Connecticut Appellate Court Rules on the CPA as Fiduciary

Recent Decision on Iacurci v. Sax Significant to Connecticut CPAs

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On December 4, 2012, the Connecticut Appellate Court issued its decision in Iacurci v. Sax (139 Conn. App. 386) in an important case of first impression in our state.

The Issue:
Do accountants, in their performance of tax return preparation work (and particularly when there has been a long-term accountant/client relationship with the taxpayer), act in a fiduciary capacity on behalf of their clients?

The Court's Holding:
No.

The Subject Facts

The accountant (a CPA) had prepared the taxpayer's annual federal and state income tax returns for 17 years (1988–2005). For tax years 1999–2002, the taxpayer's filing status was listed as real estate investor and the income from the taxpayer's Florida real estate investments was reported as capital gains. Then, for the three years of 2003–2005, the filing status of the taxpayer was changed to that of an individual engaged in the business of real estate (but the change in the tax filing status had not been disclosed to the taxpayer); the Florida income was thus reported as ordinary income.

The taxpayer's new accounting firm, upon noting the change in the filing status, filed amended returns for 2003–2005; following an audit, the IRS upheld the change to the real estate investor filing status. Thereupon, the taxpayer filed a lawsuit for professional malpractice and negligence against the former accountant and against his firm (the "defendants"), but not until November 2009, which was three years and seven months after the defendants' final tax return work had been completed in connection with the taxpayer's 2005 returns.

The Respective Positions of the Parties

In response to the lawsuit, the defendants filed their defense that the taxpayer's claims were time-barred by the Connecticut three-year statute of limitations for professional malpractice claims (C.G.S. §52-577). In the taxpayer's two-step counter-argument to this "stale claim" defense, he first alleged that the defendants owed a fiduciary duty to him; second, the taxpayer alleged that, as a consequence of this purported fiduciary duty, the defendants were required to have affirmatively disclosed to the taxpayer the change in his tax filing status for 2003–2005.

In sum, the taxpayer's sequential assertions were that, because the defendants were his fiduciaries and then because they had purportedly engaged in fraudulent nondisclosure, therefore, their nondisclosure had "tolled" the running of the statute of limitations – with the net result that, as the taxpayer then argued, the lawsuit was not to be time-barred by his delay in filing the lawsuit.

At the trial court's ensuing summary judgment proceedings, and in order to buttress his attempt to characterize the defendants' relationship with him over the 17 years as one of a fiduciary nature, the taxpayer submitted an affidavit in which he asserted that: (i) he had trust and confidence in the defendants as tax experts; (ii) in tax matters, the defendants had superior knowledge, skill, and expertise; and (iii) he believed at all times that the defendants were proceeding in his best interests.

The Court's Unequivocal Rejection of the Taxpayer's Arguments

The Appellate Court first reconfirmed the Connecticut Supreme Court's definition of a fiduciary relationship as one in which there is a “unique degree of trust and confidence between the parties, one of whom has superior knowledge, skill, or expertise and [thus] is under a duty to represent the interests of the other [party].” However, the Appellate Court then noted that, although fiduciaries appear in a variety of forms (e.g., agents, partners, lawyers, directors, trustees, executors, receivers, and guardians), nonetheless, not all business relationships necessarily rise to the level of a fiduciary relationship.

The Court then focused on the specific type of relationship that had existed between the taxpayer and the defendants. The Court concluded that it was nothing more than the “usual interactions between an accountant hired to prepare annual tax returns and his or her client,” with the result that there was no fiduciary relationship between the taxpayer and his accountants.

Simply put, tax return preparers are not fiduciaries to their taxpayer clients no matter how long the professional relationship has been with the clients, and regardless of the disparity in the level of the knowledge, skill, and expertise in tax matters between the clients and their accountants.

Additionally, the Court stated that even though there had been a long-term professional relationship by the defendants with the taxpayer and, moreover, that although the defendants indisputably had superior knowledge and skill on tax matters in comparison with the taxpayer, nevertheless, these facts did not change the non-fiduciary nature of the defendants’ tax preparation services. (Importantly, the Court did note that if an accountant were to have been engaged to go beyond tax preparation work and – for example – were to manage a taxpayer’s funds, then the accountant would have a fiduciary duty to the client.)

Therefore, because it was uncontested that the defendants did not undertake any financial management work for the taxpayer, the Court limited the taxpayer’s claims against the defendants to a conventional professional malpractice claim (viz.: for the alleged failure to exercise that degree of care and skill ordinarily and customarily provided by certified public accountant firms in preparing income tax returns).

The Court was not required to rule on the malpractice claim due to the fact that the three-year malpractice statute of limitations had already expired prior to the filing of the lawsuit. Thus, the case was dismissed.

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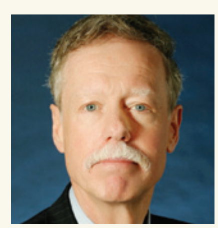

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