

# Building Effective Attorney-Client Relationships at the Tax Clinic

By Joshua Wease

**N**ot all students who enroll in the Alvin L. Storrs Low-Income Taxpayer Clinic at the Michigan State University College of Law are interested in pursuing a career in tax law. Some take the clinic to expand their negotiation skills, while others want to experience working directly with clients. The clinic's average caseload is 100–120 clients, and each student is assigned between 7 and 10 clients a semester.<sup>1</sup> The chance to work with clients who are grappling with federal and state tax problems offers rich opportunities to learn how to build effective attorney-client relationships.

Tax problems generally fall into two categories. About half of the clinic's clients have *assessment* problems involving cases in which the taxing authority and the client disagree on how much tax (and possibly penalty and interest) is owed for a particular tax year or years. For example, these cases may involve a denied earned income tax credit, a denied child tax credit, or a question of excluded income. Some federal assessment problems end up in U.S. Tax Court, while some state tax issues end up in the Michigan Tax Tribunal. Students have plenty of administrative rules, procedures, and tax code provisions to learn and work through with clients.

Once the assessment problem has been resolved and the clients end up owing a tax debt they cannot pay, they have a *collections* problem. Approximately half of the clinic's clients at any given time have collections

problems. Taxpayers have only three tools at the state and federal levels to resolve collections problems: (1) being placed in "currently not collectible" status, (2) entering into an installment agreement, or (3) applying for an offer-in-compromise.<sup>2</sup> Each option has separate required forms, procedures, financial standards, and timelines to resolve tax debt. Students counsel their clients on these options and manage the clients' expectations regarding the procedures and time it will take to resolve the debt. The students help clients compile the proper documentation and complete the appropriate forms, and guide them through hearings or subsequent appeals.

To complicate matters, because the IRS and Michigan Department of Treasury treat each tax year as a separate case, students often have clients with multiple assessment problems for certain years (that may be at different stages of resolution) in concert with collections problems for other years. Students may also be dealing with IRS procedures to resolve a federal tax problem while simultaneously dealing with Michigan Department of Treasury procedures to resolve accompanying state tax issues.

Students must learn how to build effective attorney-client relationships to resolve these complicated problems. This kind of relationship requires skills in trust building, communicating in plain English, mastering administrative procedures, and managing client expectations. Acquiring each skill offers many challenges that student attorneys must overcome to effectively advocate for their clients. Students need to master these fundamental lawyering skills regardless of the area of law in their futures.

## Trust building and fact investigation

Resolving a tax problem, whether it is an assessment or a collections problem, requires an intense and usually rather invasive investigation into the client's life. For

example, resolving a collections problem routinely requires obtaining copies of bank statements, receipts, and documents proving income or living expenses. Trust issues can arise with this kind of probing inquiry that students may have to overcome. First, the client may not trust the taxing authority with this kind of personal information. When this happens, students are taught to clearly explain why the taxing authority requires these documents, remind the client that the information will be kept confidential, and describe the role the documents will play in advocating for the client. Second, the client may be embarrassed about his or her tax debt or lifestyle or not know how to get the supporting documentation, which may cause delays. Clinic professors work with students to develop skills to help overcome these concerns, such as framing document requests, building rapport with clients, and providing suggestions to clients on how to get the necessary documentation.

Another barrier to obtaining the necessary information is that clients often have hectic lives with multiple jobs, the need to care for dependents, and other demands that prevent them from taking the time and energy to collect the documents. Further, communicating with some low-income clients can be difficult when they have limited or no access to computers to receive emails or send documents, may have their phones disconnected, or may move on a frequent basis as rents or jobs change. Students are taught to learn about their clients' circumstances and assess life demands that may hinder information collection. It is not uncommon for one student to struggle to connect with a client to advance the case, but the next semester a different student breaks through with the client and the information and documents start to flow. Experienced practitioners know that connecting with a client is more art than science. Clinic professors continually meet with students and discuss strategies they can employ to work

---

"Future of Law" is a regular column of the *Michigan Bar Journal*. Articles relating to legal education are edited by Ted Becker of the University of Michigan Law School. To suggest a topic or propose contributing an article relating to legal education, please contact Professor Becker at [tbecker@umich.edu](mailto:tbecker@umich.edu).

with the client, understand the client's situation, and build rapport and trust.

Once the documentation is provided, the student attorneys must analyze the personal information to determine how to advocate for a collection solution the client can afford. This requires tact and rapport with the client. For instance, a review of one client's bank statements may reveal an expense that the IRS or state of Michigan will not recognize as a basic living expense. The student must tactfully discuss the expense with the client and explain its impact on the collection tool they are pursuing.

As professors, we work on these skills in the classroom with simulations based on past clients. We focus on thoughtful consideration of the client and how to consider the problem from the client's perspective. We also meet biweekly with each student to discuss their clients on an individual basis. We challenge the students to be creative in finding effective solutions for their clients.

### Communicating in plain English

The language capabilities of the clinic's clients vary widely. Some are refugees and international students for whom English is a second language. Many clients do not understand how their tax problems arose, let alone how to solve them. Student attorneys face the difficult task of investigating a problem and explaining it to the client in plain English. They must learn enough about their client to understand his or her level of English comprehension.

To help achieve these goals, we use classroom simulations to allow students to practice explaining terms and procedures to a lay audience. Exercises include recognizing legalese and explaining specific topics to clients. Students are often called upon in class—and, later, by their clients—to explain such terms as *lien*, *levy*, or *collection due process* in a way that someone who may not have finished high school would understand. This can be particularly challenging for students who have spent the preceding year or two of law school using specialized language to demonstrate their knowledge of legal subjects to subject-matter experts like their professors. Supervising attorneys review the students' written communications to clients throughout the semester to make sure they apply the plain-English standard.

### Mastering the process

Since tax problems typically require more than a semester to resolve, many students must learn the legal process and procedures, identify their clients' standing in the process, and pick up the case and advance it as far as possible. This is complicated by the fact that the IRS and Michigan Department of Treasury, being large administrative departments, sometimes erroneously deviate from their own procedures. Procedural irregularities may occur for a number of reasons, including poorly trained employees or data-entry errors that lead to erroneous notices. Another challenge is that tax administration procedures are usually rigid and have short deadlines, creating intense time pressures for students.

Mastering the legal process and developing the ability to advise clients of potential outcomes and timelines is important for students to build trust with clients and manage expectations. The clinic's training on tax practice and procedure requires 12 weeks of intensive classroom instruction. Students learn to use the Internal Revenue Manual, which is the IRS's playbook on all its procedures.<sup>3</sup> We map out each of the IRS procedures students may use to serve clients. Students are exposed to numerous classroom simulations, including interviewing clients for fact investigation, thinking through and determining a plan of attack when the procedures are failing the client, and advocating for clients in cases that are continually evolving.

Students must learn to question authority and dispense with assumptions that the government is infallible. Many students get the opportunity to challenge a revenue employee's interpretation of the code, regulations, caselaw, or a provision of the Internal Revenue Manual—a challenge they often win. The foremost skill we want to instill in the students is the ability to use the Internal Revenue Code, Treasury Regulations, and other sources to answer tax problems for themselves. We define and call out "stupid questions"—questions that the students did not first try to answer for themselves. We give them the guidance they need to ultimately reach the correct answer but expect them to come to us with the code in their right hand and the Internal Revenue Manual and regulations in their left.

### Managing client expectations

Tax problems can take well over a year to resolve. It is critical for students to learn to manage client expectations at every step of the process. This is drilled into the students from the first day of Tax Clinic. This rule is so important that I have suggested to some students that they tattoo "Manage Your Client's Expectations" on their arms. No one has taken that suggestion...yet.

Students soon realize that client memories are not perfect, and that even though they may explain something to the client in person, they still need to send confirmation letters and often remind the client about an issue over the course of the project. Managing client expectations can be particularly challenging when multiple semesters and multiple students are needed to resolve a client's case. A key skill that students develop is effectively documenting communications and advice to the client.

### By the end of the semester

It is gratifying to see that, by the end of each semester, the students have risen to the challenge of building effective attorney-client relationships. They usually acquire a vested interest in the clients' problems and often exceed the clinic's service-hours requirement. One of the clinic's significant goals is to instill in the students that practicing law is a craft that must be honed over decades of work. Their clinic experience is just the beginning. ■

---

*Joshua Wease is a clinical associate professor at Michigan State University College of Law and has been director of the Alvin L. Storrs Low-Income Taxpayer Clinic since 2014.*

### ENDNOTES

1. Alvin L. Storrs Low-Income Taxpayer Clinic, MSU College of Law <[www.law.msu.edu/clinics/tax.html](http://www.law.msu.edu/clinics/tax.html)> (accessed November 11, 2019). First-semester students enroll for six credits and must complete 296 clinical service hours. Second-semester students can enroll for four credits, but must complete 196 clinical service hours.
2. For the status of "currently not collectible," see IRC 6343(e), IRM 5.16.1.2, and *Vinatieri v Comm'r*, 133 TC 392 (2009). For installment agreements, see IRC 6159. For offers-in-compromise, see IRC 7122.
3. Internal Revenue Manual, IRS, available at <<https://www.irs.gov/irm>> (accessed November 11, 2019).