

What VP's Need, Want and Expect from their Tax Manager

I've talked with many Vice Presidents of Business and Finance of colleges and universities about what they want, need and expect from their tax manager. One thing for sure, they know what they don't want. They had to give some thought to what they really wanted though.

They all said they wanted a tax staff that knows and understands tax laws and regulations as they apply to higher education.

I countered this thought with my own and reminded them that the only way to achieve this is to make sure there is sufficient budgeting for on-going training of the tax staff. They were surprised when I advised them that one tax conference a year is probably not enough to remain current on all the various tax issues the tax staff must deal with for their school. A one and half day seminar once a year is just not going to cut it. I also advised them that tax research services are needed in order to provide quality answers to the rest of the university. Some university tax staff must rely upon information posted on the web from various sources to obtain answers to their tax questions. Further, some universities have stressed webinars as a training substitute for tax staff. Webinars are fine supplemental sources of information but nothing beats a tax conference where the tax staff is surrounded by other tax managers of higher education. I've heard it said by one tax manager they received more tax education in the hallways of a two day live tax conference than they did from a year's worth of tax webinars.

A few of the VP's wanted a tax staff that understands they work for the university – not the IRS.

Having worked at the IRS for 15 years, I have been jokingly accused of this myself at times. What I was hoping to do was to provide the IRS view of a certain situation. I think they really meant they wanted a tax manager who could provide alternative answers to tax issues that still accomplished the goal. A tax manager does not have the authority to deny an activity that may result in tax exposure to the university – what they can do is to explain what is required for monitoring and reporting for the correct tax return that is to be filed.

Some VP's indicated they wanted a 'calm' approach to tax compliance.

I agree with this. No one wants a ranting and raving tax department. VP's indicated to me they did not want an alarmist, a policeman, a tax wonk, or a naysayer. I matured through my years as a Tax Manager at three different institutions to being calm and responding with answers based good research. When posing a response to a tax issue, I tried to present three different alternatives each time – a good, better, and best approach along with the consequences of adopting each approach. Consequences included being in compliance with tax law, the degree of financial and reputational risk and the tax cost involved with each solution. I indicated I agreed with this calm approach but I would add that as a Tax Manager, I expect the same from all other employees of the university. That is, to impose the record keeping requirements

needed to report and file with the IRS sometimes is frustrating to a department head but it is necessary and the Tax Manager is not someone to take out your frustrations upon.

Here's an interesting one from the VP's – 'creative problem solving'. Sometimes the real message to a tax manager here is, we don't like that answer, find another one.

Sometimes, after much research and effort to develop a different structure to a tax situation, it comes down to, this is what the law is in this situation. At times, I have heard a response of 'That's not fair' which always reminded me of my children facing the realities of grown up life. In some instances it does appear the tax code is not fair in some instances, but it is still the tax code and has to be followed in order to protect the university. I have advised the VP's that I don't make this IRS stuff up – I'm not that creative to write tax code (meaning I think it could be clearer too).

Some said 'Personal Detachment'.

I assume from this the VP's meant not to get emotionally involved with a tax issue or a department. I support this in general. However, I would suggest that I receive the same courtesy from others. There are instances where the position or position of an individual within the institution overrides the rules and creates a tax risk. What am I talking about here? Perhaps a Dean, or another VP or a highly recognized (and highly compensated) individual within or from outside the university wishes to just get it done and we'll figure out the paperwork later, or maybe you have heard something like this for the payment of an honorarium: "This individual is a world renown authority in the field and we're certainly not going to ask her/her to fill out this W-9 or this independent contractor questionnaire". What, I'm saying here is that the processes and procedures that are in place are in place for a reason and a person's title, position or stature are not valid reasons to avoid those policies or procedures. Variation from established procedures or policies, often accomplished with a phone call to the VP, puts the tax manager in a precarious position of being overridden and reduces the credibility of the tax department.

Another topic mentioned by the VP's was a willingness to work with others to achieve reasonable results in a tax issue.

I agree. It was always my perspective as a Tax Manager at the university to provide the best possible tax guidance I could. I always felt I was in a staff position at all three of the universities. Being in a staff position means you can suggest, you can cajole and you can guide. It's difficult to make a department or a person DO it the way I suggest. This is where I always show the consequences of not following the tax advice. For instance, at one university, in the good old days when there was a large central budget available, that bucket of money was used to pay tax assessments of individual departments. Those days, as we know are no longer here. So, we

changed our philosophy on this. Tax assessments accruing to department's activities are now paid out of the department's budget. In one instance, I advised a department who was reluctant to agree with me on an activity being subject to the Unrelated Business income Tax to proceed the way they wanted too, but please have a fund set aside that amounted to approximately 34% of net revenues to pay the tax when it was assessed. Plus penalties and interest. It was this one statement that persuaded them to take a different approach to their activity. They were not aware that central funding would pay the tax for their department. In other words, each UBIT activity stood on its own, including the amount of tax generated by that activity.

The VP's all agreed on this one. Tax Managers should have a willingness to accept risk.

I agree with this also. As a Tax Manager, there are some areas where it is administratively over burdensome to capture monitor and report some items – gift cards of \$5.00 in value handed to employees for a customer interaction, for instance. Or a situation of attempting to monitor payments to Human Subject Research across several different departments. In these cases, I monetized the amount of the risk by showing the tax assessment in dollars that could be made. For instance, I discovered at one university the total amount of cash payments made to Human Research Subjects totaled approx. 300K a year. The tax risk was lower than any system we could establish to monitor all of these. I was fine with that as long as it was documented that this was a risk the university was assuming and a tax assessment was not the result of me not knowing about it or not taking any action about it.

Some VP's wanted it to be known that it is the CEO or the CFO that gets to decide how much risk.

I agree somewhat with this. A Tax Manager must be willing to accept this direction. My reservation is that I fully believe that it is a matter of the Board as to how much Tax Risk the university will assume. I would submit to you that if a survey could be taken that is reflected on a scale of 1 to 10 – with one being accept all risks and 10 being the most conservative tax position available at all times – that the responses would vary widely between the Board members and VP's, CEO's, Controllers and Treasurers. While I have not conducted this survey yet, I would imagine that the Board member responses would be closer to the far end of the scale (conservative) than those of the VP or Controller.

I would go further and say this extends to departments. That is, an academic VP, Dean or department finance business Officer does not get to determine this amount of risk. On every campus, there are always 400 tax experts, but only one Tax Manager. Many of these experts only read the parts of the Code or Regulations they want to see – that is, often times they do not read the exceptions that exist, or are familiar with the latest tax ruling or Revenue Procedure.

So, the end result of this is how does a Tax Manager relate an issue to the VP. Often times the tax manager reports to a Controller who reports to a VP. How do the issues float up to a VP decision?

I feel it is important to summarize the issue in one paragraph or two. Then provide alternative solutions as suggested above (good, better, best, each with the consequences). This will identify the risks. Then the solution should be quantified – in terms of hard dollars as VP's really seem to understand this. And more VP's are beginning to understand the reputational or newspaper risk. As always, document, document, document it all. Further, Tax Managers should be prepared to provide additional information if requested – which always seems to happen. (One side story here: I feel that when I was asked to 'check with our market basket' or to check with the other schools in our conference that it was sometimes an only an exercise. Sometimes it doesn't matter what another school is doing on this issue. This happened to be on a Sales Tax issue-and the states vary so much on sales tax that to ask another institution in a different state is fruitless. The correct response is what is best for our university to do in this situation based on the law and the facts and circumstances present.

Next time you'll hear from me on what a Tax Manager wants from their VP. A different look at the same question all designed to achieve the best possible results for the university.