

**tax**

developments

# Why did a problem arise, even though I thought I was doing everything right?

*By Vincent J. Nardone, J.D., LL.M. in Taxation*



I began my career as a tax consultant with one of the now Big Four accounting firms, joined the FBI as a special agent for a number of years investigating and prosecuting folks for the poor decisions they made, and now work as an adviser to clients – including CPAs – concerning their businesses and individual circumstances. I also speak regularly to CPAs about ethical circumstances that arise in their practices.

Reflecting back on all of the above, one thing remains constant: CPAs are some of the most hard-working, creative, entrepreneurial, and ethical folks I know.

So, why is it, then, that problems arise?

I think it comes down to three main areas: the importance of best practices; remaining vigilant in the work you do; and, most importantly, don't work with jerks. Let us discuss each of these:

### Best practices

Once we have chosen our specific profession, there are certain best practices that apply. Working as a CPA and tax-return preparer is no different. From my perspective, the best practices in accounting are all about achieving excellence – not compromising, not settling for mediocrity, filtering out the noise, and always ensuring we are doing it right, with good intentions in mind. As Horst Schulze said in his book *Excellence Wins*<sup>1</sup>, and I am paraphrasing: attend to the details, no excuses, no explanations, and go the extra mile every time. It is simply a matter of attitude.

So, what are some of the best practices in the accounting profession, with a focus on the tax-return preparer side? I have summarized this list below from a number of sources, including the IRS' own Internal Revenue Manual.

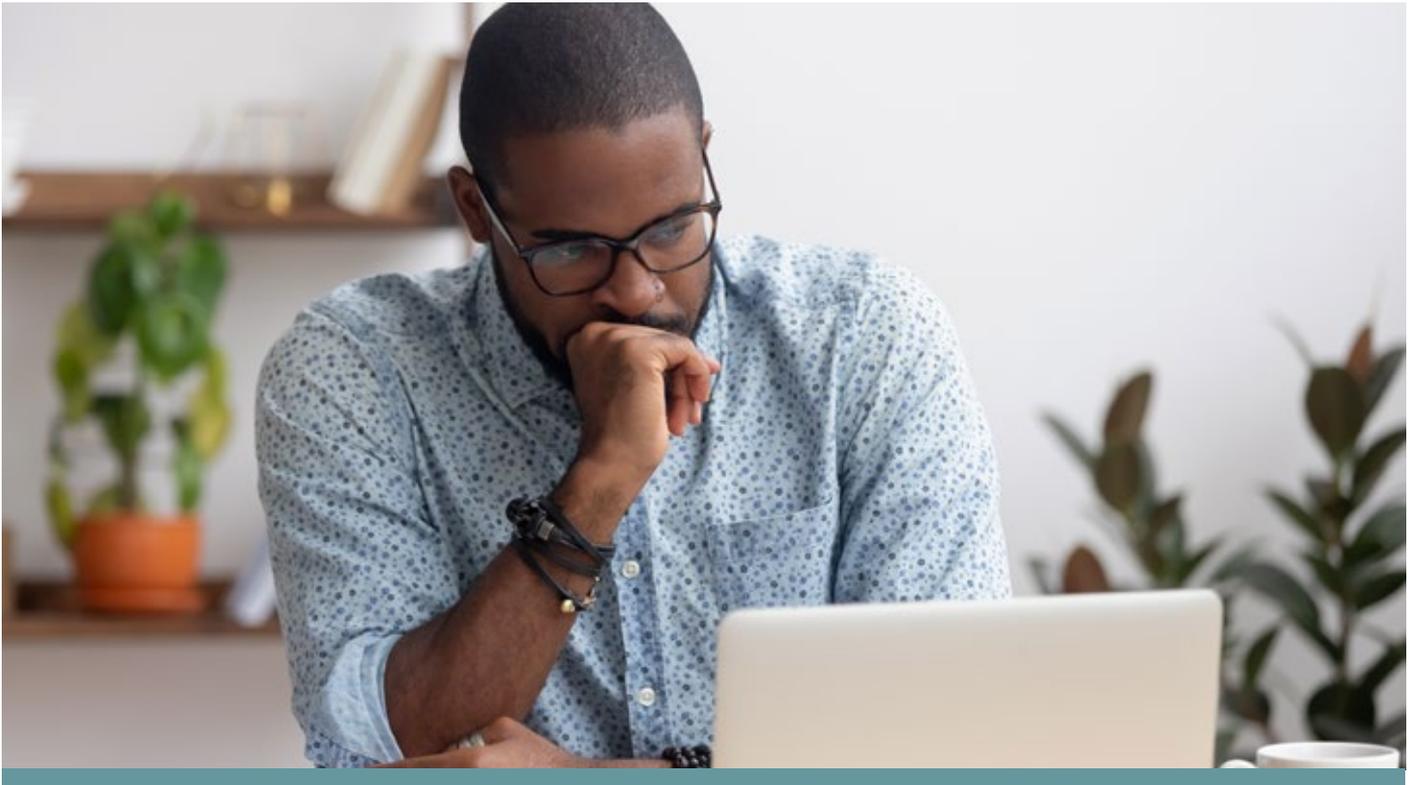
1. You must first become and then remain a good tax practitioner. Know your craft. Be a sponge. Read, read, and read more. I cannot emphasize this enough. It really resolves so many issues for us.
2. You must know the tax laws. Can you believe I once had a CPA tell me a number showed up on a certain line of a tax return form because that is where the software put it? Really? He could not articulate why, from a tax law perspective, or why, from a basic accounting perspective, the number should or should not be on a specific line.
3. You must perform due diligence. Do not cut corners and be sure to ask questions. If red flags arise, ask more questions. And importantly, if it does not make sense, or

it is something your grandma would certainly question, ask more questions.

4. Manage and educate your client. Do not enable them. Do not allow them to continue with bad habits. For example, how many of you have accepted tax-return information at the last minute, and still prepared the return? Why not simply say no? Tough love is better than rushing something and making a mistake. Let's remember, some clients intentionally provide everything late so there are no questions.
5. You must know the roles of the parties in government. Do you know the difference between a revenue agent, revenue officer, appeals officer, chief counsel's office attorney, or a department of justice tax division attorney? If not, why not? How can you advocate for your client and obtain information if you do not know who does what?
6. You must know when to ask for assistance. Do not allow your procrastination, ego, pride, or whatever else, to negatively impact your ability to ask for help. And remember, it is ok to say, "I do not know." It is better than speculating.
7. You must not risk your credibility, character, or moral obligations for a client. For what, to save them a buck? Do not give in to the jerks. More on this to come.
8. You must be willing to lose a client/job to do the right thing. Again, do not give in to the jerks.

### Remain vigilant in your field

Now, in addition to our best practices, with the risk of repeating myself, we must also remain vigilant throughout our careers. Too many folks get complacent, lazy, prideful, and all-knowing. We can and should continue to learn. My Saturday mornings are best for that. I love to read and read and read some more. And with my kids in college right now, there is nothing better than being around younger folks who are seeking knowledge, learning, and being that sponge. I love to go down to their respective campuses



and walk around. The energy gained from that is priceless. It is palpitating. I never thought being a professor would be something I would want to do. Now, I wish I had a path to do just that – the path of continuous improvement. Good practitioners do this. They keep their eyes on the goal of having an excellent practice. This requires us to ask questions, put in the hard work, talk with our mentors, learn from those older than us, younger than us, and different than us. And there should be a common commitment to a higher standard of care in the industry, reinforced on a continuous basis, both as a person and as part of your career, so you steadily move forward.

### **Do not work with or be the jerk**

What are your basic principles and core values? This, in and of itself, is a whole other discussion. Whatever those basic principles and core values are, do not allow clients to cause you to violate them. Thus, it is also important for us to understand the client's character and core values. As an example, there are three main characteristics for which we should be on the lookout:

1. Narcissism: An excessive focus on oneself.
2. Machiavellianism: Manipulating others for one's own gain.
3. Psychopathy: An overall disregard for others.

We have all had or currently have clients who exhibit these tendencies. In research completed by David Schmitt of Brunel University London and Peter Jonason of Western

Sydney University, they focused on these three personality traits known as the “dark triad.”<sup>2</sup> According to Dr. Geher, Professor of Psychology at the State University of New York at New Paltz, people who score high on the dark triad typically engage in behavior most people would find to be obnoxious, immoral, and simply inconsistent with their basic principles and core values. And, importantly, studies have shown that at least 10% of the population may have substantial dark triad tendencies.<sup>2</sup> Do we want these types of folks as our clients, just because they generate funds for us and pay us to do their work? These are the folks who cause tax-return preparers to: (i) turn their head; (ii) not ask questions; (iii) take positions on tax returns that do not have a reasonable basis; or, among other things, (iv) perform some other tasks that may rise to the level of criminality.

We might hear something like, “Jill’s accountant takes that deduction, why don’t you?” On the other hand, maybe you write off the expenses of an automobile for a client, knowing you cannot do so, just because you are concerned the client might find someone who will. Or, worse yet, you take affirmative steps to help a client avoid reporting income, or you claim deductions that are not lawful. There are many unlawful ways to help a client. And, as one of my law enforcement mentors once told me, criminals are only limited by their own lack of creativity. You cannot allow yourself to get mixed up in a client’s desire to cut corners, shirk the law, or simply completely disregard the law and basic principles of doing what is right.

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**Nardone Comment:** And, let me be clear to the CPAs working for larger firms or working with larger clients. You are susceptible to all of this as well. In fact, as recent history has shown us, when it occurs at the larger firms, the only difference really is that the problem is much larger. So, do not allow the fact that you might work at a larger firm overshadow the real issue or allow you to become complacent in the work you do. The fact is, we have dark triad tendencies at all levels.

And let us also remember that if everyone in the room is talking about a jerk, and you really cannot figure out which person they are talking about, you might want to look in the mirror. The point is, before we begin scrutinizing others' actions or intent, including our clients, let us ensure we are introspective and truly understand ourselves first.

Are you the person who leaves the grocery cart by your car in the parking lot rather than putting it where it needs to go?

Are you the person who thinks they are smarter than everyone else, and therefore fail to respect the value of others, no matter their position or experience?

Are you the person who treats the IRS representative or a client staff member with discontent or disrespect when they are simply doing their job?

Are you the one who is always focused on making more money, blazing trails, and walking over anyone and everyone to get what you want for yourself or for your client?

I could go on and on with more questions. The fact is, if you are that person, you know who you are. So, when I say, do

not work with jerks, this includes looking into the mirror to ensure you are not that person!

As I have learned myself in my own personal matters, and my own personal reflection, change starts from within. I am certainly no saint and have made my own mistakes. But I hope I have learned from those and take the necessary steps to account for them and ensure they are not repeated. It is important to remember that our actions or inactions have consequences. To drive that point home, I like the following quote from Andy Stanley in his book *The Principal of the Path: How to Get from Where You are to Where You Want to Be*.<sup>3</sup>

As Mr. Stanley puts it: "Simply put, you and I will win or lose in life by the paths we choose." In sum, you do not have problems to fix, you have directions that need to change. It is time to begin living in the right direction. "For just as this powerful principle explains how you've arrived where you are, it offers hope for the future as well. And, like every principle, once you understand how it works, you can leverage it to your advantage."<sup>3</sup>

## Conclusion

Let us be humble in what we do and how we do it. Let us not blame others, make excuses, or justify our actions. Take responsibility for the choices we make and the direction we follow. And, as Horst Schulze told us, attend to the details, have no excuses, no explanations, and go the extra mile every time. It is simply a matter of attitude. Take that first step.



## THREE THINGS

1. Know your craft, the tax laws and the roles of those in government. Know when to ask for help.
2. Perform due diligence – always and without fail. If red flags arise ask questions. If you still do not understand, ask more questions.
3. Refuse to work with jerks. And ask yourself – regularly – “Am I a jerk?”



Vince Nardone is a business and tax attorney who has worked in the accounting and tax industry for over 20 years. He serves as a business adviser to owners and executives of closely held businesses, counseling them on business planning,

tax planning and controversy, cash-flow analysis, succession planning, and legal issues that may arise in business operations. He uses his advanced focus in taxation to assist his clients in all aspects of tax planning, tax controversy, and structuring of business operations. Learn more at [www.vincentjardone.com](http://www.vincentjardone.com). Catch Vince as he speaks on Ethics at OSCPAs Mega Tax Conference on 12/14 – 12/15/2021.

<sup>1</sup> Schulze, H. (2019). *Excellence Wins: A No-Nonsense Guide to Becoming the Best in a World of Compromise*. United States: Zondervan.

<sup>2</sup> Geher, G. (2018). *The Dark Triad and the Evolution of Jerks*. The Wall Street Journal. <https://www.wsj.com/articles/the-dark-triad-and-the-evolution-of-jerks-1544110008>.

<sup>3</sup> Stanley, A. (2008). *The Principle of the Path: How to Get from Where You Are to Where You Want to Be*. United States: Thomas Nelson.

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