructs.¹³³ According to Santos,¹³⁴ the card-sorting technique is especially well suited to studies such as ours, where the research population is small or difficult to access. Appendix 2 provides the final set of 50 statements, as they appeared in the survey.¹³⁵

Next, we used Qualtrics to program the online survey, following Dillman, Smyth, and Christian's guidelines,¹³⁶ and incorporating feedback obtained from colleagues and experts in the field. To allow participants to respond in English or French, the final instrument was professionally translated. The APFF agreed to support our survey by directly sending an e-mail invitation to its members ($n = 2,604$), as well as three reminders. The survey ran for two full months in 2022, during which we collected 208 usable responses.¹³⁷ This represents a response rate of 8 percent.¹³⁸

Table 3 presents the respondents' backgrounds. As in the case of the interviews and the study 2 survey, CPAs accounted for the largest proportion (48 percent), followed by legal professionals (38 percent). Whereas 101 respondents (49 percent) worked for an accounting firm (or an affiliated law firm), 42 (20 percent) worked for a law firm, 21 (10 percent) were sole practitioners, and 44 (21 percent) worked in industry, government, academia, or elsewhere. Most (89 percent) worked at least 1,000 hours annually in tax and can therefore be considered full-time practitioners. Overall, individuals had an average of 17 years of experience working in tax.

As stated, our first objective was to quantitatively confirm the dimensions. In this regard, we used confirmatory factor analysis, which is appropriate whenever an *a priori* structure exists for the data to be analyzed.¹³⁹ In our study, the *a priori* process consisted of both our initial qualitative analysis (studies 1 and 2) and the card-sorting technique used to refine the items for our expected factors.

We first conducted the confirmatory factor analysis on each dimension, using the items that had been drafted for those dimensions. We employed a direct oblimin rotation and confirmed that all the extracted factors had an eigenvalue greater

133 Moore and Benbasat, *supra* note 131.

134 Santos, *supra* note 132.

135 The survey also included questions related to the participants' training and experience, as well as other demographic background information. The full instrument is available upon request, in both English and French.

136 Don A. Dillman, Jolene D. Smyth, and Leah Melani Christian, *Internet, Phone, Mail and Mixed-Mode Surveys: The Tailored Design Method* (Hoboken, NJ: Wiley, 2014).

137 Of the 406 individuals who accessed the survey, 352 agreed to participate by signing the letter of information. Of those, 90 dropped out before starting the main part, 52 did not complete the main part, and 2 failed to complete the demographics section.

138 Response rates for surveys involving tax professionals tend to be low. The range for recently published studies is between 4 percent and 25 percent. See Hahn and Ormeño Pérez, *supra* note 2.

139 Amy E. Hurley, Terri A. Scandura, Chester A. Schriesheim, Michael T. Brannick, Anson Seers, Robert J. Vandenberg, and Larry J. Williams, "Exploratory and Confirmatory Factor Analysis: Guidelines, Issues, and Alternatives" (1997) 18:6 *Journal of Organizational Behavior* 667-83.

TABLE 3 Study 3: Background of Survey Participants

| | | N | Percent ^a |
|---------------------------|-------------------------|-----|----------------------|
| Gender | Male | 110 | 53 |
| | Female | 96 | 46 |
| | Prefer not to answer | 2 | 1 |
| Profession | Lawyer | 71 | 34 |
| | Notary | 8 | 4 |
| | CPA | 99 | 48 |
| | Other | 30 | 14 |
| Annual hours in tax | > 1,000 | 184 | 89 |
| | < 1,000 | 23 | 11 |
| | Prefer not to answer | 1 | 0 |
| Work location | Accounting firm | 101 | 49 |
| | Law firm | 42 | 20 |
| | Sole practitioner | 21 | 10 |
| | Industry | 16 | 8 |
| | Government | 6 | 3 |
| | NGO, academia, or other | 18 | 9 |
| | Prefer not to answer | 4 | 2 |
| Age (years) | Under 25 | 1 | 0 |
| | 25 to 34 | 40 | 19 |
| | 35 to 44 | 55 | 26 |
| | 45 to 54 | 53 | 25 |
| | 55 to 64 | 39 | 19 |
| | Over 65 | 17 | 8 |
| | Prefer not to answer | 3 | 1 |

CPA = chartered professional accountant; NGO = non-governmental organization.

a Percentages listed for each category may not add up to 100 because of rounding.

than 1.¹⁴⁰ We next examined how the statements loaded onto the factors. For loadings less than 0.36, we considered possible reasons as to why the statement did not load as expected. This is in line with recommendations for studies with a sample size of 200, where only loadings above the 0.36 threshold are interpreted.¹⁴¹ Following this criterion, we dropped seven statements because they were not sufficiently clear conceptually. We also reassigned two statements that, upon closer examination, appeared to conceptually capture more than one dimension and for which we also had a possible alternate expectation based on our card-sorting technique.

140 Andy Field, *Discovering Statistics Using IBM SPSS Statistics*, 4th ed. (London: SAGE, 2013).

141 Andrew L. Comrey and Howard B. Lee, *A First Course in Factor Analysis*, 2d ed. (New York: Psychology Press, 1992); and Field, *supra* note 140.

Findings

Confirmatory Factor Analysis

Table 4 presents the final loadings for each dimension based on the 43 statements retained. All of the items retained had a factor loading of 0.36 or more, and 37 had a loading of at least 0.6. Most dimensions also had a reliable Cronbach alpha, the only exception being "Overall philosophy—Principled," which had a Cronbach alpha of 0.482.¹⁴² Accordingly, we find that these statements are good measures of the underlying dimensions, since they correlate highly with each other, demonstrating convergent validity.¹⁴³ On the basis of these results, we created a variable for each factor, averaging the response for all of the associated items. We used these variables in our subsequent analyses.

To confirm that our dimensions capture conceptually distinct constructs and display sufficient divergent validity, we considered the correlations. As detailed in table 5, none of the dimensions correlate highly with each other (that is, by more than 0.8), so there is adequate divergence between all four dimensions. Nevertheless, because the dimensions are interconnected, we anticipated a fair degree of correlation, especially between the various dimensions associated with each profession. As expected, the correlation between the basic orientation to numbers was higher with each of the other subdimensions associated with accountants compared to those associated with lawyers. Similarly, the correlation between the basic orientation to words was higher with each of the other subdimensions associated with lawyers compared to those associated with accountants, except for the overall philosophy.

Table 6 compares the factors on the basis of professional background. As expected, accountants directionally rated themselves higher (lower) than lawyers on each dimension associated with accountants (lawyers), although the differences were statistically significant for only five subdimensions. Specifically, accountants ranked themselves higher on the basic orientation to numbers and a compliance mindset, and lower on the basic orientation to words, the sensitivity to the broader law, and being guided by a principled philosophy. Overall, the confirmatory factor analysis and the results in table 6 provide strong preliminary support for the findings of our first two studies. As discussed next, we used these factors to delve further into whether the approaches to tax work converge, as well as whether there is evidence of individual practitioner growth.

142 Relying on Jum C. Nunnally, *Psychometric Theory* (New York: McGraw-Hill, 1978); and Robert F. DeVellis, *Scale Development: Theory and Applications* (Newbury Park, CA: SAGE, 1991), we consider a Cronbach alpha of 0.70 or more to be good, and lower alphas (for example, 0.50 or 0.60) to be acceptable. See Keith S. Taber, "The Use of Cronbach's Alpha When Developing and Reporting Research Instruments in Science Education" (2018) 48:6 *Research in Science Education* 1273–96.

143 Gilbert A. Churchill, "A Paradigm for Developing Better Measures of Marketing Constructs" (1979) 16:1 *Journal of Marketing Research* 64–73; and Tatiana Sandino, "Developing Good Measures To Advance Management Accounting and Control Research: A Discussion of 'Corporate Frugality: Theory, Measurement, and Practice'" (2011) 28:4 *Contemporary Accounting Research* 1388–96 (<https://doi.org/10.1111/j.1911-3846.2011.01110.x>).

TABLE 4 Study 3: Confirmatory Factor Analysis of Dimensions Identified and Refined in Study 1 and Study 2

| Primary dimension | Subdimension | Statement from survey | Factor loading | Cronbach alpha |
|---------------------------|---------------|---|----------------|----------------|
| Basic orientation (BO) | BO numbers | I am comfortable with the numbers | 0.901 | 0.783 |
| | | I am focussed on the financial impact of a tax issue | 0.583 | |
| | | I am comfortable with the calculations | 0.902 | |
| | | My understanding of the economic implications of a tax issue is . . . | 0.682 | |
| | BO words | I am comfortable with the meaning of words | 0.823 | 0.742 |
| | | My understanding of the nuances in the law is . . . | 0.709 | |
| | | I am sensitive to legal subtleties | 0.877 | |
| Basic mindset (BM) | BM compliance | I am sensitive to how something may raise a red flag to an auditor | 0.633 | 0.725 |
| | | My understanding of the reporting requirements is . . . | 0.839 | |
| | | My understanding of the tax compliance requirements is . . . | 0.862 | |
| | BM advocacy | I will always consider the CRA's position on an issue | 0.482 | 0.709 |
| | | I am willing to go all the way for the client in arguing a position | 0.674 | |
| | | I tend to have well-developed arguments | 0.828 | |
| | | I am sensitive to issues that may be litigated | 0.476 | |
| | | I think about how a tax position can be defended | 0.742 | |
| | | I tend to take a very strategic approach | 0.573 | |

(Table 4 is continued on the next page.)

TABLE 4 *Continued*

| Primary dimension | Subdimension | Statement from survey | Factor loading | Cronbach alpha |
|---------------------------|--------------|--|----------------|----------------|
| Broader sensitivity (BSY) | BSY client | My understanding of the broader context of the relevant client is . . . | 0.633 | 0.816 |
| | | My understanding of the history of the relevant client is . . . | 0.698 | |
| | | I make sure that the client understands the tax risk at stake | 0.843 | |
| | | I pay careful attention to the specific facts and circumstances of a client | 0.611 | |
| | | I am very concerned with the needs of the client | 0.820 | |
| | BSY law | My understanding of the legal documents necessary to implement a tax plan is . . . | 0.807 | 0.732 |
| | | I am focussed on the relevant law | 0.587 | |
| | | My understanding of the broader legal context is . . . | 0.829 | |
| | | My understanding of the intent of the tax law is . . . | 0.700 | |
| | | | | |
| Process orientation (PO) | PO result | I believe the application of tax rules should be consistent with prior years | 0.534 | 0.508 |
| | | I orient my approach to the desired outcome | 0.673 | |
| | | I believe that there is a value to getting to an answer as quickly as possible | 0.668 | |
| | | I believe that tax savings are very important for my client | 0.664 | |
| | | | | |
| | PO process | I refer to the law first and then follow up with the CRA's guidance | 0.846 | 0.695 |
| | | I am methodical in my analysis | 0.641 | |
| | | I pay careful attention to the specific provisions in the relevant tax law | 0.858 | |
| | | | | |

(Table 4 is concluded on the next page.)

TABLE 4 Concluded

| Primary dimension | Subdimension | Statement from survey | Factor loading | Cronbach alpha |
|-------------------------|----------------|---|----------------|----------------|
| Overall philosophy (OP) | OP practical | I tend to take a very business-minded approach | 0.766 | 0.542 |
| | | I tend to be concise | 0.630 | |
| | | I am concerned about arriving at a practical answer | 0.741 | |
| | OP principled | I believe that risk to a client should always be taken into consideration | 0.683 | 0.482 |
| | | I am concerned about arriving at the right answer | 0.625 | |
| | | I am concerned about the corrections to be made in the case of an error | 0.815 | |
| Other (OT) | Ethics | I am concerned about moral issues | 0.732 | 0.596 |
| | | I am concerned about ethical issues | 0.839 | |
| | | I am concerned about my reputation | 0.600 | |
| | Aggressiveness | I consider myself conservative | 0.662 | 0.715 |
| | | I consider myself aggressive | 0.827 | |

CRA = Canada Revenue Agency.

Growth and Convergence

As mentioned, our second objective was to examine more systematically both the individual growth of practitioners and the question of convergence in terms of the approaches to tax work. To empirically confirm this, we conducted further analyses based on our respondents' experience. As discussed, the interviewees in study 1 (for example, Evelyn, lawyer) had suggested that after about seven years, there is a convergence. Table 7 compares junior practitioners (those with seven years of experience or less) with more senior practitioners (those with more than seven years of experience).¹⁴⁴

¹⁴⁴ Initially, we divided our sample into three categories: (1) those with less than 7 years of experience; (2) those with 7 to 15 years of experience; and (3) those with more than 15 years of experience. Since we found virtually no statistical difference between categories 2 and 3 (and because we did not have any expectation based on our interview findings), we combined those categories in our analysis. To test for robustness, we performed further analyses using 10 years instead of 7 as the cutoff for experience, and using age (< 35 versus > 35) instead of years as a proxy for experience. The results (untabulated) were all qualitatively similar.

TABLE 5 Correlations Between Identified Factors

| | Basic orientation | | Basic mindset | | Broader sensitivity | | Process orientation | | Overall philosophy | | Other | |
|---------------------|-------------------|-------|---------------|----------|---------------------|---------|---------------------|---------|--------------------|------------|---------|----------------|
| | Numbers | Words | Compliance | Advocacy | Client | Law | Results | Process | Practical | Principled | Ethics | Aggressiveness |
| Basic orientation | | | | | | | | | | | | |
| Numbers | 1 | .149* | .654*** | .343*** | .500*** | .303*** | .237*** | .156** | .449*** | .185*** | .332*** | .208*** |
| Words | | 1 | .305*** | .640*** | .446*** | .696*** | .133 | .619** | .349*** | .227*** | .173** | .155** |
| Basic mindset | | | | | | | | | | | | |
| Compliance | | 1 | .420*** | .501*** | .418*** | .134 | .261*** | .362*** | .236*** | .336*** | .184*** | |
| Advocacy | | | 1 | .550*** | .537*** | .316*** | .550*** | .473*** | .395*** | .262*** | .266*** | |
| Broader sensitivity | | | | | | | | | | | | |
| Client | | | | 1 | .515*** | .218*** | .341*** | .549*** | .368*** | .324*** | .146** | |
| Law | | | | | 1 | .181*** | .563*** | .423*** | .198*** | .158** | .152** | |
| Process orientation | | | | | | | | | | | | |
| Results | | | | | | 1 | .075 | .332*** | .319*** | .132 | .298*** | |
| Process | | | | | | | 1 | .239*** | .221*** | .202*** | .184*** | |
| Overall philosophy | | | | | | | | | | | | |
| Practical | | | | | | | | 1 | .166** | .154** | .189*** | |
| Principled | | | | | | | | | 1 | .362*** | .086 | |
| Other | | | | | | | | | | 1 | .177** | |
| | | | | | | | | | | | | 1 |

** Significant at the 0.05 level (2-tailed).
*** Significant at the 0.01 level (2-tailed).

TABLE 6 Differences in Approaches: Comparison of Lawyers, Accountants, and Others

| Orientation | Total | Lawyers (n = 79) | Accountants (n = 99) | Neither (n = 30) | One-way ANOVA | Post-hoc comparisons | | |
|------------------------|-------|---------------------|-------------------------|---------------------|------------------|-------------------------------|----------------------------------|-------------------------------|
| | | | | | | Lawyers versus accountants | Lawyers versus versus neither | Accountants versus neither |
| Basic | | | | | | | | |
| Numbers | 6.089 | 5.706 | 6.316 | 6.350 | <0.001*** | <0.001*** | <0.001*** | 0.989 |
| Words | 6.006 | 6.350 | 5.805 | 5.767 | <0.001*** | <0.001*** | <0.001*** | 0.964 |
| Compliance | | | | | | | | |
| Compliance | 5.697 | 5.342 | 5.976 | 5.711 | <0.001*** | <0.001*** | 0.125 | 0.319 |
| Advocacy | 5.917 | 5.979 | 5.887 | 5.856 | 0.511 | 0.291 | 0.616 | 0.967 |
| Sensitivity | | | | | | | | |
| Client | 6.273 | 6.246 | 6.263 | 6.386 | 0.538 | 0.490 | 0.523 | 0.589 |
| Broader law | 5.814 | 6.060 | 5.687 | 5.578 | <0.001*** | <0.001*** | 0.004*** | 0.735 |
| Process | | | | | | | | |
| Results-oriented | 5.296 | 5.263 | 5.285 | 5.417 | 0.617 | 0.489 | 0.600 | 0.675 |
| Process-oriented | 6.221 | 6.388 | 6.205 | 5.833 | 0.003*** | 0.122 | 0.002*** | 0.048** |
| Philosophy | | | | | | | | |
| Practical | 5.670 | 5.684 | 5.710 | 5.500 | 0.415 | 0.486 | 0.507 | 0.389 |
| Principled | 6.389 | 6.481 | 6.249 | 6.611 | 0.005*** | 0.017** | 0.582 | 0.014** |
| Other | | | | | | | | |
| Ethics | 6.134 | 5.974 | 6.128 | 6.567 | 0.001*** | 0.361 | <0.001*** | 0.014** |
| Aggressiveness | 4.408 | 4.333 | 4.490 | 4.333 | 0.353 | 0.381 | 1.000 | 0.599 |

** Significant at the 0.05 level (1-tailed for the post-hoc comparisons between lawyers and accountants on all the dimensions except “Other”; otherwise, 2-tailed).

*** Significant at the 0.01 level (1-tailed for the post-hoc comparisons between lawyers and accountants on all the dimensions except “Other”; otherwise, 2-tailed).

TABLE 7 Differences in Approaches: Comparison of Lawyers and Accountants Based on Years of Tax Experience

| Orientation | Panel A Lawyers and accountants (early versus late stage) | | | | | |
|------------------------|---|---------------------|---------------------------|-----------|-------------------------|-------------------------|
| | ≤ 7 | | > 7 years' tax experience | | ≤ 7 | |
| | Total (n = 26) | Lawyers (n = 26) | Lawyers (n = 53) | ANOVA | Accountants (n = 20) | Accountants (n = 79) |
| Basic | | | | | | |
| Numbers | 5.696 | 5.183 | 5.952 | <0.001*** | 6.324 | 6.150 |
| Words | 6.350 | 6.140 | 6.453 | 0.018** | 5.816 | 5.533 |
| Mindset | | | | | | |
| Compliance | 5.321 | 4.680 | 5.667 | <0.001*** | 5.980 | 5.650 |
| Advocacy | 5.981 | 5.705 | 6.113 | 0.003*** | 5.896 | 5.742 |
| Sensitivity | | | | | | |
| Client context | 6.238 | 5.877 | 6.426 | <0.001*** | 6.265 | 6.090 |
| Broader law | 6.051 | 5.664 | 6.255 | <0.001*** | 5.699 | 5.450 |
| Process | | | | | | |
| Results-oriented | 5.269 | 5.067 | 5.359 | 0.041** | 5.301 | 5.300 |
| Process-oriented | 6.393 | 6.295 | 6.434 | 0.194 | 6.207 | 6.100 |
| Philosophy | | | | | | |
| Practical | 5.684 | 4.949 | 6.044 | <0.001*** | 5.731 | 5.450 |
| Principled | 6.474 | 6.449 | 6.487 | 0.382 | 6.252 | 6.400 |
| Other | | | | | | |
| Ethics | 5.974 | 5.705 | 6.109 | 0.035** | 6.133 | 6.083 |
| Aggressiveness | 4.333 | 4.231 | 4.385 | 0.425 | 4.495 | 4.375 |

(Table 7 is concluded on the next page.)

TABLE 7 Concluded

| Orientation | Panel B Lawyers versus accountants (early versus late stage) | | | | | | | |
|------------------------|--|---------------------|-------------------------|---------------------------|-------|---------------------|-------------------------|-----------------------|
| | ≤ 7 years' tax experience | | | > 7 years' tax experience | | | | |
| | Total | Lawyers (n = 26) | Accountants (n = 20) | ANOVA | Total | Lawyers (n = 53) | Accountants (n = 79) | ANOVA |
| Basic | | | | | | | | |
| Numbers | 5.603 | 5.183 | 6.150 | <0.001*** 0.003*** | 6.202 | 5.962 | 6.369 | 0.001*** <0.001*** |
| Words | 5.877 | 6.140 | 5.533 | | 6.115 | 6.453 | 5.889 | |
| Mindset | | | | | | | | |
| Compliance | 5.101 | 4.680 | 5.650 | <0.001*** 0.490 | 5.895 | 5.667 | 6.064 | 0.012** 0.107 |
| Advocacy | 5.721 | 5.705 | 5.742 | | 6.009 | 6.113 | 5.936 | |
| Sensitivity | | | | | | | | |
| Client context | 5.970 | 5.877 | 6.090 | 0.238 | 6.354 | 6.426 | 6.310 | 0.236 |
| Broader law | 5.571 | 5.664 | 5.450 | 0.267 | 5.956 | 6.255 | 5.763 | <0.001*** |
| Process | | | | | | | | |
| Results-oriented | 5.168 | 5.067 | 5.300 | 0.248 | 5.329 | 5.359 | 5.301 | 0.453 |
| Process-oriented | 6.210 | 6.295 | 6.100 | 0.336 | 6.318 | 6.434 | 6.235 | 0.147 |
| Philosophy | | | | | | | | |
| Practical | 5.167 | 4.949 | 5.450 | 0.036** 0.466 | 5.903 | 6.044 | 5.803 | 0.051* 0.023** |
| Principled | 6.428 | 6.449 | 6.400 | | 6.323 | 6.497 | 6.214 | |
| Other | | | | | | | | |
| Ethics | 5.870 | 5.705 | 6.083 | 0.241 | 6.131 | 6.109 | 6.145 | 0.958 |
| Aggressiveness | 4.293 | 4.231 | 4.375 | 0.767 | 4.469 | 4.385 | 4.526 | 0.597 |

* Significant at the 0.10 level (1-tailed for the comparisons on all the dimensions except “Other”; otherwise, 2-tailed).

** Significant at the 0.05 level (1-tailed for the comparisons on all the dimensions except “Other”; otherwise, 2-tailed).

*** Significant at the 0.01 level (1-tailed for the comparisons on all the dimensions except “Other”; otherwise, 2-tailed).

In panel A of table 7, we compare junior lawyers with senior lawyers, and junior accountants with senior accountants. This comparison reveals that the rating for senior practitioners was higher than for junior practitioners for almost all of the 10 subdimensions for which we had an expectation. For lawyers, the differences were statistically significant for 8 subdimensions, the exceptions being following a process-oriented approach and being guided by a principled philosophy. For accountants, the differences were statistically (or marginally statistically) significant for 6 subdimensions, the exceptions being having an advocacy mindset, following a results-oriented or a process-oriented approach, and being guided by a principled philosophy. Overall, this suggests growth. Notably, for almost all of the dimensions, there also generally appears to be more growth in the subdimension in which each profession was described as weaker in the interviews, corroborating the suggestion that practitioners reduce their weaknesses over time.

In panel B of table 7, we compare junior lawyers and accountants with each other, and we also compare senior lawyers and accountants. Although the results for both professions suggest growth, especially in the dimensions in which they are initially weaker, the findings do not support the suggestion that there is a full convergence. In part, this may be attributable to the fact that, for half of the subdimensions, there was no statistical difference at the outset. However, it is also partly explained by the finding that lawyers and accountants showed growth on the dimensions in which they were already stronger. For example, while the sensitivity to the broader law is statistically significantly higher for both senior lawyers and accountants (compared to junior lawyers and junior accountants, as shown in panel A), higher suggested growth among the former accounts for a divergence between the two sets of practitioners. Interestingly, senior accountants rated themselves lower than junior accountants on the principled subdimension of the overall philosophy. While the difference between senior and junior accountants is not statistically significant, the lower rating results in a statistical difference with senior lawyers. Another interesting observation is that while junior accountants are more likely to be guided by a practical philosophy than are junior lawyers, senior lawyers are more likely to be guided by such a philosophy than are senior accountants. This suggests that over time tax lawyers may adopt a more practical philosophy.

Despite our limited sample size, overall, the results of the study 3 survey confirm the dimensions identified in the first two studies and many of the broad distinctions in the approaches to tax work between differently trained professionals. While our findings also suggest that, with experience, practitioners appear to acquire many of the skills of the other profession and overall demonstrate growth, we find limited support for the suggestion that there is a full convergence.

DISCUSSION

One of my mentors described this . . . , “The difference between an accountant and a lawyer when they’re faced with a problem would be the lawyer would look at the words in the statute and bash away at the words in the statute and try to make the situation that he’s faced with fit the statute.” He said, “In contrast, what an accountant will do is

they'll read the statute. They'll look at the situation and they'll say, 'Can I change the situation to fit the words of the statute?'” [Andrew, CPA]

As the quotation above suggests, even if individual practitioners will necessarily refer to the same statute in addressing any given issue, their approaches to resolving problems may differ fundamentally, largely on the basis of their educational background. Examining in detail the overall approaches to tax work, we inductively identified four dimensions along which practitioners in the two professions traditionally associated with the tax field—that is, lawyers and accountants—tend to diverge, as well as an overall philosophy that appears to guide them in their work. Whereas our interviewees expressed the belief that experienced tax practitioners ultimately acquire similar skill sets and offer treatments that are largely the same, our findings suggest that there is some variance in how differently trained practitioners approach diagnostic tasks, as well as in the strategies of inference that they adopt.

As mentioned, our study considers tax work in general rather than focusing on individual tasks, which will inherently vary not only in the skills required, but also in who might normally perform those tasks. For example, interviewees explained that junior accountants usually assume much of the compliance and reporting work, including the preparation of tax returns, tax provisions, and other tax filings, as well as certain computations (such as safe-income calculations) and much of the due diligence work. Lawyers, for their part, are frequently involved in negotiations, drafting the tax part of agreements, as well as the legal documentation more broadly, such as corporate minutes and, in the case of public deals, work associated with disclosure, such as prospectuses and other publicly issued documents. While our goal was to understand more generally the logic with which differently trained practitioners approach tax work, the approaches will inevitably be conditioned by regular involvement in or familiarity with specific tasks. As suggested, even if some tax professionals may not be directly involved in any compliance or litigation, their earlier training or experience increases their sensitivity to the cascading effects of tax planning on these more peripheral forms of work.

Overall, there may be circular and reinforcing processes that explain some of the differences in approaches. An initial education may build on individual predispositions; for instance, some participants in our studies attributed the more argumentative approach associated with lawyers to personality differences. Subsequently, working in a specific environment, with its own further training, may, depending on the specific context, further accentuate original differences or alternatively lead to the convergence that many suggested. As discussed, the specific training of professionals influences their approaches to tax work, including, for example, accountants' propensity to view issues through the lens of materiality and lawyers' inclination to be advocates. The actual work assumed will also shape individuals' approaches. For example, if lawyers are mostly involved only in larger mandates, their clients may be more willing to battle out an issue in court or alternatively to pay a premium to get advice that is tailored to their situation. On the other hand, small or medium-sized firms may more typically rely on accountants for their advice and may be less willing

to contest a matter, since the amount at issue may not be worth the cost of a protracted legal dispute. For clients who wish to avoid any fight, it makes more sense to simply refer directly to CRA guidance than to build up a file that could be defended in court.¹⁴⁵

The organizational context may also matter. For instance, some participants pointed out that in the tax departments of large accounting firms—where many tax lawyers work—tasks are often assigned on the basis of individuals' relative strengths. Thus, in a deal, accountants may be asked to write the step memorandums, and lawyers may be tasked with preparing the corresponding position papers, effectively reinforcing the prior skills of each. The work environment also matters, given the broader socialization processes within firms. As the following comment suggests, lawyers working in accounting firms might become more like accountants in their approach:

The interesting thing, and I get this from a lot of my lawyer colleagues working in accounting firms, and my sense is from working with the accountants who work in law firms, that a lawyer working in an accounting firm becomes an accountant more or less, or at least in style, and works with accountants, starts to think like an accountant, and then an accountant in a law firm starts to think like a lawyer or work like a lawyer. [Yadin, lawyer]

Yadin's comments are notable because they imply that the firm and its internal culture are, or may over time become, more important than initial training in determining the approaches to tax work. This appears to be corroborated by interviewees, such as Lucy (lawyer), who said that their approach changed when they switched from working in a law firm to an accounting firm (or vice versa), or from public practice to industry. Although we identified several explanations that may account for why professionals approach tax work differently, our study made no systematic attempt to delve into the specific reasons. We encourage future studies to disentangle these causes.

On the whole, the four dimensions and the overall philosophy offer important insights into how differently trained practitioners will tend to approach tax work, which can serve as "ecologically attuned building blocks"¹⁴⁶ for future research. Considering the approaches in general rather than focusing on specific tasks makes it possible to achieve a more holistic understanding of the broader competence of individual professionals as tax practitioners. As suggested, the subdimensions associated with each profession are indicative of the common strengths with which practitioners trained in the two traditional professions will typically enter the field. However, it should not be assumed that all accountants or all lawyers will start their tax careers with the strengths normally associated with their profession, and some aspects of their training may not always be beneficial. For instance, related to the

¹⁴⁵ We thank Alan Macnaughton for this insight.

¹⁴⁶ Barley and Kunda, *supra* note 10, at 86.

focus on words, Lucy (lawyer) indicated that lawyers might be trained to be skeptical of wording almost to the point of being “paranoid,” and Ophelia (lawyer) suggested that lawyers’ opinions can be “so nuanced and sometimes totally useless because at the end, like, exactly what you’re saying is worthless.”

By providing insight into potential weaknesses among differently trained practitioners, the dimensions can be helpful in identifying skill gaps. Detecting possible weaknesses or a lack of requisite skills is important: as a number of interviewees suggested, successful tax practitioners must acquire some of the expertise associated with each profession (that is, accounting and law). This matters especially from a competence perspective, since tax practitioners, as specialists, are held to a higher standard of care in the provision of tax services.¹⁴⁷ While the interviewees suggested that distinctions largely diminish with experience, this cannot be assumed to occur automatically, and our survey results indicate that the convergence may not be as strong as perceived. With the continued outsourcing of work¹⁴⁸ and the technological disruptions anticipated,¹⁴⁹ individuals will have to become skilled in ever-shrinking periods of time.¹⁵⁰ Given that the ability of professionals to develop on the job the expertise in which they are less proficient may be reduced as time goes on, it will become increasingly critical to get the necessary specialized training right.

Deepening the understanding of the general approach to tax work by differently trained practitioners also offers further insights into the tax field, including potential explanations for some theoretical puzzles.¹⁵¹ Sharing a field of practice, as accountants and lawyers traditionally have, can induce jurisdictional conflicts.¹⁵² Accordingly, one aspect that we considered prior to conducting the interviews was the extent to which there might be tensions between differently trained practitioners within the work arena. However, consistent with others’ observations of the Canadian context,¹⁵³ the interviewees suggested that even if individual firms compete, there was relatively little friction between the two professions more broadly. The tendency for individuals to converge at least partially in their approaches may not only explain the general lack of conflict, but may also lend further support to the idea that tax can be viewed as a distinct field that is presently not under the direct jurisdiction of either profession.¹⁵⁴

Although disputes between the two professions may be limited, interviewees identified other forms of tension that commonly arose early in their career. Specifically, some superiors could be impatient with individuals who were relatively less skilled

¹⁴⁷ Todres, *supra* note 7.

¹⁴⁸ See Robertson et al., *supra* note 24; and Daugherty et al., *supra* note 24.

¹⁴⁹ See the sources cited in note 25, *supra*.

¹⁵⁰ Rowland, *supra* note 23.

¹⁵¹ Barley and Kunda, *supra* note 10, at 86.

¹⁵² Abbott, *supra* note 27.

¹⁵³ See Satov, *supra* note 33; and Brown and Paton, *supra* note 33.

¹⁵⁴ Hahn, *supra* note 79, at 2-3.

at certain tasks outside their principal training, and some interviewees felt frustrated in trying to catch up with colleagues and learn things that might be second nature to those trained in the other profession. Such frustrations may be tied to overall strengths and weaknesses, but since they may affect an individual's job satisfaction, they should matter to employers competing for talent.¹⁵⁵

There may also be specific implications related to the understanding of the approaches to tax work more broadly. As Andrew (CPA) stated in the quotation at the beginning of this section, while lawyers are typically more comfortable with interpretation and arguing how the law could be interpreted favourably to fit a given situation, accountants may be more at ease adapting a situation to fit the Income Tax Act. This partly links to the practicality observed, as well as what was described as accountants' greater willingness to adapt treatments to the terms dictated by a client's situation. Many suggested that accountants (or perhaps more accurately, accounting firms) may be more ready to tailor solutions to clients' demands. As discussed, the fact-oriented approach can give accountants a better ability to build up and work through multiple scenarios, a skill that is particularly useful when trying to conceive tax plans. While this facility with strategies for inference might imply that accountants have more of the creativity that matters for tax planning,¹⁵⁶ the suggested difference in approaches has important implications for how plans may be propagated. Specifically, by learning how to change the facts of a situation, tax practitioners who are trained as accountants acquire the ability to adapt plans and effectively make them more easily replicable. Ultimately, this adaptability combined with a greater client orientation may not only account for some of the success of accounting firms in the tax-planning field, but also explain why some might have engaged more actively in more controversial avoidance schemes.¹⁵⁷

CONCLUSION

Employing a mixed-method approach, we investigated how differently trained professionals broadly approach tax work by following an exploratory sequential design.¹⁵⁸ In study 1, we explored the perceived differences through in-depth interviews, mainly with lawyers and professional accountants. On the basis of these discussions, we identified four dimensions along which practitioners in these professions generally differ, as well as an overall philosophy guiding their approach. In study 2, we refined these dimensions and philosophies with qualitative survey responses. Our first dimension confirms that whereas the basic orientation of accountants is toward numbers and their impact, lawyers—being better trained in interpreting legislation—are more focused on the meaning of words. Our second dimension, which is tied to some of the tax work typically assumed, reveals that accountants are

¹⁵⁵ Nibbe, *supra* note 26.

¹⁵⁶ Feller and Schanz, *supra* note 2.

¹⁵⁷ Addison and Mueller, *supra* note 2.

¹⁵⁸ Harrison et al., *supra* note 15.

comparatively more likely to adopt a compliance mindset while lawyers generally adopt an advocacy mindset. Our third dimension relates to the sensitivity to context, with accountants demonstrating a better understanding of the broader client reality and lawyers a better grasp of the broader law. Our fourth dimension suggests that in process orientation, accountants tend to focus more on the result and the application of rules, and lawyers on the relevant law and process itself. Combined, the dimensions can be summarized in an overall philosophy: Whereas the ultimate question “Does it matter?” appears to guide accountants, lawyers appear to be guided more by the question “Is it right?” Finally, in study 3, we quantitatively corroborated the dimensions and then delved into the questions of whether there is evidence of practitioner growth and whether there is a convergence in the approaches over time. While we find some evidence of practitioner growth, our survey offered only limited evidence concerning full convergence.

Our study provides further insight into tax work and the tax field more generally. Specifically, both refining and adding to the existing understanding of how individuals may differ in their approaches to tax work, the dimensions we identified and elaborated lend themselves to further theorization as “ecologically attuned building blocks.”¹⁵⁹ Beyond potentially breaking some new conceptual ground, our detailed study of work may also help to “resolve existing theoretical puzzles.”¹⁶⁰ Occupations are defined by their tasks and practices,¹⁶¹ and how individual members perform these tasks ultimately affects the jurisdictional claims that professions can make.¹⁶² As suggested, our study may help to explain why no single profession has come to dominate tax practice in jurisdictions such as Canada, and why accountants may have been traditionally more active in propagating tax plans.

By examining the ensemble of practitioners in a manner that tries to avoid the piecemeal approach that has characterized the field,¹⁶³ we also help to synthesize and extend a growing stream of research on tax professionals.¹⁶⁴ While there is an extensive literature examining the judgment and decision making of tax accountants,¹⁶⁵ we specifically add to the narrower stream of empirical research directly comparing different categories of practitioners¹⁶⁶—an area of study that matters, given the multiplicity of actors in the tax field.¹⁶⁷ Mixing methods in a qualitatively driven

¹⁵⁹ Barley and Kunda, *supra* note 10, at 86.

¹⁶⁰ *Ibid.*, at 86.

¹⁶¹ Anteby et al., *supra* note 11.

¹⁶² Abbott, *supra* note 27.

¹⁶³ See Erard, *supra* note 28; and Frecknall-Hughes and Kirchler, *supra* note 28.

¹⁶⁴ Hahn and Ormeño Pérez, *supra* note 2.

¹⁶⁵ Roberts, *supra* note 30.

¹⁶⁶ Cloyd and Spilker, *supra* note 9.

¹⁶⁷ Devos, *supra* note 3; and Anesa et al., *supra* note 29.

way,¹⁶⁸ we also respond to calls to combine qualitative and quantitative approaches¹⁶⁹ and to undertake more empirically grounded studies of work.¹⁷⁰

Overall, our study highlights the strengths and weaknesses with which differently trained professionals typically enter the field. Having a better understanding of both should allow for more tailored instruction, which in turn will help to more quickly reduce potential gaps in skills and ultimately decrease the likelihood of blind spots. In a context of shrinking learning periods, owing to technological advances that are expected to disrupt tax work,¹⁷¹ getting the specialized training of future tax practitioners right will become increasingly important. While this may matter from an efficiency perspective for employers, for employees it can affect job satisfaction, since the inability to adequately perform certain tasks may lead to frustration. More generally, by drawing attention to potential areas of concern, our study should be of interest to professional associations and any others charged with ensuring the competence of tax practitioners or the quality of tax work. As we shed more light on how accountants and lawyers approach tax work and the actual degree of convergence in the field, our findings can also potentially contribute to the debate on extending legal privilege to accountants' tax advice.¹⁷²

Some of our findings point to potential avenues for future research. For instance, the consequences of our finding that certain practitioners, notably accountants, are more likely to have ongoing relationships, and hence greater familiarity, with clients and their histories could be examined more thoroughly. As suggested, future investigations could delve more deeply into the causes of the initial divergences, as well as the factors that might account for the convergence of professions, including the role of specific forms of specialized training and the organizational context within which much on-the-job learning may occur. Some of the limitations of our study could also be addressed. Whereas our investigation only considered Canada, where accountants and lawyers have worked rather harmoniously in the tax field—potentially facilitating the convergence that we observe—research could examine the approaches in jurisdictions where different professionals divide tax work in less collaborative ways, to confirm whether our insights are transferable to such other contexts. Also, while our data collection spanned seven years, including the period of the COVID-19 pandemic, we did not explore how broader changes to work environments might affect the approach to tax work in the years ahead. Finally, studies could be developed to measure the actual differences along the dimensions identified, and more longitudinal approaches using a within-subject design could directly investigate the growth of practitioners and the actual extent of convergence.

¹⁶⁸ Jennifer Mason, "Mixing Methods in a Qualitatively Driven Way" (2006) 6:1 *Qualitative Research* 9–25 (<https://doi.org/10.1177/1468794106058866>).

¹⁶⁹ Modell (2011), *supra* note 129; and Grafton et al., *supra* note 18.

¹⁷⁰ Barley and Kunda, *supra* note 10.

¹⁷¹ See the sources cited in note 25, *supra*.

¹⁷² Studniberg, *supra* note 7; Studniberg, *supra* note 61; and MacArthur, *supra* note 7.

APPENDIX 1 STUDY 1: PRELIMINARY INTERVIEW PROTOCOL QUESTIONS

As a professional, how do you identify yourself?

- a. What image do you believe tax professionals have outside of their profession?
- b. Do you feel that as a tax professional, you approach matters differently than other accountants, lawyers or other professionals who are not involved in tax?
- c. Can you please elaborate on some of these differences?
- d. As a [lawyer/accountant] do you feel that you approach tax differently than [accountants/lawyers]? Can you please elaborate on this?

Can you please describe the typical work that you carry out?

- a. To what extent do you have working relationships with other accountants, lawyers or other professionals who are not involved in tax?
- b. Can you describe the nature of these relationships?
- c. Can you describe any challenges that you face in such working relationships?
- d. Do you feel that there are any tensions between lawyers and accountants in practicing in the area of tax?

APPENDIX 2 STUDY 3: SELF-ASSESSMENT SURVEY QUESTIONS

SECTION 5—Approaches to Tax

Screen 8a and 8b

The statements in this question and the next three relate to aspects of tax work and how this work is performed. Please read each statement carefully, and provide the appropriate rating.

Please remember to not press the return button on your browser at any point. You cannot return to questions that you have already answered. However, if you wish, you can stop and return to the survey later.

(The questions will appear in a randomized order.)

Q13a:

Please indicate the extent to which you agree with each statement, using a scale from 1 = Strongly Disagree to 7 = Strongly Agree.

(The statements will appear in a randomized order, each with the appropriate scale.)

In general, when it comes to tax work . . .

I interpret the law literally.

I tend to see the tax law as less “black and white”.

- I am sensitive to issues that may be litigated.
- I think about how a tax position can be defended.
- I am more inclined to question the CRA's (or Revenu Quebec's) position on an issue.
- I refer to the law before looking at the CRA's (or Revenu Quebec's) guidance.
- I tend to use different scenarios to demonstrate the effect of the application of the tax rules.
- I pay careful attention to the specific facts and circumstances of a client.
- I am methodical in my analysis.
- I believe that risk to a client should always be taken into consideration.
- I believe that the tax savings matter.
- I am concerned about the corrections to be made in the case of an error.
- I consider myself more conservative than others in my overall approach.
- I am concerned about moral issues.

Q13b:

Please remember to not press the return button on your browser at any point. You cannot return to questions that you have already answered. However, if you wish, you can stop and return to the survey later.

Please indicate how you rate yourself, using a scale from 1 = Not very good to 7 = Excellent.

(The statements will appear in a randomized order, each with the appropriate scale.)

In general, when it comes to tax work . . .

- My understanding of the financial implications of a tax issue is . . .
- My understanding of the nuances in the tax law is . . .
- My understanding of situations that could raise a red flag for a tax auditor is . . .
- My understanding of the financial reporting requirements of a tax issue is . . .
- My understanding of the tax compliance requirements is . . .
- My understanding of the legal steps necessary to implement a tax plan is . . .
- My understanding of the broader context that is relevant to the client is . . .
- My understanding of the client's history is . . .
- My understanding of my client's actual ability to implement a tax plan is . . .
- My understanding of the broader legal context is . . .
- My understanding of the intent of the tax law is . . .

Q13c:

Please remember to not press the return button on your browser at any point. You cannot return to questions that you have already answered. However, if you wish, you can stop and return to the survey later.

Please indicate the extent to which you agree with each statement, using a scale from 1 = Strongly Disagree to 7 = Strongly Agree.

(The statements will appear in a randomized order, each with the appropriate scale.)

In general, when it comes to tax work . . .

- I am comfortable with the calculations.
- I am comfortable with the meaning of words.
- I am sensitive to legal subtleties.
- I tend to focus on what matters from a business perspective.
- I am very concerned with the needs of the client.
- I am focussed on the interpretation rather than the application of the tax law.
- I am willing to go all the way in arguing a position.
- I tend to be concise.
- I will start by carefully reading the specific provisions in the law.
- I believe that there is a value to getting to an answer as quickly as possible.
- I believe that the concept of materiality is irrelevant.
- I tend to be more willing than others to recommend an aggressive position.
- I am concerned about ethical issues.
- I am concerned about my reputation.

Q13d:

Please remember to not press the return button on your browser at any point. You cannot return to questions that you have already answered. However, if you wish, you can stop and return to the survey later.

Please indicate the extent to which you agree with each statement, using a scale from 1 = Strongly Disagree to 7 = Strongly Agree.

(The statements will appear in a randomized order, each with the appropriate scale.)

In general, when it comes to tax work . . .

- I am comfortable with the numbers.
- I am focussed on the financial impact of a tax issue.
- I am more concerned with the facts of a case than the relevant law.
- I make sure that the client understands the tax risk at stake.
- I am focussed on the relevant law.
- I make sure I have well-developed arguments.
- I tend to take a very strategic approach.
- I am focussed on how tax rules are to be applied.
- I orient my approach to the desired outcome.
- I am less likely to limit my research on an issue because of time considerations.
- I believe the application of tax rules should be consistent with prior years.
- I am concerned about arriving at a practical answer.
- I am concerned about arriving at the right answer.