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TO TAX OR NOT TO TAX? FOREIGN AND DOMESTIC TAXATION OF THE INTERNET

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LeaAnn Smith, University of Central Arkansas**

ABSTRACT

What do the governors of forty five states, the European Economic Union, The World Trade Organization, and the United Nations have in common? They all want to tax the Internet. This paper discusses the jurisdictional basis for domestic taxation of the Internet and concludes with pending foreign proposals to tax Internet transactions. The question of foreign taxation of the Internet is a serious one because both an agency of the United Nations and a committee of the World Trade Organization have proposed taxing international E-commerce and E-mail to fund development activities in underdeveloped countries.

INTRODUCTION

The obvious motive of the advocates of Internet taxation is to raise revenue. It is estimated by the United Nations that a BIT tax on E-mail in the European Union would have raised \$10 billion dollars in 1998 (Kopel, Holder, 2001). State and local governments could have collected \$13.3 billion from sales taxes on online purchases in 2001 and the predicted amount rises to \$45.2 billion by 2006 (Bruce, Fox, 2001). There are also several practical concerns about Internet taxation. Some of the most often raised (Griffin, Whitehead, 1998) are (1) the Internet global network that crosses state and national borders, and is inherently a matter of interstate and foreign commerce within the sole jurisdiction of the Congress under the commerce clause; (2) the internet operates independently of state and national borders and Internet transmissions insensitive to physical distances and can have multiple geographical addresses; (3) Internet transmissions use packet-switching technology that makes it impossible to determine with any degree of certainty the precise geographic route or endpoints of specific transmissions and infeasible to separate intrastate from intrastate and foreign from domestic transmissions; (4) taxes imposed on the Internet by state, local, and foreign governments will be inconsistent and cannot be fairly apportioned among the various jurisdictions. This inconsistency will subject consumers, businesses, and users engaged in foreign commerce to multiple, burdening, and confusing taxation that will impede the use of the Internet; (5) because the Internet was developed after traditional notions of jurisdiction for taxation were developed, their application to the Internet is unintended. Unpredictable policy will threaten every Internet user, access provider, vendor, and interactive computer service provider; (6) The Internet provides services, products, and ideas that are especially valuable to senior citizens, the disabled, rural

residents, educational institutions, charitable groups, and developing small businesses; (7) It is possible for consumers, businesses, and others engaging in interstate or foreign commerce over the Internet to be subject to more than 30,000 separate taxing jurisdictions in the United States alone; and (8) a consistent and coherent national policy concerning taxation of the Internet is governed by Article I, section 8, Clause 3 of the U.S. Constitution that says, "The Congress shall have the power to...regulate commerce with foreign nations and among the several states..." Having raised the constitutional issues let us turn first to the issues concerning domestic taxation of the Internet.

DOMESTIC TAXATION

Any discussion of domestic taxation of the Internet must commence with the Supreme Court's landmark decision in *Quill v. North Dakota* (1992). The case involved the state's attempt to require an out-of-state mail order house that had neither outlets nor sales representatives in the state to collect and pay a use tax on goods purchased for use in the state. *Quill* solicited its business by catalog or flyers and delivered its goods to North Dakota customers by mail or common carrier. It was the sixth largest vendor of office supplies for the state. North Dakota imposes a use tax on property purchased for use in the state and requires every retailer to collect the tax and remit it to the state. The definition of retailer includes "every person who engages in regular or systematic solicitation of a consumer market in the state." Regular or systematic solicitation means "three or more advertisements within a twelve month period." *Quill* fell within the statutory definition of those required to remit a use tax.

The U. S. Supreme Court considered whether the State's use tax scheme violated either the Due Process Clause or the Commerce Clause of the Constitution. The Due Process Clause requires some minimum contact between a State and the person it seeks to tax. The "income attributed to the state for tax purposes must rationally be related to values connected to the taxing State." Referring to the fact that much business is conducted by mail or wire the High Court held that "if a corporation avails itself of the benefits of an economic market in the forum State, it may subject itself to the State's jurisdiction even if it has no physical presence in the State." Since *Quill* had purposefully directed its activities at North Dakota, the magnitude of those contacts was sufficient for due process purposes to hold that the State was not barred from enforcing its tax scheme against *Quill*. North Dakota won on the due process issue. But the issue is not settled until the Commerce Clause is also consulted.

The Commerce Clause expressly authorizes Congress to "regulate commerce... among the several States." The Clause, "by its own force" prohibits certain state actions that interfere with interstate commerce (*South Carolina v. Barnwell Brothers*, 1938). The High Court ruled in a previous case (*Complete Auto v. Brady*, 1977) that it would sustain a tax against a Commerce Clause challenge so long as the "tax (1) is applied to an activity with a substantial nexus with the taxing State, (2) is fairly apportioned, (3) does not discriminate against interstate commerce, and (4) is fairly related to services provided by the State." North Dakota cleverly argued that that if *Quill*'s activities in the state satisfies the due process "minimum contacts" test then the corporation also meets the Commerce Clause "substantial nexus" test. The Supreme Court disagreed saying that due process concerns fundamental fairness of government activity. Justice Stevens pointed out that it

had adopted "notice" and "fair warning" as the analytic touchstone of the due process analysis. Next we turn to the court's approach to substantial nexus.

The Commerce Clause, and its nexus requirement, unlike the Due Process Clause, are concerned not so much with issues about fairness for the individual defendant as by questions about the effects of state regulation on the national economy. The framers intended the Commerce Clause as a cure for the well-known structural ills of the Articles of Confederation (The Federalist No.7, 11). As a result the Court has long decided that the Clause prohibits discrimination against interstate commerce and bars state regulations that unduly burden interstate commerce. Justice Stevens wrote that this case, like *National Bellas Hess v. Department of Revenue*, 1967, involved a state's attempt to require an out-of-state mail order house that neither has outlets or sales representatives in the State to collect and pay a use tax on goods purchased for use within the State. In *Bellas Hess* the Court ruled that the state statute violated the Commerce Clause. The Court said, a "seller whose only connection with customers in the state is by common carrier or the United States mail" lacked the requisite nexus with the state. The Court believed that its decision furthers the ends of the Commerce Clause to promote economic activity between the states and fosters investment by businesses. Further, the ruling provides predictability by providing a safe harbor for vendors whose only connection with customers in the taxing state is by common carriers or the U.S. mail. It is worth noting that North Dakota's statute clearly demonstrates how a state tax might unduly burden interstate commerce. Recall that the statute imposes a collection duty on any vendor who advertises in the state three times in a single year? Thus, absent the holding in *Quill*, anyone who advertised over the radio, in a magazine, on TV would be subject to a collection duty. More important, the same obligations might be imposed in the Nations 30,000 taxing jurisdictions. The burden would be unmanageable.

FOREIGN TAXATION

International politicians have joined the forty governors in chasing the Internet golden goose. The 1999 United Nations Report on the Human Condition bemoaned the difference between the "haves" and the "have nots" and proposed a BIT tax to raise funds from those who have technology with the proceeds used to extend technology to all (Kopel, Holder, 2001). On June 5, 2001, the European Union adopted a directive to level the playing field for E-commerce by introducing a value added tax on E-commerce and items sold over the Internet. In May, 2001, the director-general of the World Trade Organization said, "E-commerce is such a growing activity that there is a need for a clear-cut framework of rules." Finally, the UN has planned a world conference in Monterrey, Mexico, in March 2002, to consider recommendations about financing for development of poor countries. One of the proposals is to create an International Tax Organization to collect and administer aid to developing countries (Lamb, 2001). Among the ideas to be considered are a "Tobin Tax" on fuels and currency and a tax on the Internet. Much of the preparatory work for the conference enjoyed the support of the Clinton administration. Robert Rubin, the Secretary of the Treasury, represented the U.S. on the committee (Lamb, 2001). President Bush's approach is unclear. Perhaps, as with the Kyoto Protocol, he will place the interests of American commerce first. One thing is for sure, if we remain passive while foreign governments impose taxes and rules that stifle E-Commerce, the economic health of the global community will be impacted. The world's

poor aren't shut out of economic opportunities because the UN and EU don't have enough tax revenue; they are shut out because the leftist and kleptocracies ruling them are already stealing so much (Kopel, Holder, 2001).

STREAMLINED SALES TAX PROJECT

The Streamlined Sales and Use Tax Agreement (Agreement) is an agreement among all states providing for simplification of the nation's varying sales tax laws. The agreement is an effort by 45 states, the District of Columbia, local governments and members of the business community to develop measures radically simplifies sales and use tax collection and administration by retailers and states. The simplified system reduces the number of sales tax rates, brings uniformity to definitions of items in the sales tax base, significantly reduces the paperwork on retailers, and uses new technology to upgrade many administrative procedures. The goal is to allow taxes to be collected for e-commerce sales (Ward and Siprio, 2004).

CONCLUSIONS

The Internet Tax Freedom Act of 2007 extended the moratorium on no new Internet taxes until 2014. While this might reduce the pressure to tax commerce on the Internet in the short run, it is still a national problem. Those in favor of Internet taxation point to the loss of tax revenue regardless of whether it is bricks and mortar sales or clicks over the Internet. Those opposed to Internet taxation point to increasing taxes and fees will result in more expense for the consumer and thus will restrict the growth of Internet use and e-commerce. It is estimated that by 2011 the revenue loss from non taxation of e-commerce will be 54.8 billion dollars (Bruce, Fox, 2004). This is a tremendous force driving the efforts to tax e-commerce. Any effort to tax remote vendors must address the requirements of the Due Process Clause of the Commerce Clause of the United States Constitution. The current tax collection system is not viable for e-commerce and the Streamlined Sales Tax and Use Agreement is an effort to minimize the confusion of e-commerce sales tax collections and would bring some certainty to tax collections.

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AN EXAMINATION OF ETHICAL VALUES AMONG BLACK AND WHITE SUBJECTS AND AMONG MALES AND FEMALES

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INTRODUCTION

A renewed focus on business ethics, especially following the Enron scandal, has brought a resurgence of interest ethics and ethical differences. In this study, we extend the business ethics literature that uses vignettes to present various kinds of real life of ethical dilemmas (Fritzsche and Becker, 1984; Becker and Fritzsche, 1987; Premeaux and Mondy, 1993) to a consideration of whether differences may exist among Blacks and Whites, and males and females.

LITERATURE REVIEW

Historically, between the mid 1990's and 2002, most of the comparative empirical research dealing with normative behavior and the development ethical values in firms was published under the rubric of comparative management rather than business ethics. Early emphasis was upon differences among managers and upon national-cultural differences, and conceptual frameworks for the examination of business ethics in a cross-cultural context began appearing in the early 1990's (Kohls and Buhler, 1994; Robertson, 1993; Vitell et al., 1993; Vogel, 1992; Wines and Napier, 1992). Vignettes were generally not used and, as noted by Whitcomb et al. (1998), the choice of variables used in these studies appears to be heavily influenced by psychology and traits theory.

In this study, we incorporate the method and design used in a number of previous studies, extending the vein of management and business ethics literature that uses vignettes to present various kinds of real life of ethical dilemmas (Fritzsche and Becker, 1984; Becker and Fritzsche, 1987; Premeaux and Mondy, 1993). In this research, however, our focus is not upon cultural differences across national groups, but rather upon the diverse national culture in the United States. Specifically, we consider whether differences may occur among two racial and the two gender groups found in the U.S.

METHODOLOGY

Method and Design

The current study replicates the method and design used in previous studies in this series, continuing the vein of management and business ethics literature that uses vignettes to present various kinds of real life of ethical dilemmas (Fritzsche and Becker, 1984; Becker and Fritzsche, 1987; Premeaux and Mondy, 1993). In an effort to facilitate wider generalization and comparison with previous studies, the vignette set developed by Becker and Fritzsche (1984; 1987) was used. Thus the instrument and hypotheses replicate those used in those earlier studies.

Instrument

The instrument was derived from the Becker and Fritzsche instrument (1984; 1987) and presents five vignettes. For each vignette, two responses were solicited. First, subjects were asked to indicate on a 0- to 10-point Likert Scale what their own decision would be to the scenario issue; i.e. their perceived likelihood of taking a certain action. Second, they were asked to indicate the reasoning behind their decision. To do this, options were presented in multiple-choice format, including an open-ended option.

Hypotheses

Four hypotheses (stated in the null) were tested for each vignette.

Hypothesis 1: Black and White subjects will select the same behavioral choice when faced with the same ethical dilemma.

Hypothesis 2: Black and White subjects will select the same rationales to justify their behavioral choices.

Hypothesis 3: Male and Female subjects will select the same behavioral choice when faced with the same ethical dilemma.

Hypothesis 4: Male and Female subjects will select the same rationales to justify their behavioral choices.

Subjects of the Current Study

Subjects in the sample were approximately 93 managers from a wide variety of industries. There are 53 Black/African Americans and 40 White/Caucasians in the sample. The Black subjects were roughly 26.4 % male and 73.6% female with an average age of 28.58. These managers had an average of 10 years working experience with 2.4 years in management positions. The White subjects in the sample were approximately 57.5% male and 42.5% female with an average age of

38.4. They had an average of 16 years working experience with 7.4 years in management positions. Both sample groups were managers attending management training at two universities in a large Southern city. One is predominantly White/Caucasian and the other is a HBCU (Historically Black College and University).

Among the 93 managers, 37 were male and 56 were female. The male managers had an average age of 34.8 and an average working experience of 13 years with 5.8 years in managing position while the females had an average age of 31.5 and 12 years of working experience with 3.7 years in management.

CONCLUSIONS AND DISCUSSION

In this study, we have extended the vein of management and business ethics literature that uses vignettes to present various kinds of real life of ethical dilemmas (Fritzsche and Becker, 1984; Becker and Fritzsche, 1987; Premeaux and Mondy, 1993) to different groups of managers and to those from different national cultures. In this research, however, our focus was not upon cultural differences across national groups, but rather upon groups in the United States. Specifically, we examined whether differences would occur among two racial and the two gender groups found in the U.S. We did not find significant differences in level of reported ethical behavioral choices for Black versus White subjects, but we did find some evidence that the two gender groups may approach the decision making process differently in some instances. We may be seeing some evidence that White subjects are more concerned with legality, in a technical sense, of some practices, while Black subjects appear to be more influenced by environmental and similar concerns.

When we examine findings for males versus females, we find significant differences between males and females in both reported levels of ethical behavioral choices and in approach to ethical decision making. Males reported more willingness to engage in unethical behaviors. They also appeared to approach ethical decision making somewhat differently than females. Females were more prone to label an action as unethical and reject it on that basis, while males appeared to be more influenced by pragmatic concerns.

These findings suggest that differences in socialization may impact ethical behavior and the approach to ethical decision making, especially for males versus females. It will be interesting to see whether these findings, with a relatively small sample and with subjects from only two universities in a limited geographical area, can be replicated in differing settings and with other cultural groups, such as Hispanics. It will also be interesting to see if results differ for different age groups and in differing samples, including non-students.

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GOVERNMENT AFFAIRS ACTIVITIES OF CHAMBERS OF COMMERCE

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ABSTRACT

Chambers of commerce across the United States are becoming more involved in the legislative arenas of local, state, and federal government. This study explores the government affairs activities of four chambers of commerce in suburban New Orleans. All have government affairs standing committees. Their functions include keeping members informed on legislative and government activities, sponsoring events where members can meet and query public officials or to travel to the seats of government to meet with them.

The future of chamber governmental activity may lie in the cooperation or partnering with other chambers or business organizations such as economic development agencies as regionalism for economic development is emphasized. Though chambers have other functional committees such as business development and membership, perhaps the most important committee in the future will be the Government Affairs Committee as it serves as a conduit between members and elected officials.

INTRODUCTION

As long as commerce has existed, traders have banded together to govern the conduct of business, provide common protection against enemies, and promote their businesses (Morro Bay, n.d.). The concept of a chamber of commerce first appeared in Europe at the end of the 17th century. The earliest locally-based chamber in North America was established in Charleston, South Carolina in 1773. (Morro Bay. n.d.). Today, there are 2,800 state and local chamber chapters and 3,000,000 business members in the United States (U.S. Chamber of Commerce, n.d.).

The activities of early U.S. chambers were limited to commerce. The decades of the 1950s and 1960s saw an emphasis on recruiting new businesses to an area and job creation. During the next 30 years, chamber activities expanded to socioeconomic concerns such as housing, public education, workforce development, community services and unemployment. The chambers of this century have become more active in the legislative arenas of local, state, and federal government in order to look out after the interests of business members and the economic and social welfare of their communities (Morro Bay, n.d.).

Chambers of commerce are an important force in any local community, yet little research seems to have been done on them. Dawley, Stephens and Stephens (2005) explored the multi-dimensionality of organization of volunteer chambers of commerce board members using the Meyer and Allen scale. Lacho, Bradley and Cusack (2006) examined how business nonprofits, including chambers of commerce, helped small businesses in New Orleans, Louisiana survive the aftermath of Hurricane Katrina.

Given the growing attention of chambers of commerce to all levels of government, this paper examines the governmental activities of four chambers of commerce in the New Orleans, Louisiana Metropolitan area.

RESEARCH METHODOGY

The following chambers of commerce were studied: (1) Jefferson (JC), (2) St. Tammany West (STWC), (3) East St. Tammany (ESTC), and (4) the River Region (RRC). Executive directors and/or government committee chairs for each chamber were interviewed in person or by telephone. Secondary sources such as web sites, e-mail notices, and Chamber printed matter such as newsletters were used. In addition, the author drew on his experience as a member of various committees of two of the chambers during the past ten years.

BACKGROUND

The Jefferson Chamber is located in Jefferson Parish, a suburb of New Orleans. It was formed in 1997 and has 900 members. It has a president and eight staff members. There are eight standing committees. One of these is the Government Committee.

The St. Tammany West Chamber of Commerce is located in the western part of St. Tammany Parish. The STWC was incorporated in 1980. It has 1,004 members and a paid staff of five including a chief executive officer. There is a 20 member board of directors and a five person advisory board. There are eight standing committees including Joint Public Policy and Governmental Affairs.

The East St. Tammany Chamber of Commerce is located in the eastern part of St. Tammany Parish, a suburb of New Orleans. The ESTC dates back to 1962 and has approximately 900 members. There is a chief executive officer and two paid staff members. The ESTC is a nonprofit organization with a 15 member board of directors and five advisory board members. There are five committees. One is the Public Policy Committee (PPC) which focuses on local parish and statewide governmental issues.

The River Region Chamber of Commerce encompasses three parishes west of New Orleans. These are St. John the Baptist, St. Charles, and St. James. The chamber was formed in 2005 and has 280 members. It is governed by a 25 member board of directors and has a paid staff of three including an executive director. There are five standing committees including a Public Policy Committee.

FINDINGS

The JC has a Government Committee which meets once per month. It has four subcommittees; (1) local (parish)/state government, (2) transportation/infrastructure, (3) federal government, and (4) elected officials meetings. Through the Government Committee the JC keeps track of issues affecting the parish and the business community by regularly attending Parish Council meetings, understanding state issues through the Louisiana Association of Business and Industry, and keeping track of federal issues through the U.S. Chamber of Commerce.

Access to political officials by chamber members is enabled by attending the "Day at the Louisiana Legislature" (May, 2007), the Governor's luncheon, municipal luncheons and luncheon addresses by elected officials. One example is the Annual State of the Parish Address given by the parish president. Each July members are given the opportunity to take part in the annual Washington D.C. Fly-in to meet with elected officials at the federal level (Jefferson Jubilation 2006/2007 annual report, n.d.).

A new benefit to members of the JC is voterVOICE which provides internet-based tools that will allow the Chamber to launch and manage grassroots campaigns and governmental affairs activities. The software through e-mail actions alerts members of current political activities that will affect the parish and allows them to connect directly with their representatives at local, state, and federal levels.

The STWC participates in a Joint Public Policy Committee (JPPC), which in conjunction with representatives of the ESTC and the Northshore Business Council monitors business-related legislation at the local, state, and federal levels and evaluates its possible effects on the business community. The STWC's Governmental Affairs Committee (GAC) serves as a liaison between JPP and the STWC's general membership, soliciting input and concerns and apprising members of legislative initiatives and developments. Both the JPPC and the GAC provide opportunities for members to hear and meet with elected and government officials. These include breakfasts, luncheons, and special events. Examples of such meetings include: (1) then U.S. Congressman Bobby Jindal discussed items expected for debate in the fall 2006 session at a President's Roundtable, (2) luncheon presentations included updates from the Louisiana Recovery Authority, Citizen's for a Greater New Orleans and Insurance Commissioner Jim Donelon, (3) a President's Roundtable event had the mayors of Mandeville and Covington update members on the state of local governments post-Katrina, and (4) Senator Mary Landrieu addressed chamber members at a Presidents Roundtable breakfast meeting in August 2007. She also spoke at a joint meeting of the West and East St. Tammany Chambers of Commerce in early 2006 on the outcomes of various legislative recovery issues.

Chamber leaders visited Washington D.C. during the U.S. Chamber 2006 Small Business Summit to promote St. Tammany as a parish and about issues impacting its businesses and citizens. Visits to Washington, D.C. have also included occasional fly-ins and attendance and participation in such events as the Washington Mardi Gras. Topics discussed with Congressional members and key staffers included infrastructure needs, economic opportunities, and recovery specific items (St. Tammany West Chamber 2006 Annual Report).

ESTC has a Public Policy Committee (PPC) which focuses on local parish and statewide government issues. It works with members and other chamber offices to identify issues of concern to member's business interests which may be impacted by government action or inactions. As noted above, delegates from the ESTC's PPC participate in the Joint Public Policy Committee in conjunction with representatives of the STWC and the Northshore Business Council.

Members are afforded the opportunity to hear or meet with elected officials. For example, there is the Annual State of the City of Slidell Message given by the mayor. Slidell Day at the State Legislature in May gives members the opportunity to speak one-on-one with the area's elected delegation and other state officials. Members of the joint PPC attend regularly scheduled meetings

with elected officiates to monitor their progress (East St. Tammany Chamber of Commerce Connection, 2007).

The 18 member Joint Public Committee (JPPC) is a coalition of the St. Tammany East and West Chambers and the Northshore Business Council. The Committee has hired a business advocate. Several committee members made trips to the state capitol during the 2007 legislative session, playing an active role in meeting with legislators and watching legislative bills relative to the group's top three concerns: transportation, insurance, and property taxes. In an effort to get the views of candidates for the Northshore's legislative seats in the House and Senate, interviews were conducted by the JPPC over a three day period during September 2007. Results of the interviews were shared with chamber members.

The RRC's Public Policy Committee consists of 20 persons who are small business owners and executives from industry and utility companies. One purpose of the committee is to keep up with legislation and emerging issues that affect business and to recommend appropriate actions and where necessary to influence positive change. A second purpose is to communicate business and civic issues to local, state, and federal governments and to lobby and support those issues which are in the best interest of chamber members.

A major emphasis of the RRC is to give chamber members the opportunity to meet, hear and question elected officials (or those running for office). For example, in 2006 the Public Policy Committee hosted four public "Meet the Candidates" events in advance of the elections for Parish President, Sheriff, Clerk of Court, City Council, and state representative. A similar series of meetings was held in 2007. Four luncheon forums are scheduled in 2008: (1) Parish Presidents, (2) U.S. Congressional, (3) State Legislature, and (4) the Annual U.S. Chamber Update. Members in all meetings are given the opportunity to have a dialogue on visions, future plans and to express concerns.

The RRC Public Policy Committee expressed its concern on several issues in the 2006-2007 Louisiana state legislature. Several of the major issues that were of concern were raising the minimum wage, unemployment compensation tax increases, tort reform, eminent domain, and the creation of economic development districts (Henry Friloux, 2007).

DISCUSSION

The government affairs activities of the chambers studied reflect the interest in chambers across the U.S. in influencing the actions of government, local, state, and federal. More specifically, the chambers studied were most concerned over the impact of Hurricane Katrina and economic recovery issues. The chambers are working with their elected officials at all levels, to gain assistance, favorable legislation, and funding related to infrastructure, levee protection, public education, and economic development.

Coalitions or cooperative efforts are becoming more important. The STWC, ESTC and Northshore Business Council are cooperating to present a united front to elected officials on issues related to the I-10/12 corridor (between Slidell and Baton Rouge) which is predicted to be an area of high economic growth in the future. Infrastructure (transportation), insurance costs, and property taxes are major issues. In the immediate aftermath of Hurricane Katrina, nonprofits in the New Orleans Metropolitan Area cooperated or partnered to help out small business owners. Organizations

such as chambers of commerce worked with economic development agencies such as the U.S. Small Business Administration, Jefferson Parish Economic Development Commission, the Louisiana Economic Development Department, and Small Business Development Centers (Lacho, Bradley & Cusack, 2006).

Each of the studied chambers has a standing government affairs (or public policy) committee which monitors issues and informs the membership of them. Members have the opportunity to interact with elected officials at locally-based forums, luncheons, and meetings or to visit them at the state legislature or even Washington D.C. Several chambers rely upon the U.S. Chamber of Commerce for information on issues and information at the federal level. A recent technological innovation is voterVoice used in the JC where members can learn about issues via email and directly express their views to their elected officials via email. This makes it easier for member involvement in government affairs.

CONCLUSION

The regulatory impact of government at all levels is increasing. Small business owners are impacted the most by state and local government. Chambers of Commerce and their Government Affairs Committees are an excellent way for the business community, in particular small business chamber members, to keep informed of government actions and to make their views known. The Government Affairs Committees studied held locally-based events for members to meet and interact with elected officials as well as opportunities to visit with them at the seats of government.

Each chamber has different committees in its organizational structure. Membership and communication committees are necessary structural components. Business development, education and workforce development are aimed toward helping members strengthen and improve their businesses. Perhaps the most important chamber committee in the future will be the Government Affairs Committee as it keeps members informed of government activities and gives them the opportunity to let their views be known to elected officials. The future of chamber governmental activities may well lie in the development of coalitions with other chambers and business organizations as regionalism for economic development is emphasized.

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EXAMINING STATE SPONSORED LOTTERIES AND THEIR EFFECT ON BANKRUPTCY FILING RATES: A TIME SERIES ANALYSIS

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ABSTRACT

A significant body of research of state-level policies that cause the interstate variation of consumer bankruptcy filing rates is developing. Beyond the commonly tested economic and demographic explanatory variables, the possible impact of other policy choices on consumer bankruptcy filing rates should be examined. One such policy is the implementation of the lottery. To date there is very limited research, empirical or otherwise, examining the relationship between lottery and a state's consumer bankruptcy filing rate. Prior research examining this relationship has yielded mixed results. This study is the first to utilize a time-series design to analyze the impact of enacting the lottery on a state's consumer bankruptcy filing rate. The primary research question in this study is as follows: What impact, if any, does the presence of a lottery have on a state's consumer bankruptcy filing rate? Prior findings of no statistically significant relationship between the lottery and a state's consumer Chapter 7 filing rate were confirmed. However, mixed results were found regarding the relationship between the lottery and a state's Chapter 13 filing rate, as well as the lottery and the percentage of total consumer filings under Chapter 7. Future research and potential policy implications are suggested.

INTRODUCTION

For the last quarter of a century, a generation of scholars has studied bankruptcy and the causes of the increasing consumer bankruptcy rate, particularly the dramatic increases of the mid-1990s. A primary area of focus has been on Chapters 7 and 13 consumer bankruptcies since these are the primary bankruptcy options used by consumer debtors (Wang & White, 2000), and it is filings under these two chapters which have dramatically increased in recent years (Landry and Yarbrough, 2007). Chapter 7 is commonly referred to as liquidation or straight bankruptcy in which the debtor obtains a discharge of most unsecured debts. Chapter 13 is often called a wage earners plan because the debtor usually funds a repayment plan to creditors with disposable income and receives a discharge after completed of the plan (Skeel, 2001, 6-7).

As empirical bankruptcy research evolves, scholars should attempt to address gaps in prior research and further examine areas of disagreement. Beyond the commonly tested causal relationships, the possible impact of other policy choices at the state and federal level on consumer

bankruptcy filing rates should be empirically tested (Porter, 2006). One such policy is the implementation of the lottery. To date there is very limited research, empirical or otherwise, examining the relationship between the existence of a lottery and a state's consumer bankruptcy filing rate. In light of the increasing number of states with the lottery (Freund and Morris, 2005) and wide-variation in state-level consumer bankruptcy filing rates (Weiss, Bhandari and Robins, 2001), further research is needed. This study is unique in that it is the only known study to date that utilizes a time-series design to analyze the impact of enacting a lottery on a state's consumer bankruptcy filing rate.

The primary research question in this study is as follows: What impact, if any, does the presence of a lottery have on a state's consumer bankruptcy filing rates? To address this overarching research question, three hypotheses were formulated, each with a different dependent variable corresponding to the particular bankruptcy chapter. The three hypotheses are presented as follows:

H1: The presence of a lottery tends to increase a state's per-capita Chapter 7 consumer-bankruptcy filing rate.

H2: The presence of a lottery tends to decrease a state's per-capita Chapter 13 bankruptcy filing rate.

H3: The presence of a lottery tends to increase a state's percentage of total consumer bankruptcy filing that are under Chapter 7.

LITERATURE REVIEW

There have been two empirical studies examining the relationship between lotteries and bankruptcy filing rates: one at the state level and one at the county level. Landry (2006) performed a state-level analysis wherein he employed a cross-sectional analysis over three time periods from 1980 to 2000 and a pooled analysis. The predictor variable of interest was the lottery and the dependent variables were per capita Chapter 7 consumer-bankruptcy filing rate, per capita Chapter 13 state filing rate and the percentage of total consumer state filings under Chapter 7. A host of economic, legal and social variables were included as explanatory variables. The results obtained were mixed, but suggest the need for further study in the intersection of bankruptcy and lottery policy areas (Landry, 2006,).

Edmiston (2006) performed a cross-sectional analysis at the county level for one year (2000) with aggregate consumer bankruptcy filing rates per 10,000 population as the dependent variable. The study employed a host of economic, legal and social control variables, and included the lottery as a variable of interest. The analysis yielded statistically significant results regarding several variables, including the lottery. The presence of a state lottery reduced the counties bankruptcy filing rate when compared counties in states without lotteries.

METHODOLOGY

The methodology employed in this study is similar to the interrupted time-series analysis model used by Kellough (1990). As Kellough noted, the limited number of pre and post data points

suggests that time-series is preferred to another modeling technique known as autoregressive integrated moving average (ARIMA).

The interruption in the model for this study is the implementation of a lottery, disturbing the applicable bankruptcy filing rate trend. Changes to the applicable bankruptcy filing rate may be short or long-term depending on the impact of a lottery.

Data are entered year by year (i.e., the cases are years, not states.) Three independent variables are employed. A counter variable is employed that is coded one for the first year of the analysis, two for the second year, and three for the third year and so forth. This counter variable is called BEFORE. The second independent variable is dichotomous in nature and is coded zero for observations before the policy intervention (implementing the lottery) and one for observations thereafter. This variable is called LOTTERY. The remaining independent variable is a post-intervention counter that is also coded in the following manner: coded as zero for observations prior to the policy intervention and one for first year after the intervention, two for the next year, three for the next year, and so on. This variable is called AFTER.

Beyond the basic time-series analysis employed by Kellough, an additional time-series analysis was employed. Miller and Pierce (1997) employed a method similar to that used by Kellough (1990), but recognized that when serial data is utilized autocorrelation sometimes is present in the model.

To address the autocorrelation problem, transformation of the data, through the Cochrane-Orcutt (CORC) estimation procedure, is necessary to take into account the correlation of the error terms (Cochrane & Orcutt, 1949). The Durbin-Watson statistic is a test statistic used to detect the presence of autocorrelation from a regression analysis (Durbin & Watson, 1950). It is used in this study to indicate when transformation of data is required. Bankruptcy data was transformed if the test statistic was found to be outside the acceptable range of the Durbin-Watson chart (Kellough, 1990). After transformation of data, interrupted time-series analyses were performed for each state. This led to an additional six "transformed" models that can then be compared to the six models created from simple data for each of three dependent variables.

RESEARCH FINDINGS AND ANALYSES

The results of this study are grouped and presented in three sections for each dependent variable. Time series regression analyses for each of the two states chosen for this study (Georgia and Indiana) were conducted within each of the three dependent variables.

Chapter 7 Analyses

An interrupted time-series analysis of lottery and Indiana's per-capita Chapter 7 consumer-bankruptcy filing rate was performed employing Kellough's regression model. Likewise, an analysis was performed for Georgia. None of the independent variables were statistically significant at the 1% level in the Indiana model. Both BEFORE and LOTTERY were statistically significant at the 1% level and AFTER significant at the 5% level, one tail, in the Georgia model. However, in both models the Durbin-Watson statistic indicated autocorrelation which most likely results in an overestimation of the significance of the coefficients. In light of the Durbin-Watson

statistic for each model, we employed the CORC procedure to transform the data to take into account correlation of the error terms. We then ran a regression analysis for each state. Although, the CORC procedure resulted in regression models with acceptable Durbin-Watson statistics, the models did not yield any statistically significant results among the independent variables at the 1% level. These findings are consistent with Landry's prior cross-sectional analysis finding of no statistically significant relationship between implementation of the lottery and the per-capita Chapter 7 filing rate.

Chapter 13 Analyses - Indiana

The only independent variable that is statistically significant is AFTER. This indicates that in the years after the adoption of the lottery, per-capita Chapter 13 filing rates did not decline, as hypothesized. Instead, per-capita Chapter 13 filing rates increased more quickly than they had prior to the adoption of the lottery. The Indiana experience tends to refute the hypothesis that adopting the lottery causes those rates to drop. In light of the Durbin-Watson statistic (0.51) for the model which indicates autocorrelation, the CORC procedure was employed to transform the data to take into account correlation of the error terms as Miller and Pierce (1997). A regression analysis was then employed. Although, the CORC procedure resulted in a regression model with an acceptable Durbin-Watson statistic, the model did not yield any statistically significant results among the independent variables.

Chapter 13 Analyses - Georgia

Both BEFORE and AFTER were statistically significant in the Georgia model. As reflected by the coefficient for BEFORE, prior to the adoption of the lottery, per-capita Chapter 13 filing rates were increasing at a rate of 0.287 per year in Georgia. The impact of LOTTERY was not statistically significant. Immediately after the lottery was adopted, as reflected by the coefficient for AFTER, the annual increase in the per-capita Chapter 13 filing rates slowed dramatically, from 0.287 to 0.078. The change in slope of -0.209 is in the hypothesized direction and is statistically significant. The Georgia experience, then, tends to support the H2: that the lottery leads to a decrease in the per-capita Chapter 13 filing rate.

Percentage of Total Filings under Chapter 7 - Indiana

The coefficient for BEFORE is not statistically significant at the 1% level, but is approaching significance at the 5% level, one tail. Prior to the adoption of the lottery, the percentage of total filings under Chapter 7 was decreasing at a rate of 0.19% per a year in Indiana. The LOTTERY coefficient is statistically significant and shows that immediately after the adoption of the lottery, the rate sharply decreased: an additional 2.70%, far more than the typical year-to-year fluctuation in the percentage of total filing under Chapter 7. The AFTER coefficient is statistically significant and shows that in the years since the adoption of the lottery, the percentage of total filings under Chapter 7 has declined much more rapidly than previously: -0.78% per year, instead of -0.19%.

These declines tend to refute H3: lotteries tend to increase the percentage of total filings under Chapter 7.

Percentage of Total Filings under Chapter 7 - Georgia

The coefficients for BEFORE and AFTER are both statistically significant at the 1% level and LOTTERY is statistically significant at the 5% level, one tail. As indicated by the BEFORE coefficient, prior to the adoption of the lottery, the percentage of total filings under Chapter 7 was decreasing at a rate of 1.50% per a year in Georgia. The percentage dropped an additional 6% (LOTTERY) the year after the lottery was adopted, which was a substantial drop, more than would be expected from year-to-year fluctuations in the percentage of total filings under Chapter 7. However, in the years since the adoption of the lottery, as reflected by the sum of the AFTER and BEFORE coefficients the percentage of total filings under Chapter 7 has risen 1.5% per year instead of declining that same percent per year, as previously. The Georgia experience offers strong support for the H3: lotteries tend to increase the percentage of total filing under Chapter 7.

CONCLUSION

The first hypothesis (H1) tested was whether the presence of a lottery tends to increase a state's per-capita Chapter 7 consumer-bankruptcy filing rate. The regression results for the transformed data for both Georgia and Indiana did not yield any statistically significant results. This is consistent with the prior findings of Landry (2006). It appears the presence of the lottery does not have an impact on a state's per-capita Chapter 7 consumer-bankruptcy filing rate.

Prior research (Landry 2006) showed that states with lotteries tend to have significantly lower Chapter 13 filing rates than do those with lotteries. The differences were so dramatic and consistent that they suggested a causal association and the second hypothesis (H2): the presence of a lottery tends to decrease a state's per-capita Chapter 13 bankruptcy filing rate. The Indiana analysis offered no statistically significant support for H2, while the Georgia analysis offered strong support for H2. The very different results from the two states leave the hypothesis unconfirmed and needing further testing, which will be possible as the years pass and more post-lottery data points become available in many states.

The third hypothesis tested (H3) was that the presence of a lottery tends to increase a state's percentage of total consumer bankruptcy filing that are under Chapter 7. Prior cross-sectional analysis (Landry 2006) supported the hypothesis. Indiana's regression results strongly refutes H3 while Georgia's results strongly supports H3. The very different experiences in Indiana and Georgia are inadequate to either support or refute the hypothesis. When interrupted time-series can be run in additional states, it may become clear that the Indiana or the Georgia experience is the more typical.

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INTRODUCTION

Attorneys that provide instruction at institutions of higher education in the legal field address a variety of topics and issues with their students. Discussions between instructor and student regarding legal issues may expand outside of the classroom setting and not be germane to the topics addressed in the academic environment. The diversity of issues may be more emphasized in the basic business law course which is usually classified as a sophomore course and is a pre-requisite for future courses.

The role of the instructor is to provide information and promote student development from an academic perspective. Many of the aforementioned discussions take a personal turn towards the student's individual circumstances inside and outside the classroom and most often occur in the instructor's office. The student seeks out the law instructor because of his or her knowledge regarding the personal issue that the student is addressing and because that instructor/attorney may be licensed in the state or practiced law before coming to the university. It is important for the instructor/attorney to be cognizant of the dual role that they may be placed in as an instructor/attorney. At what point in the discussion with the student does the relationship arguably switch from being one of an instructor to that of a licensed attorney providing legal advice or expressing a legal opinion? Is it possible for the instructor/attorney to be liable for malpractice if the wrong advice is given or all of the possible legal issues are not addressed? Did the instructor/attorney mention the statute of limitations, doctrine of laches, confidentiality of all the information provided by the student relevant to the issues that were presented by the student?

The inquiry must obviously focus on whether an attorney/client relationship was established between the attorney and the student carrying with it all of the fiduciary responsibilities that an attorney has towards a client. It is imperative that the instructor/attorney recognize the cost of time and money involved in the litigation of such claims. The effect of the student simply alleging the existence of an attorney/client relationship may very well keep the case in litigation for a lengthy period of time while effectively avoiding the appropriate dismissal motions utilized in the pretrial process.

A COMPARATIVE STUDY OF TAX EVASION IN SIX COUNTRIES

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ABSTRACT

The concept of tax evasion is the primary focus of the study. Data is gathered from a survey of approximately eleven hundred individuals across six countries. An eighteen-item scale is presented, analyzed, and discussed. Findings suggest that tax evasion has three overall perceptual dimensions across the items tested: (1) fairness, as related to the positive use of the money, (2) tax system, as related to the tax rates and negative use of the money, and (3) discrimination, as related to avoidance under certain conditions.

INTRODUCTION

Many articles have been written about tax evasion. Most of them have appeared in the accounting, economics and public finance literature. The usual thrust of these articles is to discuss technical aspects of tax evasion. Practitioner journals address legal aspects and evasion techniques. Scholarly journals focus on lost tax revenues or reasons why collections are not more efficient. Ethics is seldom discussed, or when it is discussed, it is usually done superficially. Oftentimes the discussion begins with the premise that what is illegal is also unethical.

The present paper is different. This paper begins with an overview of the ethical literature that has been published on tax evasion and proceeds to present the results of an empirical study that solicited views on the ethics of tax evasion from participants in six countries. This study had several goals. One goal was to rank the main arguments that have been used to justify tax evasion on ethical grounds over the last 500 years. Another goal was to determine which categories of arguments drew the most support from a wide range of cultures.

BACKGROUND ON TAX EVASION

People have been evading taxes ever since governments started collecting them (Adams, 1993). Sometimes they evaded because it was possible to do so with little thought to the ethics of the situation. Other times people evaded and attempted to justify their evasion on moral grounds. In a 1944 doctoral dissertation Martin Crowe summarized 500 years of theological and philosophical

literature on ethical reasons for evading taxes and found that several arguments kept appearing in the literature. Some of the most frequently given reasons for justifying tax evasion on moral grounds were inability to pay, government corruption, high tax rates or not getting much in return for tax payments. The Crowe (1944) study more or less limited itself to a study of the Catholic literature in the field, some of which was in the Latin language. Crowe's thesis introduced the English speaking public to some of the Latin language literature on this point.

More recently a number of authors have addressed ethical aspects of tax evasion from a number of religious and secular perspectives. Some studies have concluded that tax evasion is always or nearly always be unethical. The usual reasons given were that there is a duty to God, to the state or to other taxpayers. Some of the Christian and Jewish literature takes this position, although several different justifications are given by different scholars.

Cohn (1998) examined the Jewish literature and concluded that tax evasion was always unethical. One reason for this conclusion was because there is a strain of thought within the Jewish literature that there is a duty not to disparage another Jew. If one Jew commits tax evasion it makes all other Jews look bad. A survey of the Mormon (Smith & Kimball, 1998) literature found no exceptions to the general rule that tax evasion is unethical.

One question was whether it would be ethical for a Jew living in Nazi Germany to evade taxes. It was thought that this argument would constitute strong justification for evading taxes, but such was not always the case, as shall be seen later. A prior study involving Orthodox Jews (McGee & Cohn, 2007) found that even Jews feel there is some duty to pay taxes to Hitler, not because there is a duty to the state or to God but because there is a duty not to disparage another Jew.

The majority of literature that examines tax evasion from an ethical perspective concludes that tax evasion may be justified in certain situations, although the reasons differ. The Catholic literature (Crowe, 1944; Gronbacher, 1998; Schansberg, 1998) gives several reasons, including ability to pay and government corruption. Tax evasion has also been viewed as justifiable when taxpayers are forced to pay for a war that is perceived to be unjust (Pennock, 1998). The Islamic literature seems to indicate that tax evasion might be ethical if the effect of the tax is to raise prices or if the tax is on income (McGee, 1997). Thus, income taxes, sales taxes, value added taxes and tariffs could be seen as taxes that need not be paid on moral grounds. However, private conversations with an Islamic scholar dispute this conclusion. At least some Muslim scholars take the position that tax evasion is always unethical. Muslims from both perspectives cite the Quran to justify their positions.

Surveys of groups in Argentina (McGee & Rossi, 2006), Guatemala (McGee & Lingle, 2005), Poland (McGee & Bernal, 2006), Romania (McGee, 2005) and the United Kingdom (McGee & Sevic, 2008) found that there is widespread support for the position that tax evasion can be justified on ethical grounds in certain circumstances. In some cases the results varied by gender and in other cases they did not. Those studies will be discussed in more detail below.

DATA COLLECTION & MEASUREMENT

The target respondents of the data collection are graduate and undergraduate students in six countries – Argentina, Guatemala, Poland, Romania, the United Kingdom and the USA. Respondents were asked to complete a survey comprised of eighteen items described in the

following text. The respondents were asked to indicate their agreement or disagreement with each of the items by inserting a number from (1) strong agreement to (7) strong disagreement in the space provided. Thus, low scores show an acceptance of tax evasion, while high scores show a disagreement with tax evasion. This procedure resulted in eleven hundred usable surveys. From the literature review presented above, eighteen items are developed which reflect the various aspects under discussion in the area of tax evasion. These items are the following:

- (v1) tax evasion is ethical if tax rates are too high,
- (v2) tax evasion is ethical even if tax rates are not too high,
- (v3) tax evasion is ethical if the tax system is unfair,
- (v4) tax evasion is ethical if a large proportion of the money collected is wasted,
- (v5) tax evasion is ethical even if most of the money collected is spent wisely,
- (v6) tax evasion is ethical if a large proportion of the money collected is spent on projects, of which I morally approve,
- (v7) tax evasion is ethical even if a large proportion of the money collected is spent on worthy projects,
- (v8) tax evasion is ethical if a large proportion of the money collected is spent on projects which do not benefit me,
- (v9) tax evasion is ethical if a large proportion of the money collected is spent on projects which do benefit me,
- (v10) tax evasion is ethical if everyone is doing it,
- (v11) tax evasion is ethical if a significant proportion of the money collected winds up in the pockets of corrupt politicians or their friends and family,
- (v12) tax evasion is ethical if the probability of getting caught is low,
- (v13) tax evasion is ethical if some of the proceeds go to support a war that I consider to be unjust,
- (v14) tax evasion is ethical if I cannot afford to pay,
- (v15) tax evasion is ethical even if it means that if I pay less, then others will have to pay more,
- (v16) tax evasion would be ethical if I were a Jew living in Nazi Germany in 1940,
- (v17) tax evasion is ethical if the government discriminates against me because of my religion, race, or ethnic background, and
- (v18) tax evasion is ethical if the government imprisons people for their political opinions.

ANALYSES & RESULTS

The 18 statements were ranked from strongest argument to weakest argument. For example, statement 1 ranked 10th for the USA, Guatemala and Poland samples, 7th for Argentina and the UK and 4th for the Romanian sample. The statements that made the strongest arguments to justify tax evasion in one country tended to also be highly ranked in the other countries. Likewise, the statements that were weakest in one country tended to be weakest in all countries.

However, there were some variations. Statement 3 – Tax evasion is ethical if the system is unfair – was the strongest argument for Romania and the UK and was ranked in the top half for all countries. But statement 11 -- Tax evasion is ethical if a significant proportion of the money collected winds up in the pockets of corrupt politicians or their friends and family – was the

strongest argument for the Guatemala and Poland samples. It also ranked in the top half for all countries.

The next step was to combine the scores for all six countries and rank the statements from strongest to weakest. The strongest argument to justify tax evasion was if a significant proportion of the money collected winds up in the pockets of corrupt politicians or their friends and family. In second place was the discrimination argument. The fairness argument was in third place. The Jews in Germany argument came in fourth.

In order to determine the underlying dimensionality of the items measured, the data is subjected to principal axis factoring. The output of the initial factor analysis is then rotated using a varimax rotation with Kaiser Normalization. Only those dimensions with eigenvalues greater than one are included in the rotation. An inspection of these initial rotated loadings leads us to eliminate V13 and V14 due to low or indiscriminate loadings across the rotated dimensions. The procedure is then repeated, including only the remaining sixteen items. This results again in three dimensions which explain more than 55 percent of the common variance.

DISCUSSION & LIMITATIONS

The purpose of this study is to derive a measure and its underlying dimensionality for the investigation into the ethics of tax evasion. Eighteen items are presented which cover the domain of tax evasion. Two of the original items are eliminated, resulting in sixteen variables that are useful for this and future studies. In the final factor analysis, three dimensions are evident that focus on different aspects of this important topical area. The three dimensions are (1) fairness, (2) the tax system, and (3) discrimination. Future studies might focus on how these three dimensions of tax evasion are perceived by different ethnic and demographic groups.

The study is limited in that only samples from six countries are examined. A wider selection of countries might yield different results. However, the sample is fairly representative of several major regions of the world, including Eastern and Western Europe, North America and Latin America. The sample size – 1100 – is also sufficiently large to arrive at some conclusions. The sample population – students – might also be criticized, since they might not be representative of the total population. Such a criticism has some validity. However, this same criticism could be made of the hundreds of other studies that have been conducted using student samples and published in major journals. Using student samples is a valid methodology, although it is not without some drawbacks.

CONCLUDING COMMENTS

Several things have been learned from this study. For one, there is substantial support for the view that tax evasion can be justified on ethical grounds in some cases. Also, some arguments are stronger than others. Tax evasion is perceived as being most justifiable in cases where the system is seen as unfair, where tax funds are wasted or where the government discriminates against some segment of the population. The weight of the various arguments differs by region. Western Europeans do not always place the same amount of weight on some arguments as do East

Europeans, Latin Americans or North Americans, which was expected. Different cultural, historical and religious perspectives all have their influence.

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DONOR'S REMORSE AND BROKEN PROMISES: THE ENFORCEABILITY OF CHARITABLE PLEDGES

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"You make a living by what you get; you make a life by what you give" (Attributed to Winston Churchill).

"Better a broken promise than none at all" (Mark Twain).

ABSTRACT

Philanthropies are the beneficiaries of billions of dollars given by Americans each year. A variety of different types of organizations, including but not limited to charitable, religious and educational organizations, compete for these dollars. Planned giving through periodic or lump sum future gifts often generate an anticipated and critical cash flow for the charitable organization. This paper outlines the legal issues that are involved regarding pledges made to these organizations. Donors sometimes attach conditions to these pledges. Donees have a tendency to rely on this continual cash flow in their budgeting process or development of programs. The central theme of this paper is the identification of the types of donations that go beyond a moral obligation to a legally binding contract supported by consideration or an agreement enforceable by virtue of other legal doctrines such as promissory estoppel. Generally, donor and donee are pleased when the pledge is committed. However, when one of the parties chooses not to fulfill their previous commitment, the courts must determine whether there is a legally unenforceable gift or a legally binding commitment. Therefore, this paper accentuates the need of both donor and donee to examine and analyze their position in light of the existing law in their jurisdiction.

