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Tax Maven

The Contemporary Tax Journal's Interview with Mr. Eric Ryan

By: Sara (Yaqin) Sun, *MST Student*

How did you get involved in the tax field? Was that your plan when you started law school?

I always wanted to be a lawyer, but I wasn't sure what field. I was pretty good at math, and I ended up getting an undergraduate degree in Accounting. When I started at UC Berkeley Law School, I saw that there were many interesting fields of law. But it became obvious that most students were not interested in Tax. Then I took and passed the California CPA Exam during a summer lull, and ultimately the employment picture was very favorable for the few of us interested in Tax, so that sealed the deal.

What led you to Apple, PwC and DLA Piper? What are your specialty areas?

I joined Apple in 1982 when that Company was only about five years old, as a Manager of Tax Research and Planning. It was growing very fast, profitable, and expanding overseas. Along with others, I helped Apple set up and defend its multinational legal entity and tax structure. My boss left after about two years, and I became Tax Director. Apple had an exciting environment of innovation, experimentation, and change-the-world attitude. I am not sure Apple's leaders expected the Tax Department to actually embrace that environment, but we did.

Our group ended up litigating an industry issue with the IRS, on whether stock option exercise deductions qualify for the R&E credit. We won in U.S. Tax Court, and that stands today. Then, we volunteered with the IRS in D.C. to request what is now known as an Advance Pricing Agreement. Apple obtained the first U.S. bi-lateral APA, with the Australian Taxation Office (ATO). The Tax Department went on to do a number of very innovative things, and I think everyone was very proud to work there.

I joined PwC to be part of their International Tax Services group in the early 1990's, focusing on Transfer Pricing consulting. My experience with Apple's audits and APAs gave

me a good foundation for being a transfer pricing consultant. When I joined PwC (then C&L), the U.S. tax law was changing, requiring taxpayers to prepare their own self-audits and positions explaining their transfer pricing – the Section 6662(e) Contemporaneous Documentation requirements. So, the need for transfer pricing consultants exploded overnight, and it need continues to this day. The recent OECD BEPS initiatives mean that even more taxpayer documentation on transfer pricing is being required worldwide.

About 15 years ago I joined DLA Piper, where my consulting practice was focused on high technology companies, particularly those expanding overseas. With 40 offices worldwide, DLA Piper offers plenty of opportunities to be involved with international matters and other interesting legal things. For example, I volunteer for some pro bono legal matters, particularly setting up and advising tax-exempt charitable organizations.

What stands out as one or two of your most significant accomplishments in your career?

Well, obtaining the first U.S. bi-lateral APA for Apple was a game changer for several reasons. First, it was the first time the IRS granted a ruling on prospective transfer pricing, so it was an innovative procedure. I enjoyed playing a bit of “shuttle diplomacy” between the IRS and the ATO explaining Apple’s operations and requested transfer pricing methods. But it was also a game changer for the type of transfer pricing we settled on, which allowed Apple to focus on an annual, bottom-line profitability target for Apple Australia, and make whatever intercompany COGS adjustments we needed to hit the agreed target. Previously, that wasn’t allowed.

We could have kept that all secret because an APA is confidential. But we didn’t. We spoke at TEI and other tax conferences about the process, the transfer pricing methodology, and the benefits, all of which helped propel the acceptance of the APA procedures and the CPM/TNMM method worldwide. Almost like changing the (tax) world.

How do you keep up to date with the changes in tax law and the ever-changing technology of the Silicon Valley tech companies?

Well, I teach a class at SJSU’s MST Program called Tax Considerations for High Technology Companies. We focus on high tech issues such as R&D deductions, the R&E Credit, NOL’s,

withholding taxes, and international taxation. I just finished revising all my teaching materials to update them for the Tax Cuts and Jobs Act of December 2017. I have always enjoyed doing seminars and presentations. The best way to learn new provisions is to have to teach them, of course.

What do you think is one key area of our federal or state tax system that could/should be improved and why?

The recent TCJA radically changes the rules for how U.S. MNE's are taxed on their foreign earnings. Coupled with the significant reduction in U.S. corporate tax rate from 35% to 21%, the new law has accomplished its intention of creating a significant incentive for U.S. companies to on-shore their operations in the U.S. So, that's good.

But there is a sleeper provision in the TCJA that requires companies to capitalize their R&D expenditures, starting in 2022, in order to raise taxes. R&D has been immediately tax deductible since 1954. The change is crazy because the TCJA allows tangible assets, which clearly last years and years – to be written off immediately. It's like the U.S. wants factories but not Intellectual Property. So, I hope the High Tech industry can organize some lobbying efforts in the next several years to thwart the discriminatory R&D tax capitalization rules.

What do you think is the biggest challenge facing tax professionals today?

No doubt, keeping up with all the changes. Right now, international tax professionals are working hard to understand new rules like GILTI, FDII, BEAT, and FTC implications. Tax provisions are changing as a result, of course. And I don't know how SALT professionals do it - every state now seems to have rules for income and sales taxes that are different from every other state. Job security for tax professionals is the silver lining, I guess.

What advice do you have for students preparing for a career in tax?

The ideal situation is to have a good education in the fundamentals of taxation because the computational rules might change but one needs to the fundamentals to understand the policy "why" behind the law. But then, what's important is to do a good deal of computational work, finding the data, preparing tax returns, provisions, etc. Only when

you have done the computational work do you know how it all really works. Then, you are in a position to give your executives or clients some advice on what to do.

If you could have dinner with anyone, who would it be?

Thomas Jefferson. He was a founder of our Country, having written the Declaration of Independence. He was Secretary of State under President Washington and later became the President. He personally was involved in incredible changes, including the Louisiana Purchase, the founding of the U.S. Navy, and the Lewis & Clark Expedition. I am sure he would have many tales to tell.

What is the most unusual item in your office or something in it that has special meaning to you?

My coffee mug with a TAX SJSU MST Program logo. It not only holds hot coffee, it reminds me to collect tax stuff for my next class.



Picture of Mr. Eric Ryan with Student Editor Sara (Yaqin) Sun