

Gentleman Or Scrivener: History And Relevance Of Client Legal Privilege To Tax Advisors.

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Legal professional privilege or client legal privilege as it is more commonly referred to now, developed through the common law, from the Elizabethan period to today. The privilege initially belonged to gentlemen, to protect their honour and integrity as gentlemen. Today privilege belongs to the client. The tax arena is dominated by two professions, accountant and lawyers, essentially providing the same tax services to their taxpayer clients. The United States and New Zealand have recognised this functional overlap and legislated to provide privilege for clients of tax accountants, albeit to a limited extent. Australia has yet to legislate this change, even though the Australian Law Reform Commission has recently recommended legislation.

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1. Introducing and defining client legal privilege

The broad view of client legal privilege is that the public policy, founded on the public interest in the administration of justice, serves to protect from compulsory disclosure all communications of a confidential nature between legal adviser and client. As such, the common law privilege applies to all forms of compulsory disclosure of communications, judicial or administrative, unless legislation *abrogates* the privilege. There is, however, a conflicting public interest that requires that in the interest of a fair trial, litigation should be conducted on the footing that all relevant evidence is available. The privilege, as a substantive rule of law, applies to restrict access to confidential communications by parties in court, either before or during trial, and in the administrative arena, to deny access by lawful gatherers of information authorised by statute. Taxpayers' right to privacy, confidentiality, access to information, and to appeal against decision of the revenue authorities are fundamental rights in democratic societies. Tax Law is complicated, complex in its design and scope and very long. The intended meaning of the law is not always certain, especially to taxpayers without professional business qualifications. The distinction between tax avoidance, and legitimate tax planning, is not always clear.

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Taxpayers face an enormous challenge to comply with their tax obligations, irrespective of whether they have simple or complicated tax affairs. Faced with this difficult task taxpayers turn to tax advisers for assistance; in the case of small businesses and individuals this is usually their accountant, someone with whom they are more likely to have formed an on going advisor relationship over time. The tax adviser is in a key position to influence the behaviour of taxpayers in fulfilling their compliance obligations. In this respect the tax adviser plays an important part in facilitating compliance with the law, and access to a fair hearing before the tax authorities, thereby serving the broad public interest in the effective administration of justice.

Tax professionals come from two key professions, accounting and law, with many now having dual qualifications. Tax is neither pure accounting nor pure law¹, both disciplines are critical to the provision of tax advice. Confidential communications between a tax lawyer and client attract legal professional privilege, while the same confidential communications between a tax accountant and client do not. The courts have unsuccessfully attempted to draw the line between what constitutes accountants' work and what qualifies as lawyers' work in the tax arena. This paper will firstly examine the historical development of legal professional privilege², a privilege that initially belonged to the gentlemen, a class that included lawyers but not scriveners, accounting tasks would have fallen into the role of the scrivener. The paper will then discuss the key characteristics of legal professional Privilege, as identified by Dean Wigmore. (Wigmore, 1961) The objective is to ascertain the values that privilege protects and whether these values are present in the tax accountant client relationship. It is therefore essential to illustrate how privilege operates, what communications it protects, how privilege affects the administration of justice, and the limitations to privilege. The paper will then analyse legislative efforts of the United States and New Zealand, to extend the privilege to the clients of tax accountants. It will finally examine the current state of play in Australia.

An initial word of warning from Professor Hazard is in order:

There may be a sufficient justification for the privilege; indeed the verdict of our legal history is to that effect. But no argument of justification should ignore the fact that the attorney-client privilege, as far as it goes, is not only a principle of privacy, but also a device for cover-ups. That, of course is what makes contemplation of it both interesting and troubling. (Hazard, 1978, p.1062)

The countervailing argument to legal professional privilege is that in the interest of a fair trial, litigation should be conducted on the footing that all relevant evidence is available.

2. English law and Elizabethan confidentiality

The history of legal professional privilege in English law can be traced to the reign of Elizabeth 1 during the sixteenth century when adversarial trial procedures and the legal profession were in their formative stages. Elizabethan confidentiality existed to

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protect the honour and integrity of the gentleman, the holder of the confidential information.³ Lawyers were not distinguished from other gentlemen all were protected by the notion of honour. The privilege belonged to the barrister, as a gentleman, and the courts recognised the right of gentlemen not to violate a pledge of secrecy. It was for the Barrister to decide whether to protect the communication by claiming privilege or to waive it. The Barrister as a presenter of evidence and argument was considered not merely an officer of the court, but a member of it. The solicitor, attorney or scrivener did not have such a high standing; they were men of business and servants of the family whose business and affairs they managed. The accounting functions in this period would have been performed by men considered to be scriveners.

The Roman precedent that the servant could not testify against his master is believed also to have influenced the principle of confidentiality. (Gardner, 1963, p. 290)

At Rome, the public policy which supported the privilege was directed against the corruption of the family (or quasi-family) relations which would result if the fullest confidence of the members was not maintained. This policy was deemed superior to that which sought the correct settlement of controversies or the punishment of offenders, with the exception of treason. (Radin, 1928, p. 491-2)

The early 1800's heralded major developments in court procedure and began to recognise the importance of witness-derived evidence. Privilege as a rule of evidence came to the fore with the universal duty to testify⁴ and the imposition of compulsory process to secure the testimony of witnesses in an open court, before a jury charged with evaluating the evidence. This duty to testify altered confidentiality; it was no longer dishonourable for a person who had received confidential information to reveal such information when compelled by a court of law. As Wigmore explains it:

The judicial search for truth could not endure to be obstructed by a voluntary pledge of secrecy, nor was there any moral delinquency or public odium in braking one's pledge of secrecy under force of law. (Wigmore, 1861, p. 543)

Yet lawyers were to be treated differently, the judges decided that legal communications formed a special category because of the importance of obtaining legal advice. Legal professional privilege developed to protect legal communications from compelled disclosure.

2.1 Challenges to the Elizabethan confidentiality view

This view that privilege evolved from the rules of gentlemanly conduct, was largely popularised by Wigmore. It has more recently been challenged by legal scholars who argue that legal representation was not restricted to representing the legal interests of gentlemanly aristocrats and landed gentry.

It is unlikely that the privilege evolved from the rules of gentlemanly conduct when the majority of legal clients were of 'the middling sort,' rather than members of the upper classes. (Snyder, 2002, p. 481)

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Given this clientele base, another theory is that courts developed the privilege to prevent attorneys from having to be witnesses as well as advocates for their clients. This thesis is more consistent with modern rules of professional conduct. Others have argued that when the word “honour” was invoked it meant that evidence should be taken on one’s word or in writing, rather than on the strength of the oath. The concept of “honour” has a set meaning in the language of sixteenth-century evidence law, and this has nothing to do with legal privilege whatsoever. (Auburn, 2000, p. 6)

3. Judicial extension of client legal privilege

The transition of legal professional privilege from being the privilege of the lawyer, akin to confidentiality, to being the privilege of the client, with the aim of protecting legal communications from compelled disclosure was a slow progress. It was reasoned that the client needed the guarantee of non-disclosure in order that he may be encouraged to confide fully in the lawyer and by so doing he would receive the best and most appropriate advice.⁵ The privilege was at this time still limited to litigation, actual or prospective.

The extension to cover communications where the client was seeking legal advice took place after much travail and turmoil over the period of half a century. (Gardner, 1963, p. 295) *Greenough v. Gaskell*⁶ established the immunity of the attorney from compulsion to testify to communications concerning legal advice where there was no dispute and no prospect of litigation. Lord Brougham stated in *Bolton v. Corporation of Liverpool*:

If, touching matters that come within the ordinary scope of professional employment, they [legal advisers] receive a communication in their professional capacity, either from a client or on his account, and for his benefit in the transaction of his business, or, which amounts to the same thing, if they commit to paper, in the course of their employment on his behalf, matters which they know only through their professional relation to the client, they are not only justified in withholding such matters, but bound to withhold them, and will not be compelled to disclose the information or produce the papers in any court of law or equity, either as a party or as a witness.⁷

This decision by Lord Brougham has been severely criticised by Professor Hazard, describing Brougham’s decision as:

“...a reformulation of privilege, that substantially departed from precedent, and ignored the dilemma of privilege; namely that it is an express value choice between the protection of privacy and the discovery of truth, and that the choice of either involves the acceptance of an evil – betrayal of confidence or suppression of truth.” (Hazard, 1978, p. 1085)

The extension of the same immunity from disclosure, to the client developed slowly and was finally settled in the decision of *Minet v Morgan*.⁸ The privilege was further extended to communications between lawyer and a third party made for the purpose of giving or obtaining legal advice in relation to anticipated litigation. The rationale being, that in order for legal representation to function effectively a lawyer cannot be

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compelled to disclose information given to him by third parties, which relates to contemplated litigation. James LJ summed up the position succinctly in *Anderson v. Bank of British Columbia*⁹ "...as you have no right to see your adversary's brief, you have no right to see that which comes into existence merely as the materials for the brief." The lawyer, who appoints an accountant as an agent for the purposes of instructing him on for example complex tax law, would be able to maintain the confidentiality of communications or documents prepared by the accountant.

5. Furthering a crime or fraud exception

The purpose of legal privilege is to protect *bona fide* communications. Thus the first major and necessary limitation was to exclude from protection communications for an illegal purpose. *R. v Cox & Railton*¹⁰ highlights the point, in the words of Stephen J who gave the judgement of the court,

In order that the rule [legal professional privilege] may apply there must be both professional confidence and professional employment, but if the client has a criminal object in view in his communications with his solicitor one of these elements must necessarily be absent.¹¹

There are two main reasons for denying privilege to communications where the client's intention is to further a crime or fraud. The first focuses on the client, since the client is aware of the criminal intent then no argument can be made for legitimate expectation that such communications would be protected. The second focuses on the legal adviser, it would be most unreasonable if a lawyer could not give evidence against a client if it subsequently transpired that the client had sought advice for a fraudulent or criminal purpose. (Newbold, 1990, p. 475)

6. Wigmore - The Utilitarian Approach

Utilitarianism is the predominant justification for privilege, and it justifies or rejects a specific privilege by balancing the utility of the privilege against the costs of the privilege to the litigation. The utilitarianism's overriding moral principle holds that the good consists of the promotion of the greatest happiness for the greatest number. Wigmore's treatise on evidence sought to codify and the law of evidence. He established four criteria as prerequisites to the existence of any privilege protecting confidential communications, and unless the criteria are met there neither is nor ought to be a privilege.

- (1) The communications must originate in a *confidence* that they will not be disclosed.
- (2) This element of *confidentiality must be essential* to the full and satisfactory maintenance of the relation between the parties
- (3) The relation must be one which in the opinion of the community ought to be sedulously *fostered*.
- (4) The injury that would inure to the relation by the disclosure of the communications must be *greater than the benefit* thereby gained for the correct disposal of litigation. (Wigmore, 1961, p. 257)

Wigmore's formulation is utilitarian in nature, asserting that communications made within a given relation should be privileged only if the benefit derived from protecting the relation outweighs the detrimental effect of the privilege on the search for truth.

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Wigmore, who favours the privilege, acknowledges that "[I]ts benefits are all indirect and speculative; its obstruction is concrete" (Wigmore, 1961, p. 557). Rosenfeld states the case thus:

Accordingly, utilitarian theory could justify the preservation of the attorney-client privilege despite its shortcomings. Although the privilege has a harmful consequence of the concealment of otherwise relevant information, this consequence is outweighed by the benefits of the assertion of a greater number of just claims and the more effective presentation made possible by uninhibited attorney-client consultations. (Rosenfeld, 1982, p. 508)

As a strong believer in the duty to testify, Wigmore constricted the recognition of privileges to the traditional privileges, and was not in favour of creating new ones, he went on to conclude that the accountant-client relationship does not merit the protection offered by testimonial privilege. (Wigmore, 1961, p. 537)

6.1 Applying Wigmore's Analysis to Tax Accountants

The Wigmore formula is concerned with the nature of the communications and the importance of maintaining the relationship involved from society's point of view.

In contrast to these tests, the courts have based the applicability of privilege primarily on the *communicators* involved and their respective titles,¹² i.e. is he an attorney, client, doctor, accountant? This arbitrary test in no way harmonizes with the Wigmore standard.¹³

The three key functions for tax professionals are: tax return preparation, tax planning and negotiator on behalf of the taxpayer with the tax authority. Tax return work ultimately involves disclosing information to the tax authority, and as such these communications are deemed to lack the confidentiality that is essential to privilege. Tax planning involves discussions on the alternative structuring of transactions in the future with a view to minimising the tax expense, and these confidential communications attract privilege, when a lawyer is involved, but not when an accountant performs the same work. Accountants are able to represent clients before the tax authority in civil proceedings, but they are not allowed to practice in the criminal courts. It is when a tax case becomes a criminal case that the role of the lawyer becomes paramount. The problem is that it is often difficult to discern when a case shifts from the civil to the criminal sphere, and it is in these instances that accountants have to ensure that they protect the confidential communications of their clients. Tax lawyers often engage tax accountants to assist them in preparing for litigation, the work performed by the accountants in their role as agents, attracts client legal privilege

Confidentiality is central to the tax accountant client relationship, if sensitive financial issues are to be fully explored and structured to comply with the law. That the relationship is one of importance to the community can also be easily established, given the complexity of the law and the burden on taxpayers in a self-assessment system.

A balance needs to be struck between taxpayers' right to confidentiality and the revenue authority's ability to access information so that it can collect the necessary

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revenue as efficiently and equitably as possible. Generally revenue authorities have broad investigative and compulsory disclosure powers. The accounting records, documents implementing transactions and information upon which the tax return is based, are and should be easily accessible by the revenue authority. The harm to the relationship between the taxpayer and the tax accountant needs to be weighed against the harm to the revenue authority in impeding its access to all relevant information.

Wigmore's criteria do not explain the existence of a privilege, because both privileged relationships and relationships unprivileged elsewhere meet their standards. But even if they were to be accepted as the explanation of the attorney-client privilege, they still would not justify it: they give neither reason nor even hit of a reason why the legal profession is given a privilege but other groups meeting the tests are not.¹⁴

7. Legislation extending privilege to tax accountants' clients.

The doctrine of legal professional privilege was developed through the common law. In the tax arena the legislation has in the United States and New Zealand specifically recognised the role of privilege, in the provision of advice by tax accountants. In the United States prior to the enacting of Section 7525 of the Internal Revenue Code via the *Internal Revenue Restructuring and Reform Act* (1998), there was no recognition of confidentiality protection for communications between tax accountants and their clients. Section 7525 extends, with three notable exceptions, the attorney-client privilege to confidential communications between clients and their Federally Authorized Tax Practitioners. Section 7525 applies the same common law attorney-client privilege to communications between a taxpayer and any "federally authorized tax practitioner". Hence all the jurisprudence developed in relation to legal professional privilege will apply to tax accountants. The three exceptions to the operation of privilege cause a number of concerns. The fact that the section only applies to federal tax cases before the Internal Revenue Service¹⁵ and not cases before other federal bodies, or state cases, means that communications that may be deemed privileged under section 7525, have no similar protection in cases with other federal bodies or in state cases, and that disclosure to these other bodies may constitute a waiver of the privilege. Another key limitation to the Section 7525 privilege is that it does not apply to criminal matters¹⁶. This is significant because the Internal Revenue Service chooses whether to initiate a civil or criminal action, thus creating uncertainty about whether, or when, the Section 7525 protection applies to an action that may have began as a civil matter, but subsequently became a criminal matter¹⁷. The third exception relates to communications connected to the promotion of or participation in any tax shelter.¹⁸ This exclusion is so broad has potential to severely limit the operation of the privilege.

The US courts have interpreted Section 7525 narrowly, in effect limiting the protection to what would be deemed "lawyer's" work, as clearly illustrated in the *Frederick*¹⁹ wherein Judge Posner referring to the newly enacted Section 7525 stated "n]othing in the new statute ... suggests that ... non-lawyer practitioners are entitled to privilege when they are doing other than lawyers' work ..."

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The *Taxation (Base Maintenance and Miscellaneous Provisions) Act* (2005) introduced in New Zealand the ability of taxpayers to claim a statutory right of non-disclosure for certain tax advice contained in documents prepared by tax accountants. The non-disclosure rules apply to any information demands issued by Inland Revenue. There are in the words of Kendall²⁰, many similarities between the New Zealand legislation and the US Section 7525. The objective behind the new privilege, in both instances, is to level the playing field for tax services provided by tax lawyers and tax accountants. The new legislated privilege, in both instances, is subject to similar limitations as the common law legal professional privilege, and is not intended to impact on the common law privilege. A point of departure is that “the US legislation explicitly uses the common law rule as the basis for the statutory privilege, whereas there is no mention of LPP in the New Zealand legislation.”²¹ The New Zealand provisions are however, closely modelled on the common law.

The New Zealand approach to establish a procedure separate and independent from the common law may be explained as an attempt to maintain parliament control over the process. Developments in the common law LPP will not have an effect on the New Zealand Statutory privilege.²²

8. State of play in Australia

In Australia the *Income Tax and Assessment Act* (1936) is silent on legal professional privilege and accountant-client confidentiality. Sections 263 or 264 of the Act do not expressly abrogate legal professional privilege. However the question of whether they do so *implicitly* has been addressed by the courts in a number of Federal and High Court judgments, culminating in the decision of the Full Court of the High Court in *Baker v Campbell*.²³ The Court held that in the absence of a clear expression of legislative intent to the contrary, search warrants do not authorise the violation of legal professional privilege. Furthermore the principle operates beyond the *curial* context, to investigative contexts where there is not, as yet, any question of admissibility of evidence.

In the tax arena the Full Federal Court in *Commissioner of T v Citibank Ltd* (1989)²⁴ stressed that a third party holding documents on behalf of clients must be allowed to protect the privileged status of those documents. In the light of the *Citibank Ltd*. case professionals such as solicitors and accountants in possession of clients' documents even as gratuitous bailee must ensure that rights arising from legal professional privilege are preserved and protected. They must take steps to protect such documents in their possession from unwarranted disclosure or seizure. The Commissioner of Taxation accepted the decision of the court, in *Citibank Ltd* and issued *Guidelines* on the exercise of access powers by tax officers to confidential information held by lawyers²⁵, and accountants²⁶. The Australian Tax Office has acknowledged that tax accountants and tax lawyers provide essentially the same services to taxpayers. The *Guidelines* on access to papers held by external accountants provide for full and free access by tax officers to source documents²⁷, while restricting access to restrictive source documents²⁸, to the most exceptional circumstances. However, the Commissioner's *Guidelines* provide only limited protection to taxpayers, they are voluntary concessions made by the Commissioner, and not enshrined in law²⁹. The Commissioner decides what are deemed to be exceptional circumstances. Generally taxpayers seek to protect the thought process,

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notes, opinions and analyses of their advisers; this may include tax opinions, tax planning memoranda, and analyses of what constitutes substantial authority, discussions of contrary authority and analyses of alternatives rejected in the tax planning³⁰.

The Australian Law Reform Commission (ALRC) in its Final Report 107: Client Legal Privilege in Federal Investigations, recommended that a single federal statute should be enacted to govern the application of privilege in federal law³¹, and went on to make a second key recommendation that privilege be extended to advice on tax law provided by accountants. This second recommendation has met with widespread disapproval by the legal profession³². Professor Croucher, Commissioner in charge of the Inquiry, emphasised that the creation of a tax advice privilege is consistent with the compliance rationale of privilege. The Commissioner stressed that the advice privilege does not necessarily mean that privilege is extended to tax advisers, but rather that the client's confidential communications will be protected. To highlight this distinction one of the recommendation is that, if the Tax Office so requests, the claim that the tax advice is privileged must be certified by a lawyer. The Commission's view is that only a lawyer can ascertain the privileged status of a communication. The ALRC Report was tabled in the House of Representatives on February 13th 2008. Attorney-General Hon. Robert McClelland MP welcomed the report and said he would consider further submissions on the matter.

9. Conclusion

Legal professional privileged has evolved through the common law and it is now vastly different to the original Elizabethan concept of confidentiality. The courts are constantly highlighting that privilege is an essential component of the adversarial system, and that it should be contained within narrow limits. The essential question is whether privilege can be extended to accountants in the tax arena on the basis that accountants acting on behalf of their clients are often involved in an adversarial contest with the revenue authorities. And whether such an extension is consistent with the aim to contain privilege within carefully tailored limits to serve the society in which it operates. As society changes so too must privilege change and adapt to it. The courts have made many of the changes to privilege, and in other instances parliaments have legislated change. When privilege was being formulated in the common law the accounting profession, did not have the standing and status that it has in modern society. In the tax arena it is often the tax accountant's advice to the taxpayer that is directly concerned with rights and liabilities enforceable in tax law.³³

End Notes

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- 1 Richards R. 1992. "Tax Accountant or Tax Lawyer?" *Australian Accountant*, pp. 23- 24. At 24. "Tax professional practise in a twilight zone. If they practise as accountants, they spend much of their time acting a quasi-lawyers. And if they practise as lawyers they spend much of their time acing as quasi-accountants. ...In the end the quality of the advice received is more likely to reflect the individual who gave it rather than the profession in which he or she practises."
- 2 The word 'privilege' comes from the Latin *privata lex*, a prerogative given to a person or to a class of persons. Legal professional privilege is now commonly referred to as client legal privilege reflecting the fact that the privilege belongs to the client.
- 3 See *Annesley v. Anglesea* (1743) 17 St. Tr. 1139.
- 4 See *Act for Punishment of Such as Shall Procure or Commit Any Wilful Perjury*, 1562 and Cobbett's State Trials 769, 788 (1612) (speech of Sir Francis Bacon) ('[A]ll subjects, without distinction of degree, owe to the king tribute and service, not only of their deed and hand, but of their knowledge and discovery.') Prior to this "the party opponent in a jury trial was *not compellable to be a witness* seems unquestioned since the beginning of recorded trials" Wigmore, J. H., (1961) *A Treatise on the Anglo-American Law of Evidence* McNaughton Rev Edn., Little Brown, Boston §2217 at 169 (hereafter cited as Wigmore)
- 5 See *Greenough v. Gaskell* (1833) 1 My & K 98, 39 E R 618.
- 6 (1833) 1 My & K. 98, 39 Eng. Rep. 618.
- 7 (1833) 1 My & K 98, 102, 39 Eng. Rep. 618.
- 8 (1873) L R. 8 Ch. 361, 366.
- 9 (1876) 2 Ch. D. 644. at 656.
- 10 (1884) 14 QBD 153.
- 11 *Id.* 168.
- 12 See *Garipey v. U.S.*, 189 F2nd 459 (6th cir 1951); *Olender v. U.S.*, 210 f 2D 795 (9TH Cir 1954)
- 13 Jentz, G.A., 1974. "'Accountant Privileged Communications: Is It a Dying Concept Under the New Federal Rules of Evidence?' *American Business Law Journal*, pp. 149-151. (emphasis in original).
- 14 Notes and Comments, 1962. "Functional Overlap Between the Lawyer and Other Professionals: its Implications for the Privileged Communications Doctrine". 71 *Yale Law Journal*, pp. 1226-1231.
- 15 Section 7525(a) (2) (B).
- 16 Section 7525(2) (A) (B).
- 17 Maples, A.J. and Woellner, W. 2009, "Privilege for accountants' tax advice – brave new world or house of straw?" *ALTA Conference*, pp. 1-30. At p. 25.
- 18 Section 7525(3) (b) (a).
- 19 *United States v. Frederick* 182 F3d 496.
- 20 Kendall, K. 2005. "Legal professional privilege and the tax profession: Arguments for extension" *The Tax Specialist*, vol 9, no 2, pp 80-87.
- 21 *Ibid* at p. 84.
- 22 *Ibid* at p. 84.
- 23 (1983) 153 CLR 52. The majority judgment of Murphy, Wilson, Deane, and Dawson JJ with Gibbs CJ., Mason and Brennan JJ. dissenting.
- 24 20 FCR 403.
- 25 Australian Tax Office. 1991. Guidelines for the Exercising of Access to Documents held on Lawyers' Premises.
- 26 Australian Tax Office. 1989. Guidelines for the Exercising of Access Powers In relation to External Accountants' Papers.
- 27 All documents that underpin the preparation of the tax return are deemed to be source documents that should be freely available to the Commissioner upon request.
- 28 Included in this category are advisings and advice papers prepared by an external accountant solely for the purpose of advising a client on matters of tax law.
- 29 Fisher, R. 2005. "Confidential tax communication: A right or a privilege?" 20 *Australian Tax Forum.*, pp. 555-577 at p. 557 "the Guidelines fall far short of providing an extension to accountants of the privilege enjoyed by legal advisors."

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- ³⁰ Mendleson, D.L. 1966. "The need for CPA-client privilege in federal tax matters." *The Tax Adviser*. March 1st
- ³¹ Australian Law Reform Commission. 2008. Final Report 107: *Client Legal Privilege in Federal Investigations*.
- ³² Susskind, A. 2008." Law Reform Proposals May Spell the End of Privilege." *Law Society Journal* 28.
- ³³ Note: The English Law Reform Committee in the 16th Report, 1967. *Privilege in Civil Proceedings* Cmnd. 3472 .Stated the rational for confining legal professional privilege to lawyers is that advice given by a lawyer is concerned exclusively with rights and liabilities enforceable in law.

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