

**Knowledge, Ethics and Identity in Tax Practice:
The UK Experience of Tax Professionals**

By

Marie Calderoni

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Department of Accounting

Birmingham Business School

College of Social Sciences

University of Birmingham

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Abstract

This thesis seeks to understand how tax professionals render professional services. To answer this over-arching question, three sub-questions are examined to explore the knowledge, ethics and identity of the UK tax profession: what is the role of knowledge in shaping the tax profession; how do tax professionals manage ethical dilemmas; and what identities are associated with tax professionals?

Using a qualitative methodology, 44 semi-structured interviews were conducted with tax professionals between 2015 and 2016, including tax lawyers, tax accountants, ex-HMRC senior tax professionals and tax consultants. Secondary documentation was also extracted from tax journals, newspapers, government reports and professional guidance literature.

This thesis theoretically contributes to extending the theoretical use of Foucault's work by showing how the notion of knowledge/power can be used in order to 'artificially' conceptualise and create the boundaries of an expert community based on their shared knowledge of the tax discipline. In so doing, it examines how expert knowledge and discursive practices shape the boundaries of a community, namely the tax profession. Secondly, using Keith Hoskin's work (2015) this thesis demonstrates how social stigmatisation through the use of discursive practices are at the origin of why tax professionals have had to integrate ethical considerations in response to the discursive formation made on their professionalism. In so doing, this thesis conceptualised how TPs construct their professional self upon the performance, articulation, and appropriation of institutional norms.

Empirically, this project develops understanding of the impact and role of tax intermediaries in the UK tax system (OECD, 2008). First, the findings reveal the importance of knowledge in the implementation of tax legislation, and show how tax practitioners have created borders around an invisible and distinctive discipline through expertise in tax knowledge. They highlight that tax intermediaries acquire, share, retain, create and implement tax knowledge through tight networks,¹ and this knowledge is competed for and challenged within the professional networks and by HMRC. Second, the findings emphasise the importance and demonstration of ethics in tax practice and indicate that tax practitioners have adapted their professional ethics to the environment in which they find themselves. This suggests that, across the tax profession, ethical standards are not clearly defined, giving rise to conflicts between professional practices, firms' expectations and personal values. Finally, the findings acknowledge the value of social identity, roles and discourse in the construction of occupational identity within the profession, indicating that social influences have a disciplinary effect on the tax profession.

Overall, this empirical study demonstrates the multi-faceted nature of tax practitioners, both as client advocates and representatives of the state, and the crucial role played by the profession in supporting the UK tax system. In this process, it contributes to a developing body of literature on the tax profession by revealing how tax intermediaries shape the development of tax knowledge, the factors influencing tax professionals' ethical decision making, and the social interaction impacting on their identity construction.

¹ While the different types of network can vary, the most common are professional and academic relationships.

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List of abbreviations

ACCA	Association of Chartered Certified Accountants
ATT	Association of Taxation Technicians
CIOT	Chartered Institute of Taxation
CTA	Chartered Tax Advisor
DM	Decision making
DOTAS	Disclosure of Tax Avoidance Schemes
FCA	Financial Conduct Authority
GAAR	General Anti-Abuse Rule
HMRC	Her Majesty's Revenue & Customs
ICAEW	Institute of Chartered Accountants in England and Wales
ICAS	Institute of Chartered Accountants of Scotland
OECD	Organisation for Economic Co-operation and Development
PCRT	Professional Conduct in Relation to Taxation
PI	Professional identity
POTAS	Promoters of Tax Avoidance Schemes
STEP	Society of Trust and Estate Practitioners
TP	Tax professional
UK	United Kingdom

CHAPTER 1: INTRODUCTION

1.1 Introduction

This thesis focuses on the impact of tax practitioners (TPs) on tax knowledge and, in particular, the ethics and identity of tax professionals. This chapter outlines how this thesis is structured, and presents the background to, and motivation for, the research. It also includes the key research questions and objectives that will be addressed in the study, as well as the contributions this thesis seeks to make to current debates on tax knowledge and TPs.

Known as the ‘tax profession’ (Frecknall-Hughes and McKerchar, 2013a, 2013b, 2013c), the tax advisory service industry comprises many different types of professionals, namely tax accountants, tax lawyers, chartered tax advisors, HMRC tax officials, and other professionals branding themselves as tax specialists.² Recent media scandals relating to firms such as Google, Apple, Starbucks and HSBC, have brought considerable attention to the tax profession, raising questions about the responsibility of these professionals for the tax avoidance industry (House of Commons Committee of Public Accounts, 2013). High-profile taxpayers have also been exposed in the press for allegedly not paying a fair amount of tax or being involved in tax relief schemes (Armitstead, 2013). Seeking to understand the tax profession as a distinct profession is the subject of increasing research (c.f. Currie et al., 2015; Frecknall-Hughes, 2012, 2014a, 2015; Frecknall-Hughes and McKerchar, 2013a; Tuck, 2010)

² The term ‘tax advisory service industry’ is used throughout this thesis when describing tax advice more as a form of business. This thesis also employs the term ‘tax profession’ to describe the community of professionals working on behalf of taxpayers. Although both terms characterise the same practice and the same industry, they describe, however, a different sense of community belonging. Chapter 2 section 2.2 touches upon this topic by addressing the debate surrounding what constitutes a tax profession in the UK. This discussion will contribute to extending the conversation started by Frecknall-Hughes (2012), and Frecknall-Hughes and McKerchar (2013a) where they demonstrate the emergence of a UK tax profession.

which this thesis seeks to add to by examining contemporary tax practices within the profession and how these might possibly feed into the controversy of ‘tax avoidance’.

This chapter first presents the context of the UK tax profession that will be the subject of this study. Section 1.2 initially gives the background context to the research, and outlines the pertinent history, and role, of the UK tax profession, as well as the UK financial and economical context. Following this discussion, section 1.3 outlines the motivations for undertaking this thesis, while section 1.4 justifies the use of Foucault’s later work in order to review and analyse the data. Those earlier sections serve as a basis for discussions in section 1.5 where the key research questions and objectives will be considered. The remainder of this chapter presents the contributions of this research (section 1.6) as well as the structure of the thesis (section 1.7).

1.2 Background to the research

As mentioned previously, the tax profession comprises various types of professionals: tax accountants, tax lawyers (solicitors, barristers, US attorneys, etc.), chartered tax advisors from the Chartered Institute of Taxation (CIOT), civil servants, and others who brand themselves as specialists in tax services and advice. Over the past decade, or so, the profile of this profession has risen significantly owing to a recent series of well-publicised scandals relating to tax avoidance practices involving the ‘Big Four’, consisting of Deloitte, Ernst & Young (EY), KPMG, and PricewaterhouseCoopers (PwC). There is a long tradition of comments where commentators have questioned the conduct of tax professionals (TPs) regarding their role in thwarting government efforts to collect further tax revenues (Attwell and Sawyer, 2001; Bailey and Leaby, 1990; Becker, 1996; Donnelly and Miller, 1994; Hansen et al., 1992; Marshall et al., 1998; Myers, 1990; Tooley, 1992). In some respects, the

tax profession appears to be depicted as addressing its clients' needs first and foremost, to the detriment of the general well-being of society and the wider public interest (Anderson-Gough et al., 2000; Frecknall-Hughes, 2012; Sakurai and Braithwaite, 2001). Yet, as a distinct 'profession', tax has been subject to limited scrutiny. An extensive review of the literature (see chapter 4) shows that critical qualitative research on the tax profession has been rather under-utilised in favour of quantitative research (Hanlon and Heitzman, 2010). This study seeks, therefore, to enhance the literature in this area by studying how TPs render tax services in less quantitative, and in more qualitative, terms.

1.3 Empirical motivation to undertake the research

In the UK, tax services are offered mainly by the legal and accounting professions. The multidisciplinary nature of tax may have led academic researchers to represent these two professions as competing over the field of tax, rather than adopting a complementary approach (Brown and Paton, 2003). Many have discussed the extent of inter-professional altercations occurring over tax service jurisdiction (APA, 1982; Bell, 1949; Dezalay, 1991; Dezalay and Garth, 2001, 2004; Dezalay and Sugarman, 1995; Frecknall-Hughes, 2012; Freedman and Power, 1991; Hopwood and Hreha, 1984; Sugarman, 1995). Brown and Paton (2003) dispute this view, illustrating how the legal and accounting professions have a long-standing history of co-operative work. Yet few historical papers in accounting and law have attempted to link the two professions by highlighting, for instance, how these two entities came to merge under a single umbrella known as the 'tax profession' (Anderson, 1957; Frecknall-Hughes 2012, 2014a, 2015; Frecknall-Hughes and McKerchar, 2013a). According to Guthrie and Parker (2016, p. 2), professions are "rapidly changing in an intensely networked and interdisciplinary world". This thesis resonates with an editorial call in January 2016 by the *Accounting, Auditing and Accountability Journal* for innovative research that

expands our understanding of interdisciplinary expertise. In so doing, it endeavours to advance research by Brown and Paton (2003) by addressing not only a gap in the literature regarding the legal and accounting professions in the field of tax, but also to extend the debate on interdisciplinary professions (Currie et al., 2016; Noordegraaf, 2015). Overall, this research seeks to complement a growing body of research on the tax profession (Currie et al., 2015; Frecknall-Hughes, 2012, 2014a, 2015; Frecknall-Hughes and McKerchar, 2013a, 2013b; Frecknall-Hughes and Moizer, 2015; Tuck, 2010).

Secondly, there exist several empirical studies exploring the tax profession in America (Stuebs and Wilkinson, 2010) and Australia (Marshall et al., 1998; Marshall et al., 2010). Indeed, most of the studies on the tax profession have been established in these countries (Frecknall-Hughes and Moizer, 2015). Unfortunately, a knowledge gap exists in our understanding of the European market for taxation services, where few studies can be found interpreting the nature of the role of tax practitioners. Comparative studies have nevertheless tried to fill the gap by considering the tax profession in Ireland/UK (Doyle et al., 2009a; Doyle et al., 2009b; Frecknall-Hughes et al., 2017), in Australia/UK (Frecknall-Hughes and McKerchar, 2013a) and Turkey/UK (Demirbag et al., 2013). However, to this date little empirical research exists exploring solely UK tax practice across both the legal and accounting professions. One possible explanation for this, offered by Frecknall-Hughes and Kirchler (2015, p. 292) suggests that:

The fragmented nature of the market for taxation services, arguably, has adversely impacted on studies of tax practitioners, as it makes a holistic view of the services they provide difficult to obtain. While a considerable amount of academic literature exists on various aspects of taxation work, there exists no major survey of it to detect underlying themes, and consequently, there is little analysis of the work done at a conceptual or theoretical level.

This thesis confirms the difficulty of identifying the groups of tax professionals practising in various pockets within the UK financial industry, and seeks to further Frecknall-Hughes and

Moizer's (2015) insights by addressing the empirical gap they identified. So far, there is little to no regulation of tax agents, and no professional body regulates the whole practice of the UK taxation service (De Widt et al., 2016; Schöbel, 2010).³ As a result, no official figure exists identifying the exact number of tax professionals in the UK, and therefore determining who provides tax services is quite challenging. In 2009, Her Majesty's Revenue and Customs (HMRC) estimated there were 12,000 unregulated tax intermediaries. This figure has not been updated since that year (Frecknall-Hughes and Moizer, 2015). Therefore, determining who provides tax services remains challenging because no overall study has been conducted that seeks to reveal the underlying mechanisms of the UK tax profession (Frecknall-Hughes and Moizer, 2015). This could possibly obscure our understanding of how tax intermediaries behave and influence the UK tax system, especially considering the recent legislative approach adopted by the UK in seeking to reduce tax avoidance. According to Kunda (1992, p. 11), these norms represent "the attempt to elicit and direct the required efforts of members by controlling the underlying experiences, thoughts, and feelings that guide their actions".⁴ Ultimately, by offering a holistic view of the UK tax profession, this study endeavours to give an account of how legislation can be implemented across a 'fragmented market' to help identify future trends. In so doing, this thesis focuses on the knowledge, ethics, and identity in tax practice.

Finally, the motivation for this research lies in the media coverage that seems to focus almost exclusively on TPs creating tax avoidance schemes (Armitstead, 2013). Journalistic investigations have, for instance, portrayed the tax profession as operating in the interest of their clients, regardless of the detriment caused to society (Brooks, 2013; Everson, 2011; Shaxson, 2011). This research seeks to address this one-sided discourse by offering an

³ To this date the term 'tax advisor' is not legally protected and as such anyone can present him-/herself as a tax advisor.

⁴ See Chapter 29 of the *Finance Act 2013*, and the UK's *General Anti-Abuse Rule (GAAR)*.

insightful view of how professionals render tax services. In so doing, this will help give a voice to tax intermediaries who currently practise in the UK.

1.4 Theoretical motivation to use Foucault's theory

Aiming to analyse and understand the structures underlying the implementation of the law in the UK tax system, I will be turning to Foucault's work in order to understand the complex imbrications of knowledge and professional discipline. More specifically, I am seeking to facilitate a discussion about the role of knowledge/power in law and accounting without seeing it as just negative and oppressive, but as productive of practices, discourses and ethics of how professionals ought to conduct themselves. Looking at the UK experience of tax professionals, tax law appears as a contested field of expertise where multiple forms of institutions and stakeholders are at play. In order to make sense of this system, Foucault proposes modes of analyses that allow for understanding knowledge and knowledge production as political practices. Keith Hoskin's work (2015) follows such lines of thinking to conceptualise how individuals construct their professional self upon the performance, articulation, and appropriation of institutional norms. Moreover, this thesis will also consider how the context in which these professionals work has evolved (here in the UK economy) and affects their sense of self ethics and identity. This thesis intends to discuss professional selves and interrogate the discursive formations of law and tax as an important way to understand the complex imbrication of knowledge and power, ethics of the self and professional identity in the field of accounting. Introducing Foucault's later work of the 'ethics of the self', Lambert and Pezet (2012, p. 67) argue that "the subject, in an organisational context, carries out systematic practices of self-discipline and becomes a calculative self. [...] These management accountants become calculative selves by building the very measurement of their own performance". As a result, the self is understood as

emerging from a process of self-formation (Skinner, 2013) where the construction of the self is never independent of the context and knowledge in which it is situated. Thus, ethical conduct is action performed by a subject in order to comply and engage with values that are morally approved of and inculcated by institutions. In this regard, Neu et al. (2015) demonstrate how individuals have become ‘ethical and disciplined subjects’ by integrating forms of anti-corruption practices. Hoskin (2015, p. 78) links knowledge to ‘selves’ and ultimately the construction of a professional self as an identity.

The illegalism of rights exercised by those descendants of the old bourgeoisie who now populate large corporate entities, big government, and the professional service firms operating across the accounting, financial and legal arenas appears as inoculated and impervious to law’s attacks now as then. On the contrary, we increasingly witness how such recourse, thoughtfully strategized, can operate in a directly contrary direction: just select the appropriate specific firm of law (usually of the contract or commercial type) and you can incarnate an illegalism of rights which, with the appropriate admixture of disciplinary experts and expertise, can decisively trump old sovereign state law.

This schema draws on the idea that subjects emerge within specific discourses and practices which are tied to specific institutions (Foucault, 2008). This imbrication of knowledge, subjects, discourses, practices, and selves I will mine in the specific case of TPs to reveal the uncertain and highly contested realities they face.⁵

1.5 Research problem and objective

The over-arching research question in this study is: *In what ways do tax professionals (TPs) render professional services?* To address this question, the following sub-questions are examined, each with specific objectives.

1. *What is the role of **knowledge** in shaping the tax profession?*

⁵ Chapter 3 explains and illustrates how Foucault’s theory is applied to analyse the data of this research.

Objectives:

- To investigate the extent of tax advisors' knowledge (section 6.2)
- To gauge the extent to which knowledge shapes professional projects (section 6.3)
- To challenge whether tax services are a specialist practice (section 6.4)
- To establish the education and training that are required to offer tax services (section 6.5)
- To capture how tax knowledge is shared, stored and applied (sections 6.6 to 6.8)
- To understand the conflicts occurring within this profession (see section 6.9).

2. *How do TPs manage ethical dilemmas?*

Objectives:

- To identify and conceptualise 'tax dilemmas' (section 7.2)
- To understand how ethical dilemmas are solved (section 7.3)
- To capture the societal environment in which UK tax advisors evolve (section 7.4)
- To consider the role of reputation in ethical dilemmas (section 7.4)
- To examine the regulations and controls to which tax experts are subject (section 7.5)
- To consider the role of codes of ethics in tax dilemmas (section 7.6)
- To comprehend the impact of competition and clients on tax experts' practice (section 7.7)
- To understand the organisational structure within which tax experts operate (including firm, competitive market) (section 7.8)
- To establish the role of personal ethics in solving ethical dilemmas (section 7.9).

3. *What identities are associated with TPs?*

Objectives:

- To identify and conceptualise 'professional identity' in tax practice (section 8.2)
- To understand how professional identity is constructed (section 8.3)
- To gauge the influence of stereotypes and cultural beliefs in framing experts' identity (section 8.4)
- To observe the role of mass media and societal influences in conveying TPs' identity (section 8.5)
- To assess the impact of community in shaping TPs' identity (section 8.6)
- To gain insights into how firm influence TPs' identity (section 8.7)
- To determine the effect of interpersonal relationships (section 8.8)
- To understand the role of personal identity (section 8.9).

Now that the over-arching research question has been presented, the pages below present this thesis's contributions.

1.6 Contributions

This thesis, through empirical and qualitative research, extends our comprehension of the UK tax practice across both the legal and accounting professions (Frecknall-Hughes and Moizer, 2015). In line with a qualitative method, this study conducted 44 semi-structured interviews between 2015 and 2016 with a wide variety of tax professionals including tax lawyers, tax accountants, ex-HMRC senior tax professionals, and tax consultants. In doing so, the research highlights the crucial role played by the UK tax profession in supporting the tax system. Furthermore, it contributes to a developing body of literature on the tax profession by revealing how tax intermediaries shape the development of tax knowledge, the factors influencing professionals in their ethical decision making, and demonstrating the social impacts on professional identity construction. Empirically, this thesis develops an understanding of the roles and impacts of tax intermediaries within the UK tax system (OECD, 2008) in two major ways. First, the findings reveal the importance of knowledge in the implementation of tax legislation, and how tax practitioners have created borders around a distinctive discipline through expertise in tax knowledge. They show that tax intermediaries acquire, share, retain, create and implement this knowledge through professional networks, and that tax knowledge is competed for and challenged within the profession and by HMRC. Secondly, the findings reveal the importance of ethics and how they are implemented within tax practice. The thesis shows that tax practitioners have adapted their professional conduct and ethics to the environment in which they find themselves. This suggests that, across the tax profession, ethical standards are not clearly defined, giving rise to conflicts between professional practices, employer expectations, and personal values. Finally, the findings acknowledge the importance of social identity, professional roles, and professional discourses in the construction of occupational identity. This highlights the importance of social factors in delineating a recognisably distinct field such as the tax profession. Acting both as advocates

of clients and representatives of the state, this research illustrates the chameleon-like nature of tax practitioners.

This thesis theoretically contributes to extending the use of Foucault's work by showing how the notion of knowledge/power can be used in order to conceptualise and create the boundaries of an expert community, based on its shared knowledge of the tax discipline. In so doing, it examines how expert knowledge and discursive practices shape the boundaries of a community, namely the tax profession. This study also demonstrates that the struggle based on how the tax law should be applied, that currently exists between the state/HMRC and this community of tax experts, serves as a factor pushing tax professionals not only to make themselves known but also to organise themselves through tight networks in order to resist, or enhance, the implementation of tax knowledge. This thesis argues, therefore, that the Foucauldian notion of knowledge/power can be used to outline and conceptualise un-identifiable group of experts, making the invisible visible. Secondly, this thesis theoretically contributes to extending the theoretical use of Foucault's work by showing how the notion of social stigmatisation through the use of discursive practices and statements are at the origin of why tax professionals have had to integrate ethical considerations in response to current discursive formations that question the values of their professionalism. Doing so, this thesis demonstrates how professionals adapt themselves to be seen as 'ethical and disciplined subjects' complying with the spirit of the law as to show themselves as professionals, and hence change the discursive practices that are at play against them. Using Keith Hoskin's work (2015), this thesis conceptualised how TPs construct their professional self upon the performance, articulation, and appropriation of institutional norms. In this process, it examines how the profession's implementation of tax knowledge has rapidly been associated in the minds of the general public with the deployment of ethical conduct and professional

identity. This aspect of Foucault's work has received limited attention in the accounting and taxation literature.

1.7 Structure

This thesis is structured as follows. Chapter 2 introduces the background of this research. This chapter will cover many topics including the definition of the tax profession, the history and the role of tax professionals as well as the UK economic context. This introductory chapter provides a contextual framework, explaining why, at the start of 2015, this research was necessary. Chapter 3 then presents the theoretical framework of this study, which is grounded in a Foucauldian approach. This chapter introduces the key concepts that will be used throughout this thesis in order to analyse the data. Chapter 3 motivates the use of Foucault, but more importantly describes how the concepts of power/knowledge and the 'ethics of the self' relate to the study of the tax profession. Mirroring the key concepts elaborated in chapter 3, chapter 4 will then adopt the same structure (namely review of the sociology of profession, knowledge literature, professional ethics and identity literature) to examine critically how the relevant literature has conceptualised knowledge, professional ethics and identity. In so doing, chapter 4 locates this research in the gaps found in the literature, and hence justifies the empirical significance of doing this study. Chapter 5 discusses the conceptual framework and research design protocol of this study, and explains the rationale for the design of the data analysis. This final preparatory chapter clarifies how the data has been collected before presenting the findings in the empirical chapters 6, 7 and 8.

Chapters 6, 7 and 8 address the three sub-questions of this research, discussed in section 1.5 above. In so doing, these empirical chapters present the research findings. Chapter 6 considers how knowledge shapes the tax profession. This chapter facilitates the

interpretation of the findings by providing the foundation for a discussion of how the application of tax knowledge affects professional ethics (chapter 7) and the professional identity (chapter 8) of tax professionals. Chapter 7 explains the context in which TPs make decisions, which in part seeks to explain the media criticism perceived by the public. Chapter 8 presents the effect of negative accounts and discourses around public dissatisfaction with the way tax professionals present themselves and ultimately construct their professional identity (PIs). Finally, chapter 9 summarises the research findings and highlights the contributions of this doctoral research, and identifies the limitations of this study. Opportunities for further research are also suggested.

CHAPTER 2: BACKGROUND TO THE UK TAX PROFESSION

2.1 Introduction

As expressed in the introduction, the existence of a ‘tax profession’ in the UK is conceptualised in this thesis based on the works by Frecknall-Hughes (2012) and Frecknall-Hughes and McKerchar (2013a, 2013b, 2013c). It is worth noting however that the recognition of a ‘tax profession’ does not entail that this profession is perfectly integrated, nor that there are not amounts of contradictions and tensions (section 2.2).⁶ This is why section 2.3 recognises the conditions specific to tax advisors, and the variety of roles tax professionals studied in this research take up. By recognising the wide spectrum of roles, practices and discourses tax professionals must engage with, which also intersect with other professions and fields, we begin to understand why many have found it best to bypass the question of what constitutes the ‘tax profession’. Section 2.4 then discusses the history of the tax profession, while section 2.5 describes the role that the tax profession plays in the UK tax system. Section 2.6 finally reviews the context of UK tax law and TPs, and section 2.7 offers a summary of the chapter.

2.2 The debate surrounding the tax profession

There is an on-going debate within the literature in the sociology of work of how best to think of and understand the term ‘profession’ (Becker, 1970; Bourdieu and Wacquant, 1992; Cogan,

⁶ See, for instance, Goode (1957) or Brante’s (1988) definition mentioned below.

1953). Broadly speaking, a profession has a range of specific attributes that differentiate it from occupations and work in general. Numerous definitions have been offered of what a 'profession' is, many of which recognise formal or informal membership of a professional body, the requirement of specific skills, and also a sense of 'professional community'. For instance, Parsons (1939) expresses the opinion that professions are defined by a specialist body of knowledge that usually requires some form of formal examination, and a certain independence from government. That is, though professional bodies might function as politically independent of a government in power, their authority as bodies tends to have to be recognised and granted by a state. The Charter in the UK is the expression of that right. Goode (1957, p. 194) suggests recognising a profession by assessing the following characteristics:

(1) Its members are bound by a sense of identity. (2) Once in it, few leave, so that it is a terminal or continuing status for the most part. (3) Its members share values in common. (4) Its role definitions vis-à-vis both members and non-members are agreed upon and are the same for all members. (5) Within the areas of communal action, there is a common language, which is understood only partially by outsiders. (6) The community has power over its members. (7) Its limits are reasonably clear, though they are not physical or geographical, but social. (8) Though it does not produce the next generation biologically, it does so socially through its control over the selection of professional trainees, and through its training process, it sends these recruits through an adult socialization process.

For his part, Brante (1988, p. 122) offers a definition of 'profession' by specifying six criteria which must be met.

1. The use of skills based on theoretical knowledge; 2. education and training in these skills; 3. the competence of professionals is ensured by examinations; 4. a code of conduct to ensure professional integrity; 5. performance of a service that is for the common good; and 6. a professional activity which organizes its members.

However, Perks (1993) believes that a profession should be acknowledged by setting specific standards, such as a number of attributes such as: autonomy, self-regulation, code of ethics,

licensing, testing of competence, professional association and skills based on theoretical knowledge.

Although slightly differently worded, Parsons (1939), Perks (1993) and Brante (1988) all agree on a set of characteristics of professions covering skills based on theoretical knowledge, examinations/testing of competence, code of conduct and autonomy/licensing. While Goode (1957) offers a definition based on a sense of identity and community which is slightly different from the aforementioned three authors, he still refers to the idea of training and control over professionals (thus aligning indirectly to the previous definitions).

Given the broadness inherent in the word ‘profession’, Saks (2012) affirms that discussion of the definition of a profession is somewhat unhelpful because it is rarely disputed since the literature has long accepted the view that professions have three or perhaps four characteristics (albeit some variations as seen from the four definitions above cited). That is, professions still generally require a form of formal qualification (via exams testing professionally relevant knowledge), with a legal sanction from a higher authority to the professional body to exercise autonomy in such matters (with the Charter in the UK as a typical expression of that right), plus some form of recognition of ethical ideal and professional ethics. In other words:

the producers of professional services are produced by apprenticeship, licensing and professional education. Once these qualified professionals have been produced, the services that they provide are regulated by organized professional associations with a code of ethics (Liu, 2017, p. 214).

Though the UK ‘tax profession’ in its totality does not fulfil absolutely all such criteria of a profession as defined above, as indeed few professions would; and though the tax profession is not totally controlled by government regulated qualifications with no singular professional education or qualification representing a requisite to joining the ‘tax profession’; and though

joining a professional association (that provides both code of ethics and regulation) remains optional, this is not the end of the story. On the back of the above, some continue to argue that there is not, per se, a separate tax profession and that tax should only be seen as a subdivision of the legal and accounting advisory service that prompts competition between those two professions. Standing as an example, Dezalay and Garth (2001, 2004) belong to group of academics that considers the conflicts between lawyers and accountants over the provision of tax services but disregards the possibility of a tax profession (see also Bell, 1949; Dezalay, 1991; Dezalay and Sugarman, 1995; Freedman and Power, 1991; Hopwood and Hreha, 1984; Sugarman, 1995).

However, as noted by many commentators, neoliberal economics has changed the nature of work to become much more flexible, impermanent, and requiring continual upgrading and acquiring of new skills. The world of work is not simply attached to the company and industry in which individuals work. Hence the more classical sense of a ‘profession’ such as the figure of the ‘doctor’ or ‘lawyer’ might not be such a central one to many modern economies, with the term ‘profession’ acquiring a more flexible definition, and one which casts a much wider definitional net. The prism through which profession was examined in the middle of the 20th century is not suited to the contemporary world, especially considering the development of hybrid professionals/roles in modern occupations (Currie et al., 2015; Frecknall-Hughes, 2012; Tuck, 2010). Many professions that offered secure jobs for life, and even PIs that once attracted great prestige, seem to have faded away (Barber, 1963; Hodgson, 2002; Larkin, 1983; Lee, 1990; Muzio, 2004; Susskind, 2015). This is not how the modern sense of a ‘profession’ should be understood, and nor is it the way that tax advisors I worked with understand themselves as professionals. Indeed, Foucault

recognises discipline on the ground of expert knowledge within a scientific community.⁷ In this context, Foucault defined discipline as learning within a community through engagement and manipulation of the same expertise. It is this sense of a shared ‘discipline’, functioning within recognised bodies of knowledge and law, and ‘community’ which are at the heart of how those I conducted research with understood themselves to be ‘professionals’.

A discipline is defined by a domain of objects, a set of methods, a corpus of propositions considered to be true, a play of rules and definitions, of techniques and instruments: all this constitutes a sort of anonymous system at the disposal of anyone who wants to or is able to use it, without their meaning or validity being linked to the one who happened to be their inventor (Foucault, 1981, p. 59).⁸

Foucault’s theory of discipline thus opens the door to a more fluid understanding of professions, which is applied in this thesis to the examination of the tax service industry. Indeed, this concept seems adapted to capturing the complexity of modern professions, permitting much greater flexibility. The study of professions seems in that sense to have migrated toward studying professionals, professional bodies and professional interactions since workers are today part of communities and cultures of work rather than just ‘professions’. This is supported by many other academics who highlight the importance of comparing social forms and processes, rather than establishing differences between professions and occupations (Brint, 2001; Evetts, 2014; Olgiati et al., 1998; Olofsson, 2009; Sciulli, 2005).

As such and despite the many ways to define ‘profession’, there remain certain regularities present in the UK tax industry that differentiate it from any other disciplines. The research highlights that there exists a specific group of people working within the tax service industry undertaking similar roles, with similar characteristics and experiences, based on their

⁷ Foucault does not employ the term profession in his work but uses to the term discipline when referring to a professional community mediated by institutions based on expert knowledge.

⁸ Foucault gave *The Order of Discourse* inaugural lecture at the College de France, 2nd of December 1970. This lecture was translated by Ian. McLeod in 1981.

shared knowledge of tax who call themselves ‘tax professionals’.⁹ For example, many tax lawyers, tax consultants and tax accountants who took part in this study seem naturally to have referred to themselves as tax professionals.

Generally speaking, tax professionals come from within either the legal profession or the accountancy profession (F2, Tax Consultant, University, January 2016).

So there’d be people like me, who clearly spend the majority of our time on tax, I would call them tax professionals, even if they don’t have a professional qualification. Basically, I think anyone who’s got a Chartered Institute of Tax qualification or a legal qualification ... or one of the accountancy qualifications and is working for the majority of their time in tax I would say is a tax professional (A9, Tax Technician, Big Four, March 2016).

Self-ascription is an important part of professional identity construction and therefore appears to represent a key element in order to define the remit of the study (see chapter 8 on identity). Till-Arne Hahn, using both the concept of boundaries and identity, titles his work: *The practice of tax in Canada as a de facto profession: The coalescence of a profession as evidenced by collective identity*. Hahn (2018, p. 2) asserts that “a separate profession has taken shape in the tax field, as evidenced by the collective identification of those working full-time in the area”. Similarly, the UK media keeps labelling tax experts as tax professionals. Indeed, for the past decade or so, the tax profession’s public profile has risen significantly owing to a recent series of well-publicised ‘scandals’. The general public has thus seen the appearance of new terms such as ‘tax professionals’, ‘tax intermediaries’ (OECD, 2008), and ‘go-betweens’ used by Moscovici, the European Commissioner for Economic and Financial Affairs, Taxation and Customs during his Ireland speech (European Commission, 2019). These terms are loosely employed with no clear distinction; however, they aim to refer to the same group of professionals who provide tax advice to taxpayers.¹⁰ There also exists an academic branch that recognises, either directly or indirectly, the

⁹ Those people will be the focus of this study.

¹⁰ The terms ‘tax intermediaries’ and ‘tax professionals’ are used throughout this thesis with no particular distinction.

existence of a tax profession by conceptualising the emergence, history, and nature of this profession (Anderson, 1957; Frecknall-Hughes, 2012, 2014a, 2014b; Frecknall-Hughes and McKerchar, 2013a, 2013b, 2013c).

Secondly and closely related to my previous point, the tax profession is a term that refers to a different experience of being in the economy. Professionals that provide tax advice to taxpayers, whether it is a corporation or an individual, are basing their knowledge on the same sources (tax law) and on similar challenges and experiences (compliance and litigation for instance), all of which create the foundation of a shared experience that can only be lived through the exercise of this expert practice. So, although it could be argued that there is not a perfectly delimited field, per se, called ‘tax profession’ wholly in and of itself, it is clear that the tax profession represents an area of professional expertise that increasingly draws on knowledge from many disciplines in seeking to address and analyse problems, and concomitantly to stake their claims for ‘pecking order’ significance.

This leads to my third and final point in that, this thesis recognises that the nature of the British economy has changed from Keynesian economics to neoliberalism, from demand-side to supply-side economics, but the ‘tax profession’ still retains some of the norms that it previously had. For example, the Association of Tax Technicians (ATT) is a professional body representing qualified technicians specialising in UK tax, compliance, and related activities. There is also the Chartered Institute of Taxation (CIOT), a professional body supporting advisors dealing with all aspects of taxation. Those professional associations have, in this process expressed the will to develop, and defined and created further structures and accreditations within the profession, partly in its attempt to adapt to public attitudes, new legislation and the upturn in the economy. This is why both bodies offer their members practical guidelines, information on professional standards, policy documents and formal tax qualifications. Those belonging to those professional bodies comply with Brante’s (1988)

definition cited above. Indeed, the tax profession, as the thesis argues, is composed of professionals who have been trained and qualified as professionals by recognised professional tax institutes.

In this context, the tax profession appears to be a particularly interesting case to study, since it does not have all the formal characteristics of a profession, which shows how the regularities can be stretched, but still in practice is peopled by professionals, who act in line with professional principles and ethics (to a greater or lesser extent in individual cases, certainly). Recognising the tensions and ambiguities of the term, I will therefore be referring to the tax industry by the term ‘tax profession’ established by Frecknall-Hughes (2012) and Frecknall-Hughes and McKerchar (2013a, 2013b, 2013c).

2.3 Definition of tax professionals

Over time, TPs have acquired many definitions and titles covering a wide range of practices and organisational structures. Devos (2012, p. 5) describes them as:

a diverse group of individuals, business structures and professional groups who provide a range of tax services for their clients. Self-employed and in-house accountants, tax advisers and registered tax agents, tax agent franchises and legal practitioners in the tax area are all embraced by the term “tax practitioner.”

In researching tax intermediaries, the law seems to confer particular duties to: consultants, lawyers, financial and investment advisors, accountants, financial institutions, insurance intermediaries, agents establishing companies or any other type of person involved in the design of structures potentially leading to tax avoidance.¹¹ Frecknall-Hughes (2012, p. 178), in assessing the context in which the tax profession developed observes that:

¹¹ See tax enabler legislation (*Finance Act 2017*) and 2018 HMRC report.

Tax advice is given by a broad range of business professionals including accountants, solicitors, barristers, payroll agents, former and current members of government revenue authorities, tax experts working within industry, as well as those officially designated as tax consultants as a result of their membership of tax dedicated professional bodies, such as the Chartered Institute of Taxation (CIOT) in the UK. Some tax professionals work as sole practitioners or in accounting, legal or tax specialist partnerships and will undertake various kinds of tax work on behalf of clients. [...] Throughout both academic and professional literature, tax practitioners are also referred to as tax advisers, tax agents, tax intermediaries, tax preparers and tax professionals without any significant differentiation between these terms.

The tax profession characterises a group of experts that are not fixed or stable, and remain rather hidden within separate professions (legal or accountancy), and this is why the literature reflects this ambivalence. Despite acknowledging the elusive nature of this community and recognising the tensions that exist in the various definitions of tax professionals, it can also be argued that clarifying what constitutes the tax professional is needed now more than ever. This is why for this research a set of criteria has been compiled to make explicit what is understood by tax professionals in this thesis, and provide a clearer definition of who comprise the tax profession. The tax intermediaries interviewed were required to comply with the following conditions. They should be:

- The sub-population of the field experts who daily only sell a unique set of skills based on providing tax advice to clients (excluding *de facto* financial advisors, bankers, etc.).
- Experts who earn their income mainly from providing tax advice (which excludes non-professional activities).
- Tax intermediaries who represent taxpayers for the purposes of tax compliance, tax planning and tax litigation in face of the UK tax authorities (effectively eliminating HMRC officials acting on behalf of the tax authorities).

- Finally, tax experts for whom the task of providing tax advice requires them continuously to update/expand their knowledge (implying that they would seek media such as specialist journals, websites, and conferences where they would share practices, etc.).

These criteria enabled the identification of a specific sub-population of the field of advisors and composed the focus of my study from which the relevant and appropriate participants have been selected as the source of this thesis sample:

- UK tax lawyers from the ‘Magic Circle’, medium-sized law firms, and Tax Bar members.
- UK tax accountants from Big Four accountancy firms, medium-sized firms, and ‘boutique’ practices.
- UK tax consultants providing tax advice as their sole source of income and occupation.

This focus on a set of workers in an industry, however, does not mean that the wider spheres of work and the workplace are not recognised. This study acknowledges that there exists a number of professionals who provide tax advice on a daily basis but who may not comply fully with the above criteria. The relevance of participants had to be assessed in light of the research questions. In doing so, certain populations were excluded as data gathered from them would not help inform the objectives of the research. In this case, civil servants currently practising in HMRC were excluded from the population for several reasons. Indeed, after speaking to multiple HMRC agents (see Appendix C) they were in agreement that they do not belong to the tax advisory service industry, as they do not provide assistance to taxpayer filing their tax. However, it transpired that they still consider themselves to be part of a wider tax profession which in this case study remains outside the scope of this research since the over-arching research question seeks to understand how TPs render professional services. As the literature in the area of sociology of work and professions has recorded and noted, workers exist in communities and cultures of practice and work. They exchange

knowledge using media such as websites, social media (LinkedIn), and the ritual of a conference where they share common practices. This is why certain professionals, such as HMRC civil servants, have been excluded from this research, as this study aims to capture and explain a sense of community experienced in this profession. Those who feel excluded from this community would not be in a position to share the same experiences or the same challenges, and as a result, the account of their experience would be different.

2.4 History of the tax profession

The first mentions of TPs appear to have been as tax collectors and scribes (especially in the Roman Empire), but the profession did not appear in the UK until the nineteenth century. Traditionally, from 1860, accounting professionals took the lead in providing tax services in the UK (Frecknall-Hughes and McKerchar, 2013b). Frecknall-Hughes (2012) and Frecknall-Hughes and McKerchar (2013a, 2013b, 2013c) demonstrate through a historical lens how in Australia and the UK a tax profession materialised from the merging of the accounting and legal profession. Frecknall-Hughes and McKerchar (2013a, pp. 277–278) suggest that the emergence of the tax profession can be explained by an increase in demand for tax expertise. Legislation and income tax became so complex that the need for a professional third party was soon required.

There were two key drivers of the early demand for tax specialists in both the UK and Australia. First, the growth in the complexity, volume and importance of taxation legislation, especially income tax legislation in the latter half of the 19th and early part of the 20th centuries in the UK and in the 20th century in Australia, was extremely significant in driving this demand. Secondly, and by no means less significant, increasing income tax rates in both jurisdictions undoubtedly played their part.

Thus, two professions seem to have been distinguished in tax practice, namely the legal and accounting professions (Brown and Paton, 2003). In a context in which the professions have

acquired certain independence from the state, the creations of new services could be seen as a way to generate new income for those long standing professions. In this respect, I would argue the tax profession is a commodity profession at the service of the economy and finance. This may explain why tax practice has emerged in different professions. Tax services necessitated by legal regulation might, in principle, have been expected to be offered by lawyers. However, the legal profession refrained from involvement in tax services because this was deemed to be a lowly type of work with no prestige (Frecknall-Hughes and McKerchar, 2013a, p. 278). For example:

Accountants in the UK had been swift to become involved in income tax issues in the latter part of the 19th century. That they had done this so quickly seems clearly linked to their involvement in commercial accounting and financial statements, as income tax on company profits and dividends followed on as a natural corollary to that involvement, even though this area might theoretically fall into the domain of lawyers. At the time lawyers were reluctant to colonise the area, deeming tax work to be more connected to accounting, a craft allied with trade and therefore not respectable given their superior social status and professional standing.

It took a long time for the legal profession to realise the economic benefits of offering tax services, but by that time the accounting profession's expertise was dominant (Frecknall-Hughes, 2015). Historically, lawyers and accountants have disputed between themselves over this particular expertise. For instance, the literature reveals the extent of inter-professional altercations over tax. Bell (1949, p. 788) argues that:

Attempts to find the answer have engendered intense friction between various professional groups, each arguing that its jurisdiction extends further than the other admits. The greatest animosity has developed between lawyers and certified public accountants in the dispute as to their respective functions in the income tax field.

A recurrent theme in the literature is a long-standing underlying battle for power between these two professions trying to impose their brand on this field of knowledge (Dezalay, 1991; Dezalay and Garth, 2001, 2004; Dezalay and Sugarman, 1995; Freedman and Power, 1991;

Sugarman, 1995). More recently, especially in Australia and the USA, academics, and commentators have petitioned for the extension of the legal professional privilege to the accountancy profession (Kendall, 2005, 2011). In 2008, the Australian Law Reform Commission proposed that consideration should be given to extending legal professional privilege in tax matters to the wider tax profession, rather than restricting it to advice by the legal profession, as is currently the case (Maples and Woellner, 2010). Although a diverse group, their unique expertise creates the perception of an identifiable group commonly called the tax profession. This thesis examines how, despite their differences, these professionals and professions have created a recognisable profession.

2.5 The role of tax profession in the UK

Unlike the conceptualisation of their definition, the roles of the tax profession and tax intermediaries have been subject to great scrutiny due to their ability to influence legislative procedures which are practised across the tax system.

It appears that the tax profession continues to enhance its ability to exert influence when it comes to tax policy (Frecknall-Hughes and McKerchar, 2013a, p. 287).

For instance, an OECD (2008) report on tax intermediaries recognised the importance of having an elaborate tax profession in OECD countries. Several studies develop the idea that tax advisors act as an extension of tax authorities in seeking and assuring the compliance of their clients (Devos, 2012; Preston, 1989). More recent empirical research has also exposed the role played by tax advisors as client advocates (Bobek et al., 2010; Kadous et al., 2008; Mason and Levy, 2001). This resonates with the previously mentioned dual function that places tax advisors *between a rock and a hard place* (Fogarty and Jones, 2014). TPs are therefore responsible both to the system and to their clients (Bailey and Leaby, 1990).

Indeed, it seems that expectations of these professionals are constantly growing, as they try to please the tax authorities while still keeping their clients ‘happy’ (Johnson, 1993; Sakurai and Braithwaite, 2001). Tax intermediaries play various roles and functions within the tax system, which makes them remarkably flexible and valuable. Those duties include:

A. Tax planning; B. Advice ancillary to financial and other services; C. Preparation and auditing of commercial accounts; D. Preparation of tax returns; E. Representation of the taxpayer before the tax administration; F. Representation before the courts (Thuronyi and Vanistendael, 1996, pp. 148–151).

This observation remains accurate 20 years later, as Frecknall-Hughes and Kirchler (2015, pp. 290–291) state that:

Tax practitioners play a variety of roles in the taxation system, namely, as preparers of tax returns to the tax authorities and responding to queries on the returns from the tax authorities; as advisers on how to arrange a taxpayer’s affairs so as to minimize the tax payable; as valuers or mediators if disputes over valuations occur; as tax authorities’ agents in the case of an investigation and within the public sector, as employees of the tax authority.

This research thus seeks to expand the work of Fogarty and Jones (2014, pp. 286), who conducted semi-structured interviews with TPs in the US in 2011.¹² Their findings reveal that:

US tax professionals have always found themselves in a uniquely ambiguous position. [...] Tax practitioners are expected to help clients minimize their tax liabilities, while simultaneously assisting the government collect fair shares of tax revenue. [...] Practitioners struggle to serve two masters, albeit imperfectly. Where they strike the balance is difficult to predict, as people differ in how aggressive they are willing to be. Practitioners want to be ethical and rarely are willing to take positions that they perceive to be dangerous to their livelihood. The fear of audits is also shared. The qualitative nature of relationships looms as a disproportionately important factor, and one that is not well-appreciated in the literature.

¹² It is not clear whether Fogarty and Jones interviewed tax lawyers as part of their study. They certainly interviewed self-employed tax advisors and those in big accountancy firms, but the term ‘lawyer’ is mentioned only once in the entire study. This makes the current research more relevant, as it considers all types of tax practitioners, including ex-HMRC agents, tax lawyers and those qualified by experience. Also, since Fogarty and Jones conducted their qualitative research in the US, the current study provides comparative UK findings to establish whether or not tax advisors’ role is perceived differently in different tax systems.

Fogarty and Jones (2014) highlight a lack of research on the dilemma facing tax intermediaries who struggle to balance advocacy and compliance. This point is developed in chapters 6 and 7. Having briefly considered the tax profession, the next section reviews the history of this hybrid profession.

2.6 UK context

In an era of financial difficulties, when the UK government is seeking to collect further revenues to finance public services, the conduct of TPs has been subject to considerable criticism for its role in tax avoidance (House of Commons Committee of Public Accounts, 2013). During the recent financial crisis, the UK government saw its national debt escalate significantly, from 42 per cent of GDP in 2007 to 88.1 per cent in 2014 (Harari, 2018). In less than a decade, the debt burden had doubled and the negative economic effect was being felt by all individuals and industries. For example, during the recession and up to 2016, the total amount of household debt increased by over 140 per cent (Harari, 2018). Syal et al. (2013) argue that one possible explanation for the crisis and the financial predicament in which the UK has found itself is the long-standing avoidance industry. According to Syal et al. (2013, p. 1), tax avoidance has reduced the UK's budgetary resources.

They [the big four] are the epicentre of a global tax avoidance industry and the loss of tax revenues is directly responsible for the current economic crisis. The Treasury should follow the US authorities and prosecute and fine the firms. The habitual offenders should be shut down.

Although no direct correlation has officially been established, over the same period (2007–2014), the Big Four's revenues continued to increase, with worldwide combined totals of \$110 billion in 2012 (Figure 2.1).

In Billions of US\$	2009	2010	2011	2012	2013	2014
Deloitte	26.1	26.6	28.8	31.3	32.4	34.2
E&Y	21.4	21.2	22.9	24.4	25.8	27.4
KPMG	20.1	20.7	22.7	23.0	23.4	24.8
PwC	26.2	26.6	29.2	31.5	32.1	34.0
Combined Firms	93.8	95.1	103.6	110.3	113.7	120.3

Figure 2.1: Big Four revenues, 2009–2014

Source: Shubber (2015)

This figure was exceeded in the ensuing years, with revenues of \$113.7 billion in 2013 and \$120.3 billion in 2014. A quarter of fees appear to have been attributable to tax advisory services. Although no direct parallel was officially acknowledged, this did not prevent numerous newspaper headlines accusing the Big Four of decreasing public service funding and resources by creating and maintaining the avoidance industry (Armitstead, 2013; Treanor, 2009). A growing, often politically-orientated, culture of tax shaming seems to have rapidly developed (Barford and Holt, 2012). Responding to this growing public dissatisfaction, HMRC was tasked by the Exchequer to bear down on avoidance and target taxpayers who were abusing the tax advisory service industry (as is examined in greater detail in chapters 6 and 7).

The issue of morality in tax practice has grown in importance in light of the recent scandals. Over the last few years, the general public's confidence in the tax system seems to have been eroded, both as a result of alleged misconduct by large international companies such as Google, Apple and Starbucks (Barford and Holt, 2012), and through the tax profession's promotion of avoidance schemes (Armitstead, 2013). Accused of failing to conform to new ethical standards by the House of Commons Committee of Public Accounts (2013), and by Moscovici, the European Commissioner for Economic and Financial Affairs, Taxation and Customs (European Commission, 2019), the 'go-betweens' (tax advisors, accountants, bankers, and lawyers), also called 'tax intermediaries' by the OECD (2008), have been confronted by critical media exposure. For example:

Ernst and Young, you audit Google. Did you help them come up with a sort-of curious structure, whereby their UK sales are reported and claimed in Ireland, and then the Irish company pays most of the turnover and fees to an entity in Bermuda? Did you help them with that? (House of Commons Committee of Public Accounts, 2013, p. 10).

The above extract from the House of Commons Committee of Public Accounts (2013) reflects the emergence of widespread public dissatisfaction (exacerbated by the media), presenting tax advisors as ‘peddling’ avoidance schemes (Armitstead, 2013). Journalists have expressed equal concern about the tax profession, which seems to be perceived as lacking consideration for the public and operating only in the interests of its clients, regardless of the alleged detriment to the rest of society (Brooks, 2013; Everson, 2011; Shaxson, 2011). This has led to UK government to bring new legal obligations (see *Finance Act 2004*). This seems to confirm Christie et al.’s (2003) findings that the external environment positively influences questionable business practices.

In the academic sphere, similar concerns are found in a considerable body of research concentrating on critically reviewing tax advisors’ role in tax avoidance and tax planning (Addison and Mueller, 2015; Attwell and Sawyer, 2001; Bailey and Leaby, 1990; Brock and Russell, 2015; Dezalay and Garth, 2004; Hansen et al., 1992; Marshall et al., 1998; Myers, 1990; Rostain and Regan, 2014; Sakurai and Braithwaite, 2001; Sikka, 2012, 2015; Sikka and Willmott, 2013; Tooley, 1992).

These lines of argument within the literature take various stances, critiquing both the profession’s claim to be acting in the public interest, and the culture of the tax profession itself. In this regard, Stuebs and Wilkinson (2010, p. 13) claim that:

Ethical failures over the past decade have weakened the tax profession and called into question the extent to which practitioners in fact operate in a manner consistent with the public interest.

It might thus be assumed that public and private interests are in opposition, with one growing at the expense of the other. Addison and Mueller (2015) illustrate this point by demonstrating how the language used by government representatives aims to exemplify the dark side of professions, while the metaphors employed by the large accounting firms promotes a neo-liberal view of the tax industry where the profession pursues societal interest through market competition. Carnegie and Napier (2010) go even further and discuss how the image of accountants has deteriorated over the last few decades. Accountants are now often depicted as business entrepreneurs who would do anything for commercial purposes. These studies reveal differing conceptions of what should be the duties of TPs versus the actual role that they undertake for their clients. This suggests a lack of clarity over the roles and responsibilities of individual tax advisors. The literature reviewed above suggests that the integrity and reputation of the tax profession have been undermined as a result of poor revenue collection and tax scandals. According to Bainbridge (2012), such reputational attacks would have affected relationships with clients, peers, and regulator(s).¹³

2.7 Summary

Chapter 2 introduced the background of this research. This chapter has covered many topics including the definition of the tax profession, the history and the role of tax professionals as well as the UK economical context. In addition to introducing the contextual framework of this study, explaining why at the start of 2015 this research was necessary, this chapter also discussed the historical background of the tax profession and explained the professional altercation over the field of tax between the accounting and legal professions. In so doing, the historical context sets the scene to understand why in chapter 6 (knowledge) a review of both the accounting and legal professions will be undertaken, and why in chapter 7 (ethics) and

¹³ This particular point will be discussed in chapter 7.

chapter 8 (identity), ethical dilemmas are at the heart of tax practices. The next chapter presents the theoretical lens through which this thesis analyses its material and data.

CHAPTER 3: A FOUCAULDIAN APPROACH

3.1 Introduction

Chapter 1 outlined the context of the UK tax profession, highlighting the relevance of this study and establishing its necessity. Chapter 2 discussed the background of the UK tax profession, examining the role and the history of the profession as well as the UK financial context. As such, chapter 2 provided the context and the underlying issues for this research. Chapter 3 outlines the theoretical framework, explaining how Foucault's works have been used to analyse the data. The key Foucauldian theories are set out thereafter to serve as the theoretical backbone against which to answer the research questions and articulate a coherent analysis of the data in chapters 6 to 8.

Across this thesis, two essential notions of Foucault are used, namely knowledge/power (section 3.3) and the ethics of the self (section 3.4). Those notions frame the structure of the research by questioning how knowledge and power are intertwined with the power and authority of institutions (see chapter 6). This will then lead the research to investigate how institutional knowledge has affected the way tax professionals behave and present themselves (see chapters 7 and 8). This thesis thus links knowledge/power to ethics and identity through the use of what Foucault calls 'governmentality'. This chapter therefore begins by introducing how the notion of governmentality has been used in accounting. The first section (3.2) of this chapter serves as a basis to discuss and understand how Foucault's work will be used to study the tax profession. Section 3.3 will then present how Foucault conceptualised the notion of power/knowledge in order to account for its effect on the self (section 3.3). Section 3.5 summarises this discussion by demonstrating how Foucault directly

relates to the research questions of the thesis. By way of conclusion, section 3.6 reiterates the key theories that are used in this research.

3.2 The use of Foucault in accounting

Aiming to analyse and understand the structures underlying the implementation of the law in the UK tax system, I turned to Foucault in order to understand the complex imbrication of knowledge and discipline to comprehend how we can talk about the role of knowledge and power in law and accounting without seeing it as negative and oppressive, but as productive of practices, discourses, and ethics of how to conduct oneself. Looking at the UK experience of tax professionals, tax law appears as a contested field of expertise where multiple forms of institutions and stakeholders are at play. In order to make sense of this system, Foucault's method of analysis allows seeing knowledge through political lenses and institutions. In this process, I will initially set out Foucault's work and the Foucauldian literature to conceptualise how individuals construct their professional self upon the performance, articulation, and appropriation of institutional norms. Moreover, this thesis shall also consider at the same time how the context in which these professionals work has evolved (here in the UK economy) and affects their sense of self ethics and identity. This thesis intends to discuss professional selves and interrogate discursive formations on law and tax as an important way to understand the complex imbrication of knowledge and power, ethics of the self and professional identity in the field of accounting.

Introducing Foucault's later work of the 'selves', Hoskin's (2015) work offers a new dimension to his theoretical framework by linking power/knowledge (1) to the techniques of governing others (2) and the practices of the selves as a subject (3). Hoskin's objectives were to account for the ways individuals self-construct as subjects within accountancy. This

resonates with the insights from the work published under the pseudonym 'Maurice Florence', which was virtually all written by Foucault himself: to avoid misunderstanding I shall hereafter in my text, when mentioning the work published under the 'Florence' name, signal that the work was authored by Foucault.

This objectivation and this subjectivation are not independent of each other. From their mutual development and their interconnection, what could be called the 'games of truth' come into being—that is, not the discovery of true things but the rules according to which what a subject can say about certain things depends on the question of true and false (Florence, 1998, p. 460).

Foucault conceptualised ethics and self (identity) as a result of the processes of self-formation and self-cultivation, illustrating how individuals engage and work on their bodies and modes to comportment to produce a self. As such, tax practitioner selves will reflect contemporary norms at play within the profession and/or the prerogatives of the firm, which ultimately will routinely govern and account for themselves, according to Foucault's account of the ethics of the self (Knights, 2002). In thus doing, this thesis seeks to enhance Hoskin's work (2015) by demonstrating how in the case of the tax profession, knowledge/power, ethics and identity are not inherited or simply reproduced, but emerge through manifold interactions and the force of societal and professional norms.

Given the fact that this thesis examines professional selves in taxation, it is important to examine how Foucault's works have been applied in this field. In the last 30 years, the study of the subject as a self-forming being has been the object of many studies. Miller and Rose (1990, p. 1) affirm, for instance, that Michel Foucault's conception of governmentality must be understood through the lenses of political rationalities and technologies of government. They draw attention to:

the diversity of regulatory mechanisms which seek to give effect to government, and to the particular importance of indirect mechanisms that link the conduct of individuals and organizations to political objectives through 'action at a distance'.

The paper exemplifies the importance of considering language, not simply in terms of meaning or rhetoric, but as “intellectual technologies’ that render aspects of existence amenable to inscription and calculation” (p. 1). They thus highlight the effect of language on technologies of the self. They argue finally that governmentality results in self-regulating subjects, shaped and normalized through expertise. Hewett (2004, p. 8) seconds this view by suggesting that individuals reflect upon themselves, to the extent that they are no longer objects of a specific scientific discipline, but become their own subjects who “manage themselves in new ways, or rather, in *normal* ways, as a result of new productions of knowledge”. In 2005, Roberts (2005) developed this discussion by explaining the role that image and processes of identification play in effecting social control. Individuals integrate discourse and create a version of the self that contain aspects of the idealised image of a professional.

Lambert and Pezet (2012, p. 67), introducing one of Foucault’s concept of the self, argue that “the subject, in an organisational context, carries out systematic practices of self-discipline and becomes a calculative self. [...] These management accountants become calculative selves by building the very measurement of their own performance”. As Kelly (2013, p. 518) explains, subjects are never self-constructed, but they integrate and assimilate their environment and change who they are accordingly.

Paradoxically, knowing our-selves is in actuality one of the acts by which we constitute ourselves: our attempt to know ourselves is not a neutral act that allows us to see what was already there, but for Foucault a ritual by which we change and produce our own subjectivity.

As a result, individuals become self-forming subjects (Skinner, 2013) where the construction of the self is never independent of the context and knowledge in which it evolves. Thus, ethical conduct is action by the subject to project an image of the self that complies and engages with values that are morally approved of and expected by the fields one inhabits. In

this regard, Neu et al. (2015) demonstrate how individuals have become ethical and disciplined subjects by integrating forms of anti-corruption practices. They state (p. 49) that:

While such arrangements do not necessarily prevent corrupt practices, they do encourage certain actions and reactions among organizational actors, suggesting that organizational actors are at one and the same time free and autonomous, yet subject to and constructed by anti-corruption practices. These practices are thus both disciplinary and productive, affecting individuals in specific ways, while also benefitting the organizations for whom they work.

Hoskin's work (2015) allows me to link the field of accounting and power/knowledge to the construction of a professional self – the latter emerging through interactions with discursive statements in the tax law field, and the institutional practices of truth and professionalism. In his work, he endeavours to demonstrate how the subject integrates knowledge and institutional practice so as to construct a version of him-/herself through the requisite institutional practices and ideals.

It seems to me that, *genealogically*, the 'entrepreneur of one's self' is the disciplinary and ethical subject's twin – Pollux to its Castor perhaps (with all the connotations of that twinly agonistic) – since both equally are historically specific embodiments of double disciplinarity. But then how, if it has a shared connection to the *connaissances* and *savoir* of knowledge disciplinarity, and to the rules and norms of conduct disciplinarity, can it be disqualified from constructing, through its own *particular* relation to self/'*rapport a soi*', its own ethicality? (Hoskin, 2015, p. 80).

Looking at accounting, and the financial and legal domains, Hoskin establishes how the manipulations of expertise and disciplinary discourses have surpassed in some respects the law. This issue will be a key issue I will focus on as I am interested to understand how tax professionals render tax service through close consideration of their knowledge/power, and the effect it has on their professional self and ethics.

The illegalism of rights exercised by those descendants of the old bourgeoisie who now populate large corporate entities, big government, and the professional service firms operating across the accounting, financial and legal arenas appears as inoculated and impervious to

law's attacks now as then. On the contrary, we increasingly witness how such recourse, thoughtfully strategized, can operate in a directly contrary direction: just select the appropriate specific firm of law (usually of the contract or commercial type) and you can incarnate an illegalism of rights which, with the appropriate admixture of disciplinary experts and expertise, can decisively trump old sovereign state law (Hoskin, 2015, p. 78).

In his concluding statement, Hoskin opens a new path of thinking by implementing the Maurice Florence/Foucault theory as follows: one should look at how the subject thinks and acts as the result of a certain reflection of power and the gaze on oneself and others so as to produce the right professional being.

The following pages will present Foucault's concepts of power knowledge and the exercise of the self to articulate how they will be used in the case of the tax profession.

3.3 Power/knowledge: a notion elevated by Foucault's theory

Power/knowledge for Foucault includes two elements: first that power and knowledge should not only be considered for their oppressive and repressive nature since power has the ability to create and generate (3.3.1). That is, power and knowledge relations do not only operate through hindrance, but they are also productive. Secondly, power/knowledge can only function through its interdependence on power relations in the wider world, and by its ability to assert through statements and subjects what is true, and what is 'normal' (3.3.2).

3.3.1 Productivity of knowledge/power

The word *power* is apt to lead to a number of misunderstandings—misunderstandings with respect to its nature, its form, and its unity. By power, I do not mean 'Power' as a group of institutions and mechanisms that ensure the subservience of the citizens of a given state. By power, I do not mean, either, a mode of subjugation which, in contrast to violence, has the form of the rule. Finally, I do not have in mind a general system of domination exerted by one group over another, a system whose effects, through successive derivations, pervade the entire social body (Foucault, 1978, p. 92).

Foucault sought to comprehend the mechanisms and systems of power and knowledge in order to challenge and develop them. In this context, power but most importantly knowledge, are considered beyond their repressive aspect. Foucault's theory endeavours to use the notion of power and knowledge to provide a platform upon which historical analysis can be performed. He begins his formulation by articulating the notion of power around four central aspects.

It seems to me that power must be understood in the first instance as the multiplicity of force relations immanent in the sphere in which they operate and which constitute their own organization; as the process which, through ceaseless struggles and confrontations, transforms, strengthens, or reverses them; as the support which these force relations find in one another, thus forming a chain or a system, or on the contrary, the disjunctions and contradictions which isolate them from one another; and lastly, as the strategies in which they take effect, whose general design or institutional crystallization is embodied in the state apparatus, in the formulation of the law, in the various social hegemonies (Foucault, 1978, pp. 92–93).

There is much to unpack from the quote: first, power/knowledge must be understood at the micro-level through the observations of individual interactions and behaviours. Foucault's aim is to capture the mechanisms and the forces that occur within power relations and push individuals to act in a certain way. In this process, Foucault re-conceptualised the exercise of power and the acquisition of knowledge by promoting the idea that:

Between every point of a social body, between a man and a woman, between the members of a family, between a master and his pupil, between everyone who knows and everyone who does not, there exist relations of power which are not purely and simply a projection of the sovereign's great power over the individual; they are rather the concrete, changing soil in which the sovereign's power is grounded, the conditions which make it possible for it to function (Foucault, 1980, p. 187).

As such, power/knowledge comes not only from above, but often from below and laterally also. There is no pattern of ruled and ruler, and it is a constantly interchangeable relationship.

Power is everywhere; not because it embraces everything, but because it comes from everywhere (Foucault, 1978, p. 93).

In his view, power/knowledge is not held by a state or an agency, but by everyone exercising power through a diffuse negotiation and acceptance of knowledge and truth.

Secondly, power/knowledge relations always open the prospect for resistance since power/knowledge creates tensions through which change occurs. It is through the chaos created by this change that power/knowledge becomes visible through the impossibility of its enactment.

There are no relations of power without resistances; the latter are all the more real and effective because they are formed right at the point where relations of power are exercised; resistance to power does not have to come from elsewhere to be real, nor is it inexorably frustrated through being the compatriot of power (Foucault, 1980, p. 142).

Power/knowledge is not tangible; it needs to be defined in order to be observed, and most importantly Foucault discusses the problem not just for him but also for others in accessing power/knowledge.

One needs to be nominalistic, no doubt: power is not an institution, and not a structure; neither is it a certain strength we are endowed with; it is the name that one attributes to a complex strategical situation in a particular so (Foucault, 1978, p. 93).

Power/knowledge is never where it is expected to be. Power/knowledge according to Foucault is not a thing but something that represents the relationship that exists between people, institutions, buildings, objects, and so on. As such, power cannot be seen, touched or smelt and therefore represents a challenge as to how to capture and study it.

Power is not exercised simply as an obligation or a prohibition on those who 'do not have it'; it invests them, is transmitted by them and through them; it exerts pressure upon them, just as they themselves, in their struggle against it, resist the grip it has on them (Foucault, 1977, p. 27).

Furthermore, power/knowledge can be implemented indirectly by people or a group that voluntarily wishes to remain unknown and invisible. As such, it constitutes a real difficulty for anyone ‘observing’ power to understand the forces in action.

Thirdly and fourthly, power/knowledge organises itself through systems. Foucault refuted the traditional conception of power/knowledge as being held by an elite minority over a vast powerless majority. Instead, in *Discipline and Punish* (1977) Foucault demonstrates that power (and more precisely sovereign power) held and wielded by one individual over others had become an ineffective instrument in the eyes of the increasingly complex societal, economic and political networks. As an alternative, Foucault proposed that power/knowledge, or at least modern power/knowledge, should be understood as a structural system of shifting relations between individuals, communities and institutions. Those systems could take the form of disciplinary power where power is asserted through institutions such as prisons, asylums, schools, hospitals and the army, where discipline is introduced to normalise behaviour and thinking into approved norms by individuals exercising coercion upon themselves to conform to the expectations of the disciplinary gaze. Social constraints and norms are thus a form of power, since they are integrated and embodied within human behaviour.

What does it mean to exercise power? It does not mean picking up this tape recorder and throwing it on the ground. I have the capacity to do so – materially, physically, sportively. But I would not be exercising power if I did that. However, if I take this tape recorder and throw it on the ground in order to make you mad, or so that you can’t repeat what I’ve said, or to put pressure on you so that you’ll behave in such and such a way, or to intimidate you – well, what I’ve done, by shaping your behavior through certain means, *that* is power (Foucault, 1988b, p. 2).¹⁴

¹⁴ This interview was conducted on 3rd November 1980, by Michael Bess, a graduate student in the Department of History at the University of California, Berkeley. Foucault was in Berkeley to deliver the Howison lectures on 20th -21st October 1980

Foucault rejects the idea that 'power/knowledge' is uniquely, or only, a coercive force. Foucault believes indeed this interpretation limits greatly the potential of this concept as it disregards the potential productivity of power/knowledge. Foucault's theory on power/knowledge is conceptualised both negatively and positively as mutable in history, with the power to produce truths, beings, and the world around us.

We must cease once and for all to describe the effects of power in negative terms: it 'excludes', it 'represses', it 'censors', it 'abstracts', it 'masks', it 'conceals'. In fact, power produces; it produces reality; it produces domains of objects and rituals of truth. The individual and the knowledge that may be gained of him belong to this production (Foucault, 1977, p. 194).

Foucault initially refuted the idea that power is knowledge, yet exposed the interdependence that exists between these two concepts. For instance, he explained that knowledge is a source of power and that the implementation of power is generative of further knowledge. In this sense, knowledge is never neutral and is therefore highly valuable for those exercising it.

We should admit rather that power produces knowledge (and not simply by encouraging it because it serves power or by applying it because it is useful); that power and knowledge directly imply one another; that there is no power relation without the correlative constitution of a field of knowledge, nor any knowledge that does not presuppose and constitute at the same time power relations. These 'power-knowledge relations' are to be analysed, therefore, not on the basis of a subject of knowledge who is or is not free in relation to the power system, but, on the contrary, the subject who knows, the objects to be known and the modalities of knowledge must be regarded as so many effects of these fundamental implications of power-knowledge and their historical transformations (Foucault, 1977, pp. 27–28).

Foucault's works on *The Archaeology of Knowledge* (1972) and *Power/Knowledge* (1980) transcend indeed the vision of control by demonstrating how the exercise of power is omnipresent and spreads across all fields through the use of discourse. Foucault understood power as a diffused force that operates through structures and orders societies at every level through knowledge, discourse and the 'regimes of truth' (Foucault, 1977). This is why Foucault looks at the productivity of language and statements.

3.3.2 *Productivity of language and statements*

In *The Archaeology of Knowledge* (1972), Foucault proposes a framework of analysis where the historical study of discourses allows the analysis of discursive practices and statements as the exercise of power. In forming this archaeological analysis, Foucault depicts patterns within a discourse and explains how statements are formed into discourses. In doing so, this method of analysis is concerned with capturing the distinction that exists between different forms of statements, whether it is the relation existing between them, or alternatively, the circumstances in which certain statements arise.

The question posed by language analysis of some discursive fact or other is always: according to what rules has a particular statement been made, and consequently according to what rules could other similar statements be made? The description of the events of discourse poses a quite different question: how is it that one particular statement appeared rather than another? (Foucault, 1972, p. 27).

Thus, statements should not be seen as the elementary unit of discourse (like a sentence for instance), but instead statements serve as a function to analyse the conditions in which certain discourses are allowed to appear and, as such, make visible a shift in power relations by acknowledging the intentions behind the formulation.

The statement is neither a syntagma, nor a rule of construction, nor a canonic form of succession and permutation; it is that which enables such groups of signs to exist, and enables these rules or forms to become manifest (Foucault, 1972, p. 88).

Foucault therefore uses statements in order to describe the circumstances and the conditions in which those statements operate. In this method of analysis, statements are used as an enunciative function to analyse how different domains of power operate. As a result, statements do not define “objects, fully formed and armed, that the discourse of psychopathology has then merely to list, classify, name, select” (Foucault, 1972, p. 42) but instead the statement “enables [the object] to appear, to juxtapose itself with other objects, to

situate itself in relation to them, to define its difference, its irreducibility, and even perhaps its heterogeneity, in short, to be placed in a field of exteriority” (Foucault, 1972, p. 45). Thus, in theorising statements and discursive practices, one must understand their interdependence as discursive practices is defined by Foucault (1997a, 1997b, 1997c) as being the delimitation of objects, and the elaboration of norms as to create concept and theories. Foucault states that:

discursive practices are not purely and simply modes of manufacture of discourse. They take shape in technical ensembles, in institutions, in behavioral schemes, in types of transmission and dissemination, in pedagogical forms that both impose and maintain them (Foucault, 1997a, p. 12).

Those will take forms through the use of discourse characterised as:

the general domain of all statements, sometimes as an individualizable group of statements, and sometimes as a regulated practice that accounts for a certain number of statements (Foucault, 1972, p. 80).

Unlike Marx and Engels (1886), who interpreted discourse as an oppressive and conflicting mechanism between the bourgeoisie and the proletariat, Foucault was more interested in understanding the effect of power on the discourse of truth.

Multiple relations of power traverse, characterize, and constitute the social body; they are indissociable from a discourse of truth, and they can neither be established nor function unless a true discourse is produced, accumulated, put into circulation, and set to work. Power cannot be exercised unless a certain economy of discourses of truth functions in, on the basis of, and thanks to, that power (Foucault, 2003, p. 24).

For Foucault, discourse is a productive tool that creates knowledge and control through the practice of language. As a result, it can be described as a system of distribution and circulation that orders thoughts in society. To illustrate his concept, in his writings *The History of Sexuality: An Introduction, Vol. 1* (1978), Foucault argued that homosexuality has

been pictured as an abnormality and an undesirable disease in order to preclude its acceptance.

This idea is reiterated in *The Order of Discourse* (1981) where Foucault states that:

In every society the production of discourse is at once controlled, selected, organised and redistributed by a certain number of procedures whose role is to ward off its powers and dangers, to gain mastery over its chance events, to evade its ponderous, formidable materiality (Foucault, 1981, p. 52).

Foucault (1981) saw discourse as a manner of speech that institutionally and actively defines what can legitimately be thought and expressed in a social environment. Therefore, in his theory, Foucault emphasises that discourse only tolerates the formation of a certain reality. This fabrication of truth aims mainly to perpetuate, extend and maintain power, and explains why each society constructs its own discourse to produce a specific vision of the world that fits the prevailing forces of power.

Truth isn't outside power, or lacking in power: contrary to a myth whose history and functions would repay further study, truth isn't the reward of free spirits, the child of protracted solitude, nor the privilege of those who have succeeded in liberating themselves. Truth is a thing of this world: it is produced only by virtue of multiple forms of constraint. And it induces regular effects of power. Each society has its regime of truth, its 'general politics' of truth: that is, the types of discourse which it accepts and makes function as true; the mechanisms and instances which enable one to distinguish true and false statements, the means by which each is sanctioned; the techniques and procedures accorded value in the acquisition of truth; the status of those who are charged with saying what counts as true (Foucault, 1980, p. 131).

In *Power/Knowledge: Selected Interviews and Other Writings, 1972–1977*, Foucault (1980) identifies the procedures underlying the construction of discourse that reveal an invisible link between power and truth. He developed the idea that all societies create a certain type of discourse that will aim to control, organise and produce social order while eliminating alternative powers, including sources of turbulence or threat.

'Truth' is to be understood as a system of ordered procedures for the production, regulation, distribution, circulation and operation of statements. 'Truth' is linked in a circular relation

with systems of power which produce and sustain it, and to effects of power which it induces and which extend it (Foucault, 1980, p. 133).

Foucault emphasises the division between true and false, which is a source of power through elaboration of a scientific discourse. The opposition between true or false was a recurring theme for Foucault (1981). Foucault often contrasted this concept with the notion of ‘false’ by expressing the idea that the ‘true truth’ can only exist in a given context, as it will always be constructed in opposition to a ‘false truth’. In this context Foucault (1980) explains that each society harbours and valorises a certain regime of truth causing this ‘truth’ to function as true.

Each society has its regime of truth, its ‘general politics’ of truth: that is, the types of discourse which it accepts and makes function as true; the mechanisms and instances which enable one to distinguish true and false statements, the means by which each is sanctioned; the techniques and procedures accorded value in the acquisition of truth; the status of those who are charged with saying what counts as true (Foucault, 1980, p. 131).

In this process, the legitimacy of true or false is simply the effect of power interactions within a given context, and is not a factual object. Hence, it cannot be assumed that a unique and timeless conception of truth remains identical across ages and societies, and does not have a common origin. In this context, experts hold a particular discursive power since they manipulate and construct knowledge within a specific domain. Knowledge does not materialise from scholarly study but is produced, circulated and maintained through the existence of discursive practices and institutions. So while, for Foucault, knowledge is always used in the interest of a specific group, groups then need to recognise the importance of truthfulness if they hope to have their interests prevail.

We are obliged to produce the truth by the power that demands truth and needs it in order to function: we are forced to tell the truth, we are constrained, we are condemned to admit the truth or to discover it. Power constantly asks questions and questions us; it constantly investigates and records; it institutionalizes the search for the truth, professionalizes it, and

rewards it. [...] In a different sense, we are also subject to the truth in the sense that truth lays down the law: it is the discourse of truth that decides, at least in part; it conveys and propels truth-effects (Foucault, 2003, p. 24–25).

In this thesis, the concept of discourse is expanded and shaped around the ‘regime of truth’, a corpus of knowledge that determines through the implementation of power what should be taken as the ‘ultimate’ verity. This regime permeates a number of domains, including sexuality, morality and politics. In this context, it will be incorrect to reduce the regime of truth to its discursive aspect. Indeed, it is important to note that the ‘regime of truth’ will have power effects at play within it, but this does not reduce truth to power, as the power of truth claims resides in their having a ‘truth’ within the discursive rules of making truth-claims. In this sense, Foucault illustrates that ‘true statements’ do not necessarily have to be substantively true, but as lies they must conform to the formal requirements of making true statements to have any chance of ‘success’. It would be incorrect indeed to believe that ‘discourse’ according to Foucault has an ‘effect’ on the notion of truth, as discourse is only a medium by which truth-claims are articulated. Discourse, made up of statements, is the means (whether in speech or in forms of writing and visualisms) through which truth-claims can be articulated. The relationship between discourse and truth exists in the fact that discourse represents one of the media by which ‘truth’ is circulated. As such, discourse can be seen as the vehicle and the support by which the truth is diffused in society. Foucault further argues that ‘the truth’ does not exist in itself, since in order to be visible it will always need to be formed with an opponent to highlight this duality. This opposition is, of course, at the service of the prevailing order, and consequently ‘the truth’ will vary according to the dominant discursive power within a specific society.

Foucault seems more interested to comprehend the mechanism of the statement by analysing what has been purposely included or excluded from the discourse itself. This

approach leads him to focus his work on the production of discourse, revealing at the same time a struggle of power and social order within the public space.

This discourse provided, in effect, by means of the theory of interests, representations and signs, by the series and geneses that it reconstituted, a sort of general recipe for the exercise of power over men: the 'mind' as a surface of inscription for power, with semiology as its tool; the submission of bodies through the control of ideas; the analysis of representations as a principle in a politics of bodies that was much more effective than the ritual anatomy of torture and execution (Foucault, 1977, p. 102).

3.3.3 How this study relates to the Foucauldian idea of knowledge and power (diffused in the institution)

The purpose of this study is to examine Foucault's notion of the power/knowledge relation and the effect it has on the tax profession. In thus doing, the first empirical chapter (chapter 6) puts considerable emphasis on Foucault's theory of power and knowledge to study their effect on the tax discipline. Ultimately this analysis seeks to demonstrate how power, but more importantly knowledge relations and discourses, shape the formation of the tax profession. I indeed turned to Foucault's notion of power/knowledge to expound upon current tensions within UK tax law because it has the dual virtue of both recognising differing forms of power, and because of how closely he ties the notion of power to knowledge. Mulligan and Oats (2016), using Bourdieusian theory, draw a picture of the terrain of tax law in the UK as one that is highly contested, and one where power operates through groups, peoples, also institutions, and forms of speech and conduct. It is, however, through Foucault's seminal works that the recognition becomes clear that:

power must be understood in the first instance as the multiplicity of force relations immanent in the sphere in which they operate and which constitute their own organization; as the process which, through ceaseless struggles and confrontations, transforms, strengthens, or reverses them (Foucault, 1978, p. 92).

Foucault conceptualised the idea that, through mastering a particular knowledge, individuals and groups gain authority and power over the field. This power is maintained, for instance, through technical and expert language. As a consequence of this unique knowledge, a transfer of power takes place between client and advisor, acknowledging indirectly the legitimacy of the tax profession over the field of tax (Miller and Rose, 1990). However, Foucault narrowed this approach down by specifying that knowledge requires the subjects who can recognise the ‘truth’.

We are subjected to the production of truth through power and we cannot exercise power except through the production of truth (Foucault, 1980, p. 93).

By way of explanation, the exercise of power is dependent and conditional on the production of truth, as it is through a statement of truth that power and knowledge are interlinked. A community that retains knowledge will also hold power by governing and creating the régime of truth. In the case of the tax profession, providing services is an expression of power. This thesis contributes to extending the theoretical use of Foucault’s work by showing how the notion of knowledge/power can be used in order to conceptualise and create the boundaries of an expert community based on its shared knowledge of the tax discipline. In so doing, it examines how expert knowledge and discursive practices shape the boundaries of a community, namely the tax profession. This study also demonstrates that the knowledge struggle, based on how the tax law should be applied, that currently exists between the state/HMRC and this community of tax experts, serves as a self-formation factor pushing tax professionals not only to make themselves known but also to organise themselves through tight networks in order to resist or enhance the implementation of tax knowledge. This thesis argues that the Foucauldian notion of knowledge/power can be used to reveal and conceptualise an unidentifiable group of experts, making the invisible visible. This postulate

will be used in the first empirical chapter (chapter 6) where I use Foucault's concept of power/knowledge to review the data.

3.4 Knowledge/power and the exercise of the self

The following sections illustrate and discuss how the exercise of power bends back on itself through the ethics (3.4.1) and technology of the self (3.4.2)

3.4.1 Ethics of the self as a practice of freedom

Foucault (1988a) argues that in modern society care of the self has shifted to knowledge of the self. According to Foucault, 'care of the self' represents the techniques aiming at the creation and governmentation of self. This government of the self entails a continuous exercise of introspection that prompts individuals to adapt who they are to their own surroundings. By contrast, governmentality, as formulated by Foucault (2007), is a form of disciplinary power broadly understood as the different techniques and procedures prompting individuals to behave in a certain way. In a sense it is an ensemble of procedures, techniques and practices which govern subjects and discipline their individuality. He suggests that individuals should return to Plato's theory of care of oneself, as it nourishes and perfects the soul with wisdom and truth. This ultimately teaches individuals to occupy themselves with the soul.

When you take care of the body, you don't take care of the self. The self is not clothing, tools, or possessions. It is to be found in the principle which uses these tools, a principle not of the body but of the soul. You have to worry about your soul – that is the principal activity of caring for yourself. The care of the self is the care of the activity and not the care of the soul-as-substance (Foucault, 1988a, p. 25).

To illustrate his argument, Foucault takes the example of Marcus Aurelius's examination of conscience where the relation to oneself is forged through a careful preparation and reflection

of oneself upon one's own actions and goals. In Marcus Aurelius's examination of conscience, the construction of the subject takes forms in the development of the self.

This examination does not at all involve going back over what you could have done in the night or the day before; it is an examination of what you will do. I think this morning examination is the only time in this practice of the self that there is an exercise really turned towards the future as such. However, it is an examination turned towards a near and immediate future. It involves reviewing in advance the actions you will perform in the day, your commitments, the appointments you have made, the tasks you will have to face: remembering the general aim you set yourself by these actions and the general aims you should always have in mind throughout life, and so the precautions to be taken so as to act according to these precise objectives and general aims in the situations that arise.(Foucault, 2005, p. 481).

In this endeavour, the subject does not try to explore the essence nor the substance of who he is, instead Marcus Aurelius seeks to transform himself as to initiate the birth of a specific kind of individual. These practices of self-examination lead the subject to cultivate the relationship of the self to itself, in the sense that they assist individuals to become the self they need or want to be.

It is a matter of acts and pleasures, not of desire. It is a matter of the formation of the self through techniques of living, not of repression through prohibition and law (Foucault, 1997b, p. 89).

In doing so, individuals operate on themselves in order to produce certain kind of selves. It is a form of voluntary psychological violence aimed at and imposed from oneself to themselves so as to become the version of the self that is expected from them. To quote Foucault, power/knowledge leads to truth (or a statement of truth) which ultimately prompts the subject modify itself accordingly (whether this may be identity or ethics in the case of tax professionals).

Foucault (1997a, 1997b, 1997c) considers ethics in the context of truth and subjectivity as an expression of power, since institutions like churches and schools define

what is right or wrong in terms of what is good or bad. Modern moral standards are thus boundaries that frame human behaviour. In this process, institutions play a crucial role in the care of the self as they communicate specific truths and norms via discursive practices.

Discursive practices are characterized by the demarcation of a field of objects, by the definition of a legitimate perspective for a subject of knowledge, by the setting of norms for elaborating concepts and theories. Hence, each of them presupposes a play of prescriptions that govern exclusions and selections (Foucault, 1997a, p. 11).

However, since different institutions produce different statements of truth, the selves will have to adapt to the setting in which they find themselves. In that regard, the individual will be sympathetic to the statement of truth of the institution in which one finds himself, whether it may be a professional association, a firm or the client, etc. Foucault evidenced this by suggesting that sexual deviance, madness and sickness are only expressions of statements of truth created and communicated by specific institutions. As a result, the construction of the self is never independent of the context and knowledge in which it evolves.

Foucault's interpretation of ethics of the self relates to this study by determining a framework that allows me to interpret how tax professionals construct their professional selves. Following Foucault's steps, professional ethics and identity will be regarded in this study as the representation of and the set of actions performed by an individual so as to comply and engage with the statements of truth that are approved of and expected by society. As such, if one wants to be seen as a 'good tax professional', one needs to show his/her aptitude to integrate and embody the values and unspoken rules of their professional groups. Thus, the broader model of being a tax professional will only be based on the reflection of what the tax law 'institutions' communicate. This is why in this thesis I will investigate the institutions at play in the tax industry service and account for the type of discursive practices that can be observed.

3.4.2 *Technologies of the self as a constitution of the self as subject*

In this thesis, I will be using the technology of the self (mainly in chapters 7 and 8) to understand how tax professionals act upon themselves. Technologies are to be understood by Foucault according to:

- (1) technologies of production, which permit us to produce, transform, or manipulate things;
- (2) technologies of sign systems, which permit us to use signs, meanings, symbols, or signification;
- (3) technologies of power, which determine the conduct of individuals and submit them to certain ends or domination, an objectivizing of the subject;
- (4) technologies of the self, which I permit individuals to effect by their own means or with the help of others a certain number of operations on their own bodies and semis, thoughts, conduct, and way of being, so as to transform themselves in order to attain a certain state of happiness, purity, wisdom, perfection, or immortality (Foucault, 1988a, p. 18).

In the *Technologies of the Self* (1988a) Foucault is interested to understand how a subject constructs a unique relationship with one's own subjectivity and self. Differently put, Foucault looks at how power/knowledge alters one's behaviour. In this process, Foucault argued that power on a large scale (which he referred to as biopower) is maintained through technologies. Using public discourses and models, these technologies aim to condition the self towards an ideal to allow social control and ordering of the population through institutions such as religion, education and politics. In the particular case of the tax profession, those institutions (which could be described as the entities that lead tax professionals to act according to certain standards) will take the form of the state (with the use of political discourses), HMRC, professional associations, the firm or simply the client.

For Foucault, the self is not a matter of character or inner thought, but instead it is a way for the subject to present itself to the world.

It was a mode of being for the subject, along with a certain way of acting, a way visible to others. A person's *ethos* was evident in his clothing, appearance, gait, in the calm with which he responded to every event, and so on (Foucault, 1997c, p. 286).

As such, these technologies examine how individuals modify their own behaviours, grounded in a claim of scientific objectivity that can be mobilised politically. Technologies of the self are indeed fabricated upon what individuals have integrated as being knowledge, and as a result operate upon themselves as an exercise of their own power. Indeed for Foucault, sciences serve as ‘truth games’ and methods through which human beings endeavour to understand themselves, for example, how, by regulating their thoughts and conduct, individuals have an effect on how they conceive who they are, the type of role that they are expected to play and how others perceive them. In the case of tax professionals, the expertise that will structure the knowledge upon which they exercise power upon themselves is the practice of the tax law/case law and its application across the industry.

We should not be content to say that power has a need for such-and-such a discovery, such-and-such a form of knowledge, but we should add that the exercise of power itself creates and causes to emerge new objects of knowledge and accumulates new bodies of information. [...] The exercise of power perpetually creates knowledge and, conversely, knowledge constantly induces effects of power (Foucault, 1980, p. 51–52).

Ultimately, Foucault (1997a, 1997b, 1997c) developed the idea that individuals use techniques of the self through self-knowledge and self-mastery in order to use their selves and transform them to achieve specific ends (whether their professional ethics or identity selves). As such, professional identity or ethics are simply a technique elaborated to communicate a self. As a consequence, in this thesis professional identity and ethics will vary according to the domain to which they are applied (social group, institutional framework) and the historical period in which they take place.

The history of the ‘care’ and the ‘techniques’ of the self would thus be a way of doing the history of subjectivity; no longer, however, through the divisions between the mad and the nonmad, the sick and nonsick, delinquents and nondelinquents, nor through the constitution of fields of scientific objectivity giving a place to the living, speaking, laboring subject; but, rather, through the putting in place, and the transformations in our culture, of "relations with oneself," with their technical armature and their knowledge effects. And in this way one could

take up the question of governmentality from a different angle: the government of the self by oneself in its articulation with relations with others (Foucault, 1997b, p. 88).

As such, there is a constant questioning of the self and collective selves by virtue of the political and social dynamics mediated through different institutions in tax law (such as the state, HMRC, professional associations, the firm, etc.). Therefore, according to Foucault, selves (including professional identity) cannot and should not be subject to a static definition, since they constantly change over time, space and, more importantly, the practice of discourse.

3.4.3 How this thesis relates to the Foucauldian ethics of the self (through the professional self)

The purpose of this study is to examine Foucault's notion of self and the effect it has on tax professionals' ethics and identity. In thus doing, the second and third empirical chapters (chapters 7 and 8) put considerable emphasis on Foucault's theory of ethics of the self and technology of the self to study their effect on tax professionals.

Discursive formations are concerned with the creation of a social reality that shapes ideas, people and things in order to produce institutionalised statements of 'truth'. These 'truth games' are methods through which human beings endeavour to understand themselves. In other words, it is by assimilating discourses that individuals normalise who they are. This is why Foucault (1997a, 1997b, 1997c) described ethics as deeply embedded in the construction of the self. As such, ethics only reveals a truth in a particular time and space, and therefore cannot be conceptualised as a universal precept since it is, in essence, a cultural phenomenon. For Foucault, concepts are deemed true or false only within a domain of things for a time and space. For Foucault, it is through discursive formations that power seeks to control and, more importantly, regulate subjects. Foucault conceptualises ethics and self

(identity) as a by-product of self-formation and self-cultivation, illustrating how individuals engage the self in different ways. As such, tax practitioner selves will reflect contemporary norms at play within the profession and/or the prerogatives of the firm. This resonates with Hoskin's research (2015) where he found that individuals construct themselves through a disciplinary and ethical lens, since individuals are far from being self-constituted. This relates to my empirical chapters where a theme seemed to emerge across the participants' recollections, suggesting that public scrutiny may have affected the governance of the tax profession and, more importantly, formed TPs' identities. Since Foucault considered the self and identity to be an ever-changing experience that characterises themselves through discourse and shifting communication, it is unsurprising that public scandals have had an effect on tax practitioners' identities. Drawing on the above, this thesis will draw on the ideas that Foucault set out under the pseudonym 'Maurice Florence' (1998), to argue that negative accounts and discourses around public dissatisfaction have ultimately affected the way tax professionals present themselves and ultimately construct their professional identity. Through the lens of the Foucauldian self and discursive formation, I will argue the tax profession has been strongly incentivised to react and adapt to its new environment to ensure its sustainability, or at least to give a 'visible' impression of adopting ethical behaviour in order to rehabilitate and reconstruct its image, reputation and identity as a moral profession.

Ultimately, this thesis theoretically contributes to extending the theoretical use of Foucault's work by showing how the notion of social stigmatisation through the use of discursive practices and statements are at the origin of why tax professionals have had to integrate ethical considerations in response to the discourse of tax avoidance which implicates negatively their professionalism. In doing so, this thesis demonstrates how professionals adapt themselves to be seen as ethical and disciplined subjects complying with the spirit of the law so as to prove their selves as professionals, and change the discursive

practices that are at play against them. This thesis will use the concepts that Foucault developed under the pseudonym 'Maurice Florence' (1998), to conceptualise how TPs construct their professional selves upon the performance, articulation, and appropriation of institutional norms. In this process, it examines how the profession's implementation of tax knowledge has rapidly been associated in the minds of the general public with the deployment of ethical conduct and professional identity. This aspect of Foucault's work has received limited attention in the accounting and taxation literature.

3.5 How Foucault directly relates to the research questions of the thesis

Owing to the fact that I am using a Foucauldian analysis to understand *in what way do TPs render professional services*, this research takes into consideration factors that have influenced how tax professions render their services. When using Foucault's work in analysing my empirical chapters, I will investigate the power/knowledge relationship that exists between the tax professionals and the institutions (for instance, the state, HMRC or the firm). This will constitute the foundations of my first empirical chapter (chapter 6) where I pose the first question: *What is the role of power/knowledge in shaping the tax profession?* Here, I will try to demonstrate how power/knowledge and discursive practices shape the boundaries of a community, namely the tax profession. I will be turning to Foucault in order to understand the complex imbrication of knowledge and discipline to help comprehend better how we can talk about the role of knowledge/power in law and accounting without seeing it as negative and oppressive, but as productive of practices and discourses. Looking at the UK experience of tax professionals, tax law appears as a contested field of expertise where multiple forms of institutions and stakeholders are at play. In order to make sense of

this system, Foucault's proposed method of analysis will be used to see knowledge through political lenses across different fields and levels of authority.

The second empirical chapter (chapter 7) will look at the ethics of the self and will investigate: *How do TPs manage ethical dilemmas?* Here in this chapter, I will look at how tax professionals have had to integrate ethical considerations in response to the discursive formation made on their professionalism. In doing so, I will look at how the negative accounts of tax avoidance made in respect of individuals/companies have impacted on the institution. Again using Foucault's work I will consider how the social stigmatisation, through the use of discursive practices and statements, is at the origin of why tax professionals have had to adapt themselves to be seen as complying with the spirit of the law. This thesis will argue that tax professionals have had to present a façade of being obedient and submissive to the law, in order to prove themselves as professionals and change the discursive practices that are at play against them. In this process, I will use Michel Foucault's (1998) work, published under the pseudonym 'Maurice Florence', to conceptualise how individuals construct their professional selves based upon the performance, articulation, and appropriation of institutional norms. Moreover, this thesis will also consider at the same time how the context in which these professionals work has evolved (here in the UK economy), and affects their sense of self ethics. This part of the thesis aims to enhance Hoskin's study (2015) where he found that individuals are far from being self-constituted since they are repetitively subjected to techniques of power and discursive practices.

This leads to my third empirical chapter (chapter 8), where I will be using Foucault's work to show how there is a shift where accountants and lawyers are now starting to identify themselves as tax professionals. Looking at *what identities are associated with TPs*, this thesis will endeavour to understand how the discursive practices have generated the production of the self as a tax professional. Indeed, owing to this power struggle over how

knowledge should be applied, as seen in the first empirical chapter, I discussed how a community came to light. This negative exposure prompted tax professionals to start thinking of a way that would reflect how they identify and present themselves as professional. In this process, this thesis will draw on the ideas that Foucault set out under the pseudonym 'Maurice Florence' (1998), to conceptualise how individuals construct their professional selves upon the performance, articulation, and appropriation of institutional norms, ultimately affecting their sense of identity. This thesis intends to discuss professional selves and interrogate discursive formations in the construction of professional identity in the field of accounting.

3.6 Summary

In addition to introducing the theoretical framework that forms a connecting thread in this study, this chapter has also introduced the three central concepts used in this research, namely power/knowledge, statement of truth and exercise of the self. In thus doing, this chapter has explained how the first empirical chapter (chapter 6) will use Foucault's theory of power and knowledge to study their effect on the tax discipline, whereas the second and third empirical chapters (chapters 7 and 8) will put considerable emphasis on Foucault's theory of ethics of the self and technology of the self to study their effect on tax professionals.

Section 3.2 has reviewed the use of Foucault in the field of accounting. Sections 3.3 and section 3.4 have developed and explained Foucault's theories in relation to his views on power/knowledge, statement of truth and exercise of the self. Chapter 3 has presented the theoretical framework of this study, which is grounded in a Foucauldian approach. This chapter has introduced the key concepts that will be used throughout this thesis in order to analyse the data. Chapter 3 motivates the use of Foucault, but more importantly describes

how the concepts of power/knowledge and the ‘ethics of the self’ relate to the study of the tax profession. Mirroring the key concepts elaborated in chapter 3, chapter 4 will then adopt the same structure (namely review of the sociology of profession, knowledge literature, professional ethics and identity literature) to examine critically how other relevant literatures have conceptualised knowledge, professional ethics and identity.

Equally importantly, this chapter has illustrated and explained the approach that will then be used throughout this thesis to analyse the interview data. In doing so, this chapter has started to reveal the versatility of Foucault’s theories for interpreting the findings of this study on the tax profession. The next chapter conducts a review of the literature in light of the Foucauldian theories aforementioned.

CHAPTER 4: LITERATURE REVIEW

4.1 Introduction

Chapter 3 discussed how the Foucauldian concepts of power/knowledge and the ‘ethics of the self’ relate to the study of the tax profession. In doing so, chapter 3 outlined key concepts that will be used throughout this thesis, and motivated the use of Foucault’s theory for the study of the tax profession. Mirroring the key concepts elaborated in chapter 3, chapter 4 will then adopt the same structure (namely, review of the sociology of the profession, knowledge literature, professional ethics and identity literature) to examine critically how other relevant literatures have conceptualised knowledge, professional ethics and identity. Chapter 4 now presents the literature on power/knowledge as professional expertise, professional ethics and professional identity.

The purpose of this chapter is to address the development and gaps observed in the existing literature on tax practice, while still reflecting on how Foucauldian concepts have been applied across accounting. Thus, this chapter connects this thesis to existing academic debates through key themes in this field. In doing so, section 4.2 will present the literature on the sociology of professions, while section 4.3 introduces academic research on knowledge. Section 4.4 conceptualises the notion of professional ethics and ethical decision making, whereas section 4.5 reflects on the concept of professional identity. The chapter is finally summarised in section 4.6.

4.2 Sociology of professions' literature

The review of the literature on the sociology of professions does not serve to address the main purpose of this study, since the core of this research is not to determine whether there exists a tax profession in the UK or not. However, it is important to present the setting of this research by acknowledging the debate about what might or might not constitute a profession, in order to be able then to discuss what are professional expertise, professional ethics and professional identity in the following sections.

Chapter 4 starts by discussing and breaking down Foucault's theory and its relevance to this thesis. Like any key theme in this literature review, each section will start by introducing aspects of Foucault's theory adapted to the tax literature in order to frame the literature and provide a basis for discussion. I will begin in section 4.2.1 by acknowledging the accounting literature on professions using Foucault's work as a framework. Section 4.2.2 will then introduce the sociology of professions and the process of professionalisation.

4.2.1 Sociology of professions and the Foucauldian literature

In *The Order of Discourse* (1981) and *Discipline and Punish* (1977) Foucault does not directly refer to the term profession but instead uses the term 'discipline' to designate the relationship and process by which subjects become enmeshed in a field through expertise.

A discipline is defined by a domain of objects, a set of methods, a corpus of propositions considered to be true, a play of rules and definitions, of techniques and instruments: all this constitutes a sort of anonymous system at the disposal of anyone who wants to or is able to use it, without their meaning or validity being linked to the one who happened to be their inventor (Foucault, 1981, p. 59).

Following Foucault's words, it becomes clear that professions should not be identified only on the grounds that they comply with a list of standards, such as a code of conduct or are

members of professional body, but on the grounds of expert knowledge in a particular field. Foucault's theory of discipline opens the door to a more fluid definition of professions, which is applied in this thesis to the examination of the tax profession (see chapter 1: Introduction). Since for Foucault (1981) discipline is a mobile principle, this concept seems adapted to capturing the complexity of modern professions, permitting much greater flexibility. In this context Dumas and Turner (2006) explain that it was Michel Foucault who introduced first the idea that discipline was connected to the regulation of the body in forms of governmentality. Foucault (1977) explained that a specific knowledge (such as tax expertise, for instance) may potentially gain legitimacy and ultimately constitute a distinctive discipline through the expansion of the scientific discourse and normalisation of a system of knowledge. Finken (1999, p. 319) illustrates this point by stating that:

By having one's focus on this, one will be able to see how an expert domain appears, which is to a high degree connected to a form of legitimacy, because a discipline seeks to individualize itself in relation to other disciplines in a way, which makes it unique and legitimate. In this way the legitimacy of a discipline is tied to a clearly defined area, by which it can raise itself by acting as the representative of a particular constituency. Once achieved, a discipline can speak its own truth.

Foucault (1977) further explains that discipline affects subjects at a far greater level by creating a system that aims to structure and order people within a field of knowledge. The significance of his work creates the foundation to examine bodies of knowledge where experts construct scientific communities based on a 'professional' level of understanding.

Discipline is no longer simply an art of distributing bodies, of extracting time from them and accumulating it, but of composing forces in order to obtain an efficient machine (Foucault, 1977, p. 164).

Adding to this conversation and using Foucault's concept of discipline, Freidson (1986) illustrates how discipline works on two levels by first regulating the domain of expertise and

by secondly producing further knowledge. In this context, Freidson (1986, p. 6) demonstrates that:

The formal knowledge of the disciplines shapes the way human institutions are organized and the way the behaviour of human beings is conceived, providing justification for particular methods of interpreting and disposing of a wide variety of human behaviors.

Consequently, the rhetoric of professionalism serves to develop self-discipline and the ability to administer it from afar so as to ensure that professional practices and behaviour are observed and expected by each individual (Aldridge and Evetts 2003; Evetts, 2013). Fournier (2001) adds to this line of thought by considering how expert knowledge produces certain professional discourses allowing occupational work (such as clerical, management, or sales staff) to position themselves as providers of professional services, this despite not being associated traditionally with a profession. In this work, Fournier (2001) uses Foucault's notion of discipline to analyse how disciplinary logic can shape the contour of professionalism and professional practice, ultimately demonstrating a certain professional autonomy within this field of expertise.

Hewett (2004) argues that disciplines have established techniques of power, referred to by Foucault as 'normalisation', which aim to control subjects within a field or discourse. He adds that "persons began to be judged according to such norms, and norms became useful within relationships of power because they in turn constructed fields of knowledge, in which 'knowing things' was based on 'knowing norms'" (p. 7).

Each of these research studies contributes to extending the use of Foucault's theory in the study of professions by using discipline not only as a way of understanding the system of knowledge occurring within a scientific community, but also by demonstrating how this discipline has the power to regulate those who practise this specific knowledge. While each of these studies has been constituted to address different questions, they enhance the literature

on Foucault by analysing the role of expertise and discipline in the process of professionalisation. So, although Foucault never worked directly on professions, as he referred only to the word ‘discipline’, Goldstein (1984) suggests, however, that Foucault’s concept of discipline could offer the adaptability to recognise emerging professions. This adaptability could represent a suitable lens through which to study expertise knowledge that does not perfectly comply with all the criteria of a profession.

Indeed, through the utilisation of the term ‘tax profession’, this thesis aims to recognise specific bodies of knowledge where an elite community of experts has gained exclusive jurisdiction based upon their ability to shape and further advance the tax legislation and its application in the UK. Using Foucault’s work (1981), this thesis maintains that through their manipulation of unique subject matter, tax professionals have gained control of their discipline, rendering in effect their occupational groups to become a profession. In this process, I will demonstrate in chapter 6 how tax professionals have acquired the ability to dispute or enhance the corpus of expert knowledge and discourse to acquire a privileged position to criticise how the application of tax law in the UK should be carried out and who should carry it out.

Through looking at Foucault’s theories adapted to the field of accounting, I believe that his conceptualisation of discipline is most appropriate to the study of the tax law. Indeed, a succession of theorists, from functionalists (Barber, 1963) to interactionists (Abbott, 1988; Saks, 2012) and those adopting a critical perspective (Johnson, 1972; Larkin, 1983; Larson, 1977), have not clarified what characterises a profession, taking as self-evident the knowledge aspect of their construction (Hodgson, 2002). Hence explaining why Foucault’s notion of discipline will be used throughout this thesis is useful, as it allows us to conceptualise commodity professions such as the UK tax profession as ‘real’ professions.

4.2.2 Sociology of professions and the process of professionalisation

In this study the process of professionalisation is being considered according to the debate surrounding the tax profession. This discussion has already been initiated in chapter 2 as a precursor to the larger discussion to take place. This section, 4.2.2, will first echo the comments made in chapter 2 but also further expand the arguments by extensively analysing the literature. Chapter 2 reviews the literature pertinent to the process of professionalisation, also referred to as the ‘professional project’. This section aims to address the difference between professions and professionalisation.

One definition offered by the Oxford English Dictionary (2010) refers to professional projects as “occupations’ efforts to become a profession, a process that entails defining the boundaries around the profession and protecting those boundaries through social exclusion of the unqualified” (Oxford English Dictionary, 2010). Long before Abbott’s (1988, 1989) interactionist approach, two researchers – Parsons (1939), using a functionalist framework, and Larson (1977), who presented a historical narrative – explored the mechanisms through which an occupation becomes a profession. For instance, Parsons (1939) conceptualised a professional project as a necessary delimitation to guarantee the use of expert knowledge for the public good, whereas Larson (1977) anticipated the powerful market position that a profession enjoys once a professional project has been established through university-based credentials, associations and licensing. In this regard, the process of professionalisation supposes a complex structural metamorphosis constructed within defined boundaries. To this end, an occupation seeking social closure, stability and higher status must offer a particular commodity. Larson (1977), a market control theorist, explains this by distinguishing between the production of producers and production by producers. In other words:

the producers of professional services are produced by apprenticeship, licensing and professional education. Once these qualified professionals have been produced, the services that they provide are regulated by organized professional associations with a code of ethics (Liu, 2017, p. 214).

Traditionally, professions are distinctive occupations, and a set of specific characteristics isolates professions from any other occupational groups. In this sense, a profession has a range of specific attributes that differentiate it from any other discipline or occupation. Numerous definitions have already been offered to interpret the concept of a profession, all of which tend to observe a closed class, delimitations and a basis for inventorying the number of professionals within a particular professional group. For instance, Perks (1993) suggests recognising a profession by setting specific standards, such as autonomy, self-regulation, code of ethics, licensing, testing of competence, professional association and skills based on theoretical knowledge. However, Brante (1988, p. 122) introduces a list of six criteria:

1. The use of skills based on theoretical knowledge; 2. education and training in these skills; 3. the competence of professionals is ensured by examinations; 4. a code of conduct to ensure professional integrity; 5. performance of a service that is for the common good; and 6. a professional activity which organizes its members.

Meanwhile, Goode (1957, p. 194) suggests recognising a profession by assessing the following characteristics:

- (1) Its members are bound by a sense of identity. (2) Once in it, few leave, so that it is a terminal or continuing status for the most part. (3) Its members share values in common. (4) Its role definitions vis-à-vis both members and non-members are agreed upon and are the same for all members. Within the areas of communal action, there is a common language, which is understood only partially by outsiders. (6) The community has power over its members. (7) Its limits are reasonably clear, though they are not physical or geographical, but social. (8) Though it does not produce the next generation biologically, it does so socially through its control over the selection of professional trainees, and through its training process, it sends these recruits through an adult socialization process.

As illustrated above, there exists a debate about the features by which professions are distinguished and identified (Becker, 1970; Bourdieu and Wacquant, 1992; Cogan, 1953). On this matter, some of the literature sees the concept of professions as evolving (Gorman and Sandefur, 2011): diversification, erosion, and even a new form of professions, are themes that appear in the literature (Broadbent et al., 1997). Considerable research has also been carried out on the blurring of the boundaries between the legal and accounting professions (e.g., Abel, 2003; Broadbent et al., 1997; Kritzer, 1999; Lee, 1990; Muzio, 2004; Susskind, 2008). Saks (2012) suggests therefore that discussion of the definition of a profession is not absolutely necessary. However, while the discussion about what might or might not qualify as a profession has been raised frequently (Evetts, 2013; Saks, 2012), it is commonly recognised that an occupational group will transform itself into a profession upon the ability to demonstrate social closure (in the form of examination and licensing) based on the practice of distinct specialisation that provides an autonomy to regulate their own through the use of an ethical code (Abbott, 1988; Freidson, 1986; Wilensky, 1964). Indeed, according to Goldstein (1984), there is some level of agreement with regard to: 1) esoteric knowledge; 2) monopoly, that is, exclusivity of practice; 3) autonomy, including who can legitimately practise; and 4) a form of ethical imperative. This is re-affirmed by Gorman and Sandefur (2011, p. 275) who claim that the literature is coherent regarding “expert knowledge, autonomy, a normative orientation grounded in community [covering a sense of regulation and ethics], and high status, income, and other rewards”. This point reiterates chapter 2’s argument where I stated that, although slightly differently worded, all definitions of ‘profession’ seem to agree on a set of characteristics covering skills based on theoretical knowledge, examinations/testing of competence, code of conduct and autonomy/licensing.

More recently, the discussion surrounding the process of professionalisation seems to have evolved towards the study of professions as a community of expert knowledge (Fournier,

2001; Gorman and Sandefur, 2011). This seems to be confirmed by Eyal (2013) in the *American Journal of Sociology*, whereby he proposes to substitute the sociology of professions with the more inclusive field of the sociology of expertise. The change occurring in the literature seems to reflect a focus on the notion of knowledge that serves as a platform to acquire power, enhance discourse, and discipline/structure professionals across occupational groups (Fournier, 2001).

Following this line of argument, another strand of the literature recognises a new form of professionalisation through a normative and collaborative community (Adler et al., 2008; Bechky, 2003a and 2003b). This point of view is supported by a number of other academics, who highlight the importance of comparing social forms and characteristics, rather than establishing differences between professions and occupations (Brint, 2001; Evetts, 2014; Olgiati et al., 1998; Olofsson, 2009; Sciulli, 2005). Hence, the study of professions seems to have migrated toward studying professionals, professional bodies and professional interactions. These key aspects are covered in the following sections, including expert knowledge (section 4.3), professional ethics (section 4.4) and a sense of professional identity (section 4.5).

Having presented the sociology of professions, the next section considers the literature on knowledge.

4.3 Knowledge literature

The literature reviewed in the next sub-sections provides a foundation for a more specific discussion of the tax profession as a discipline in chapter 6. Section 4.3.1 examines the applicability of Foucault's works to the field of knowledge. This brief overview of his work and modes of analysis will constitute the basis of the literatures review that I then address in

sections 4.3.1 to 4.3.7. First, knowledge must be conceptualised (section 4.3.2) to determine its role in the construction of an expert community (section 4.3.3) through a process of education and socialisation (section 4.3.4). In section 4.3.5, I review how the concept of knowledge has been used in the field of tax.

4.3.1 Knowledge and the Foucauldian literature

To deal with power relations described in the work of Michel Foucault means dealing with most of his work, which is composed of books (14), more than 340 pieces of other work, such as articles, reports, courses, interviews, lessons, letters, epilogues, prologues, presentations and round tables, as well as part of his work not published yet, mainly Foucault's courses at the Collège de France (Castro, 2004). Although the work of Foucault (1978) deals with power and power relations, it is never purely about power. Foucault's general theme of research looks, however, at the effect that power has on the subject. On the other hand, Knights (2002, p. 582) stresses the fact that "the different concepts or ideas that Foucault developed were continually revised throughout his life, and their relationship therefore needs to be treated with some care".

As a premise for this conversation, it is important to understand how Foucault conceptualised the notion of knowledge. Knowledge is a set of concepts, objects, theoretical choices, creating a discursive formation (Foucault, 1980). Through the study of Foucault's work on knowledge, the analysis reveals his effort to describe and understand the relationships that occur between the diverse fields of knowledge through discourse (Foucault, 1978). In this context, Foucault interprets discourse as a medium circulating knowledge. Yazdannik et al. (2017, p. 4), using Foucault's concept, thus questioned:

how some discourses have shaped and created meaning systems that have gained the status and currency of 'truth', and dominate how we define and organize both ourselves and our social world while other alternative discourses are marginalized and subjugated.

According to Foucault (1980), experts hold a particular discursive power since they manipulate and construct knowledge within a specific domain. This repetition of technical science reveals the constitution of its own discipline, which perpetuates its own truth. Graves et al. (1996), using Foucault's theory demonstrate, on one hand, how this discourse is not only a verbal expression but also text, images photographs, maps, annual reports, etc. Those can be used to exert an influence over certain aspects of power as, for example, in the strengthening of financial control of capital. On the other hand, it can be understood how these different manifestations of discourse through accounting, audit management and organisation have been interwoven with other manifestations of power in a reciprocal way to influence concepts such as efficiency or scorecard (Norreklit, 2003), or extend scientific knowledge itself (Grant et al., 2001). These occupation groups must exhibit a degree of expertise in order to be regarded as authorities and ultimately deemed trustworthy by the general public and non-professionals so as to acquire autonomy.

For groups that are not considered professions in the traditional sense or professional groups whose autonomy is under threat, those groups will leverage a discourse and presentation of professionalism to convince and reassure their publics that they are experts and should have or retain the ability to define, regulate, and develop the practices of a certain labor (Yagatch, 2018, p. 7).

These discursive regimes serve their own purpose since they communicate the idea that the truth can only be produced by a corpus of experts, thus excluding the possibility that a subject or a practice might be acquired using other methods. It is through the use of discursive practices and scientific discourse that power is integrally linked with knowledge. By way of explanation, the exercise of power is dependent and conditional on the production of truth, as it is only through a discourse of truth that power and knowledge are interlinked.

We are subjected to the production of truth through power and we cannot exercise power except through the production of truth (Foucault, 1980, p. 93).

This is why Foucault formulated in *Discipline and Punish*, the idea that “power and knowledge directly imply one another; that there is no power relation without the correlative constitution of a field of knowledge, nor any knowledge that does not presuppose and constitute at the same time power relations” (Foucault, 1977, p. 27). By presenting the idea that knowledge and power are connected, if one held specific knowledge, then power can be exercised from that position. Foucault conceptualised the idea that through mastering a particular knowledge, individuals and groups gain authority and power over the field. This power is maintained, for instance, through technical and expert language and by erecting barriers to the access of this expert practice. Mihret and Grant (2017) drawing on the concept of governmentality, formulate the idea that the modern corporation and professions protect themselves via auditing to justify and validate their own activities and expertise (thus reaffirming their unique stand on knowledge).

Internal auditing as: *ex post* assurance about the execution of economic activities within management’s preconceived frameworks and *ex ante* advisory services to enhance the rationality of economic activities and accompanying controls (Mihret and Grant, 2017, p. 699).

As a consequence of this unique knowledge, a transfer of power takes place between client and advisor, acknowledging indirectly the legitimacy of the expert over the field of tax (Miller and Rose, 1990). Allen (2000) using Foucault’s concept believed that knowledge requires the aptitude to pass assertions among others as correct and true. However, distinctions between true and false must be determined by a scientific community that validates what can be regarded as the ‘right’ knowledge and accepted practice in a specific time and place (Deetz, 2000). Therefore, a community that retains knowledge will also hold power by governing and creating the regime of truth.

Bogenschneider (2015), using a Foucauldian framework, argues, however, that tax knowledge is often misunderstood and misrepresented as ‘truth’ and institutional knowledge, when instead it should be presented as undetermined and abstract. This is why Skinner and Franz (2018) believe that individuals in a context of compliance find it increasingly difficult to interpret and apply knowledge, thus explaining why individuals seek advice to achieve compliance. Each of these research studies contributes to extending the use of Foucault’s theory in the study of professions by using the ‘expert’ or the ‘professional’ as a central point to account for how the appearance of being a professional/expert has become a crucial element to establish control and maintain influence over a specific field of knowledge (in this case accounting).

Having reviewed the literature on Foucault, the next section moves on to review the literature on knowledge. In this study, the process of knowledge constitutes the basis for understanding the tax profession as a discipline and therefore the literature reviewed in the next sub-sections provides a foundation for more specific discussion of tax knowledge in chapter 6. Knowledge must be conceptualised (section 4.3.2) to determine its role in the formation of a profession (section 4.3.3) through a process of education and socialisation (section 4.3.4).

4.3.2 Knowledge: context and definition

Professions within this approach were seen as possessing a diverse range of characteristics differentiating them from other occupations. These characteristics centrally encompassed knowledge and expertise – as well as others such as playing a positive part in the community. [...] Specifically in this context, occupations with very esoteric and complex knowledge and expertise of great importance to society were usually seen as being granted a high position in the social system with state sanction in return for protecting the public and/or clients. Herein for the functionalists lies the functionality of knowledge and expertise (Saks, 2012, p. 2).

Greenwood (1966) and Pavlin et al. (2010) identify the role played by theoretical knowledge in the rise of professional status. This is believed to be the keystone on which practical work is ultimately established. In this sense, knowledge is often associated with market power and control, assuring a monopoly position for those providing it (Berlant, 1975; Parry and Parry, 1976) and a monopoly on a body of expert knowledge defines the social closure practices of ideal-type professionalism (Evetts, 2003). The prospects for an occupation becoming a profession therefore reside in its potential to differentiate itself from any other occupation by showing a singular expertise in the field it is endeavouring to dominate (Abbott, 1991).

Knowledge is a slippery and elusive concept, and every discipline has its own secret realization of it. Problems of interpretation haunt every attempt to use the concept effectively, such as that even basic typologies that talk about say, formal versus tacit knowledge actually can be quite meaningless in certain contexts (Alvesson, 2001, p. 864).

For the purposes of this thesis, knowledge should be understood as a set of concepts, objects, theoretical choices, creating a discursive formation (Foucault, 1980).

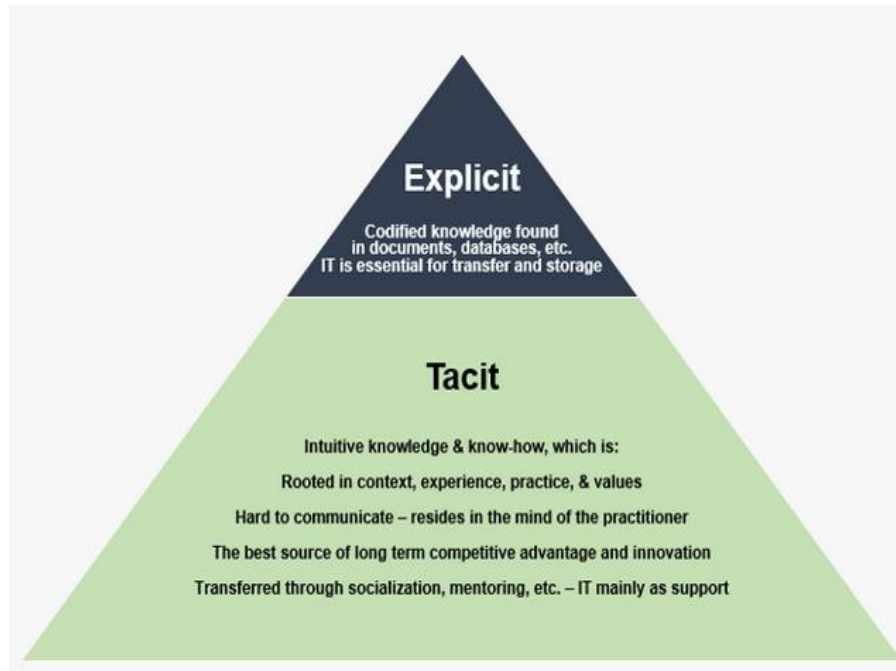
The following pages will review how knowledge has been conceptualised across other literatures. This will help the reader to have a better understanding of how knowledge has been viewed in the literature, and within the sociology of profession literature more specifically.

Tacit knowledge vs. explicit knowledge

Knowledge takes different forms and shapes in the literature (Blackler, 1995; Nonaka, 1994; Spender, 1996). According to Scarbrough and Burrell (1996), the literature usually distinguishes between two streams of knowledge, abstract and practical. Such distinctions include tacit versus explicit knowledge (Bourgeault et al., 2004; Coffey and Delamont, 2000; Riska, 1993); ideational versus materialised knowledge; and individual versus social knowledge. Essentially this distinction illustrates the difference between the practical tacit

knowledge that relates to the type of ‘savoir-faire’ developed through the practice of a certain craft, and the explicit formal knowledge that is the theoretical ‘savoir’ learnt within an academic environment or educational institution (Pavlin et al., 2010).

Figure 4.1: Explicit and tacit knowledge



(Source: Figure created based on Alavi and Leidner's (1999) work, p. 6)

Freidson (1986, p. xi) theorises the link between the exercise of power and explicit knowledge stating that:

Formal knowledge is transformed and modified by the activities of those participating in its use. Thus, the paradox that, while the institutionalization of knowledge is a prerequisite for the possibility of its connection to power, institutionalization itself requires the transformation of knowledge by those who employ it.

In a work environment, explicit knowledge is often mentioned as the know-what (Brown and Duguid, 1998). This form of codified knowledge is found in memos, databases, texts, notes, journals, documents, etc. (Botha et al., 2008). The difficulty consists in ensuring that skilled workers have access to these sources of knowledge. In this respect, some academics (e.g., Bukowitz and Williams, 1999; Cook and Brown, 1999) argue that explicit knowledge is unable to provide economic advantage. Indeed, by its nature, explicit knowledge can be

retrieved and stored through documents, so in theory anyone can access the information, destroying the rarity of this 'savoir'. On the other hand, tacit knowledge is acquired through personal experience, which contains, by its nature, a specific singularity.

A type of knowledge that is not captured by language or mathematics. Because of this elusive character, it can only be seen by its action. Tacit knowledge is knowledge that the actor knows he has (how to catch a ball, tie a knot, mark a line) but which he cannot, nonetheless, describe in terms other than its own (skilful) performance (Polanyi, 1966, p. 153).

In this respect, skilful performance may be defined as a set of actions that is unknown to the professional accomplishing it (Polanyi, 1966). Tacit knowledge, which often refers to 'know-how' (Brown and Duguid, 1998), is more difficult to capture as its evolution depends on the context and individual nature of skilled workers. For instance, Nonaka (1994) suggests that it is difficult to transfer and communicate such knowledge as it is deeply rooted in action. Wellman (2009) views tacit knowledge as the most valuable asset because it procures income and leads to breakthroughs in competitive and innovative environments such as the law and accounting professions (Gamble and Blackwell, 2001). Beyond its objective and technical functions, expertise is also regarded as valuable because it symbolises rationality, wisdom and intelligence (Alvesson, 2001). Pavlin et al. (2010, p. 97) conceptualise practical and formal knowledge in terms of competences, which can be characterised as:

the generators of potential for an individual's performance, personal characteristics (traits) as physical characteristics and methods of an individual's response to a situation, self-concept in the sense of habits and values and knowledge in the sense of information that someone has in specific areas.

In this process, delivering high-end tacit and explicit knowledge is a core marketing proposition of knowledge-intensive companies. Amongst these, legal and accounting firms establish their reputation on proposing highly intellectual services to their clients (Robertson and Swan, 1998). Therefore, well-educated and qualified employees must constitute the heart

of the workforce to supply qualified services and/or products to their clients (Alvesson, 2001). In other words, knowledge is a functional resource and a key characteristic that distinguishes service firms according to the type of expertise they wish to market. This literature suggests that the tax profession may have developed into an independent commodity service provider by offering specific tacit and explicit knowledge of tax. This point is developed in chapter 6.

Having discussed definitions of knowledge, the next sub-section examines how knowledge helps to build professions.

4.3.3 Knowledge as a key attribute of professionalisation

Carr-Saunders and Wilson (1933) propose that professions are a stable force in society that bring knowledge to the exercise of power. Sikka et al. (1989, p. 63) support this claim by suggesting that professions “serve the public interest through the development of independent technical knowledge and the wide dissemination of information on matters of professional interest amongst members and others”. Dent and Whitehead (2002) highlight that in a knowledge society, in order to secure PI, occupations must specialise in a niche of expertise so as to gain institutional recognition (Freidson, 1986) and control over that occupation. In this process, expert knowledge and a base of higher education are deemed fundamental (Gorman and Sandefur, 2011). Burrage and Torstendahl (1990) observe that a common body of knowledge is an essential factor in the formation of a profession. Muzio et al. (2007) make a similar argument, highlighting how the delivery of specific expertise remains a primary factor in professionalisation. Freidson (1970) and Starr (1982) hypothesise that knowledge and expertise are simply tools that consolidate the social position of professions.

Brain (1991), observing the professionalisation of the architecture profession, describes how practical knowledge exercises control over this occupation. This has legitimated the transformation of architecture from an occupation to a profession in the

construction industry. This could possibly be argued for the case of the tax profession, where the knowledge exercised by the tax intermediaries reveals the importance of a public service.

Indeed, according to Saad (2014, p. 1074):

From the interviews, taxpayers appeared to have inadequate knowledge on the technical aspects of the income tax system. This issue was even critical among the self-employed participants who are expected to deal with onerous tax matters, such as PAYE, GST, Kiwisaver etc. In dealing with these tax affairs, they may have to incur more compliance costs. The income tax system was also perceived as inherently complex. The huge amount of paperwork to be completed in complying with their tax obligations further escalated the problem.

This observation has been highlighted by a number of academics (e.g., Freedman, 2017; O'Donnell et al., 2005), who describe UK tax law as long, complex and not sufficiently clear. Richardson and Sawyer (2001) justify tax complexity in terms of the continual sophistication of the law, which may adopt many forms. For instance, they explain that tax is complex because of its diverse forms, rules and compliance requirements. Cox and Eger (2006) add that tax procedures may become convoluted due to unreadable legislation. This is especially the case in the UK, as Strader and Fogliasso (1989) argue that the UK tax system is one of the most complicated in the world. Tax services demand a significant amount of technical training and practice, as the ever-changing environment requires constant learning (Richardson and Sawyer, 2001). To counter this difficulty, consultancy firms have become increasingly specialist in order to address issues arising in specific sectors (Oats and Tuck, 2008).

Having established that knowledge is a key attribute of professionalisation, the next sub-section considers how education and training stimulate the acquisition of explicit knowledge.

4.3.4 Explicit and tacit knowledge

Both explicit and tacit knowledge are needed by a professional.

Education and training: The learning process of explicit knowledge

The literature suggests that education, which is the learning process by which formal knowledge is acquired, helps to forge tomorrow's practitioners in order to maintain service provision at a professional standard (Bailey, 1995; Maynard, 2000). This process aims to ensure the development of ethical practices through the production of qualified lawyers and accountants (Anderson et al., 2005; Henderson et al., 2010; Ormrod, 1996). Training is one of the most challenging obstacles faced by future professionals. The literature explores the very selective process which trainees must navigate in order to gain access to the profession (Halpern, 1994; Shiner, 1997). In this process, training helps to ensure not only the quality of the trainees (Goriely and Williams, 1996), but also the exclusivity of the profession. However, this is possible only because of the numerous barriers that result in countless students failing (Shiner, 2000; Tamanaha, 2012). In this environment, universities form the keystone of the learned professions (Park et al., 2011), as education is a fundamental requirement for becoming a certified lawyer or accountant recognised by the relevant professional association (Annissette, 2000; Briston and Kedslie, 1986). The tax profession, however, differs from the legal and accounting professions, where the subjects can be learnt and examined in three-year academic programmes. The literature highlights that taxation is not a subject offered in the UK education system, even at university level, and is often only offered as an optional module to law and accounting students (Miller and Brewer, 2003; Tuck, 2007). This is not to say that one cannot train as a TP without a degree; however, this example illustrates how the tax profession is still in its infancy compared to the legal and accounting profession, where

recognised degrees serve as a barrier preventing many joining the professions (which is still not the case for the tax profession).

Yet one form of concern that has been raised by some scholars is the changing environment in which the professions are subject to considerable disturbance. The UK's legal and accounting education has fallen foul of global consumerist expectations that require trainees to be educated efficiently and cost-effectively (Boon and Webb, 2008). Similarly, Wilkins (2014) questions the negative effect of the global crisis on the legal profession, while Boon et al. (2005) examine how the fragmentation of legal education is directly associated with the division of the profession. Mayson (2011, p. 278) goes even further in interrogating the appropriateness of legal education.

First, regulatory change resulting from the implementation of the Legal Services Act 2007 and the consequential introduction by the Solicitors Regulation Authority of "outcomes focused regulation" offers a timely opportunity to review the basis of legal education and training. Second, the combination of the LPC and the training contract, as currently configured, is not well matched to the types of practice now undertaken by a majority of newly qualified lawyers. Third, the pressures which shape the content of qualifying law degrees mean that students are not always as well prepared as they might be for the demands of the intensively taught vocational stage. Finally, the growth in the number of providers of the vocational stage, and the potential growth in the number of frontline regulators of legal practice, mean that comparable standards have to be maintained across a large number of providers, subject to a potentially increased number of regulators.

He concludes his study by stating that the legal profession should consider a drastic change to the education and training of solicitors, which is perceived to be no longer adequate to meet the demands of the modern world and clients' expectations.

The next sub-section reviews the socialisation process through which tacit knowledge is acquired.

Socialisation: The learning process of tacit knowledge

Tacit knowledge (see section 4.3.2) is learnt and developed through socialisation to shape future professionals. The literature suggests that the process of socialisation is concerned with the reproduction of cultural capital within the profession (Bourdieu, 1984), whereby hiring culturally matched individuals (Rivera, 2012) who look good and sound right (Williams and Connell, 2010) is perceived as an implicit guarantee of high-quality workers, and heterogeneity is viewed as a risky gamble (Malhotra and Morris, 2009). Schleef (2006) emphasises that training and socialisation shape future professionals to behave and think in a certain way, particularly in elite professions. Similar reflections have been made in various empirical studies. For instance, Endlich (1999) depicts the strong culture of success within Goldman Sachs, and Sikka (2008) exposes how accountants are led to believe that they are the ‘new masters of the universe’. However, Kornberger et al.’s (2011) ethnographic study of Big Four managers described accountants as being no longer disciplined professionals, but entrepreneurially-minded agents. This observation could even be extended to accounting bodies producing more than just accountants but business-savvy people.

Dealing with clients seems to be a core element of tacit knowledge. Indeed, the literature would argue that commercialism has become more important than the technical side of the tax practice itself. This aspect of tax practice is extensively documented in the accounting profession literature (Anderson-Gough et al., 2000, 2001; Gendron, 2002; Gendron and Spira, 2010; Kornberger et al., 2011; Malsch and Gendron, 2013). For instance, Robson et al. (2007) highlight that, nowadays, being a professional, whether in a Big Four or Magic Circle firm, implies being client-centric. Carter and Spence (2014, p. 950) add to this argument by stating that:

It is perhaps an overstatement to argue that a ‘good’ auditor is one who caves in to client demands while a ‘bad’ auditor is one who holds firm in the face of client demands [...] yet it is clear that good client management is central to a director’s or partner’s career.

Having reviewed explicit and tacit knowledge, the next sub-section examines how knowledge is circulated, stored and implemented in the context of tax.

4.3.5 Knowledge and the tax profession

Although a number of studies has explored the battle for knowledge between TPs and tax officials (Gracia and Oats, 2012; Long and Basoglu, 2016; Morrell and Tuck, 2014; Mulligan, 2008; Mulligan and Oats, 2016; O’Donnell et al., 2005; Toumi, 2008; Tuck, 2007), fewer have researched how tax knowledge is shared, stored, and created within this community of experts called the tax profession. It is indeed only by considering Hasseldine et al.’s (2011, 2012) research that I was able to engage with studies that have considered knowledge and its exchange within the tax profession.

Although previous studies have to some extent established the impact of knowledge within the tax profession, their focus is exclusively on how TPs influence legislation. Some scholars explore the battle for knowledge between TPs and tax officials in the context of tax planning and compliance (Mulligan, 2008; O’Donnell et al., 2005; Toumi, 2008; Tuck, 2007). For example, Toumi (2008) discusses whether programmes should be established to enhance taxpayers’ knowledge in order to generate greater compliance. She argues that with improved tax knowledge, taxpayers would adopt better attitudes, integrate the relevance of social norms and fairness and, most importantly, voluntarily comply with the law. Although crucial to an understanding of knowledge in compliance and planning, these empirical studies do not explore how knowledge circulates within the tax environment. In this space, only Oats and Tuck (2008) and Hasseldine et al. (2011, 2012) appear to draw on the knowledge

management literature to explain how knowledge and practices of tax law are stored/applied and created.¹⁵

Oats and Tuck (2008, p. 47) consider exchanges of knowledge between HMRC and large corporate taxpayers, and argue that HMRC might benefit from knowledge acquired from commercial firms.

In recruiting the Revenue accountants, emphasis is placed on their technical knowledge of accounting standards and their application. By restricting the recruitment in this way, the Revenue may not be drawing from a wide enough pool of potential applicants, given that a number of interviewees recognised the value of input from accountants beyond just technical expertise, for example commercial awareness and sector specific knowledge. The Revenue accountants can also assist the Revenue officers to help them differentiate between complex commercial transactions and complex schemes designed to obtain a tax advantage. To achieve this it is important to have mechanisms in place to ensure that accountants are able to keep up to date with developments in the wider profession, both in technical terms and in terms of contemporary practice.

Similarly, they highlight how large corporate firms might benefit from HMRC knowledge.

For large corporate taxpayers, the increased use of accountancy expertise by the Revenue has potential to reduce antagonisms resulting from Revenue officers pursuing in appropriate issues during enquiries as a consequence of not fully understanding the accounting which underpins the tax computations (Oats and Tuck, 2008, p. 48).

Hasseldine et al. (2011, 2012), using knowledge management discuss, how firms enhance and exploit tax knowledge, and more particularly how knowledge is generated through experience.

Specifically, Hasseldine et al. (2012, p. 7) address the following questions:

What determines the categories of tax knowledge within a firm, and what is the role of external tax advisors in this respect? What information sources do firms use to construct tax

¹⁵ The notion of knowledge management has been extensively theorised in many fields, including business, management, organisation studies, economics and communications. As an illustration, Alavi and Leidner (1999, p. 6) conceptualise knowledge management as “a systemic and organizationally specified process for acquiring, organizing, and communicating both tacit and explicit knowledge of employees so that other employees may make use of it to be more effective and productive in their work”. For the purpose of this thesis, knowledge management should be understood as: “strategies and processes designed to identify, capture, structure, value, leverage, and share an organization’s intellectual assets to enhance its performance and competitiveness. It is based on two critical activities: (1) capture and documentation of individual explicit and tacit knowledge, and (2) its dissemination within the organization” (Business Dictionary, 2018).

knowledge? How is tax knowledge retained and its relevance ensured? How do various parties access tax knowledge?

In this context, it would appear that tax knowledge captures explicit and tacit knowledge, so as to disseminate them within any organisation (such as accounting and legal firms). This can take the form of knowledge storage, knowledge application and knowledge creation.

- Knowledge storage

Storing knowledge is one of the most difficult objectives for an organisation to accomplish. Previous studies highlight that although organisations generate and produce new knowledge, they often fail to retain their acquired knowledge (Argote et al., 1990; Darr et al., 1993). Since knowledge is a fluid concept, it may be difficult to turn into an actual object and manipulate it. Heath (2003, p. 187) postulates that “‘knowledge objects’ which can be catalogued, stored, retrieved, packaged and shared as necessary” through a database. Such databases represent the core of organisational memory, retaining collective knowledge (Kühn and Abecker, 1997).

Empirical studies in the knowledge management literature (e.g., Stein and Zwass, 1995) reveal that memory is not exclusive to individuals, and that supra-individual collectives such as organisations also develop memory. In this context, organisational memory can be defined as “the means by which knowledge from the past exerts influence on present organizational activities” (Stein and Zwass, 1995, p. 85–86). This includes the various constituents of knowledge, such as “written documentation, structured information stored in electronic databases, codified human knowledge stored in expert systems, documented organizational procedures and processes and tacit knowledge acquired by individuals and networks of individuals” (Alavi and Leidner, 2001, p. 118). For McQueen (1998), knowledge memory is a crucial component of the organisation, since he theorises knowledge only through access to information. This view supposes that organisations develop infrastructures

that facilitate the retrieval of data, which is why large firms have invested heavily in internal databases and policy teams to retain the knowledge developed and acquired. This resonates with Alavi and Leidner's (2001, p. 118) finding that organisational memory:

helps in storing and reapplying workable solutions in the form of standards and procedures, which in turn avoid the waste of organizational resources in replicating previous work.

In recent years, storage of knowledge has been facilitated by the development of IT systems that play an important role in retaining organisational memory: "drawing on these technologies, most consulting firms have created semantic memories by developing vast repositories of knowledge about customers, projects, competition, and the industries they serve" (Alavi and Leidner, 2001, p. 119). However, smaller firms do not have the resources necessary to invest in these types of resources. They therefore rely almost exclusively on external publications to store acquired knowledge and keep up with new jurisprudence and legislation or expand their knowledge.

- Knowledge application

Alavi and Leidner (1999) maintain that the key to gaining competitive advantage in a market resides not in the knowledge itself, but in its successful application. In the context of the UK tax system, the profession's implementation of tax legislation has been challenged by the tax authority. Indeed, O'Donnell et al. (2005, p. 145) observe that tax intermediaries "rely on their knowledge of tax rules and regulatory requirements to evaluate client information and recommend tax reporting positions".

TPs' role is to advise on a compliance position that reduces their clients' tax liability while remaining within the latitude granted by HMRC (Robertson and Swan, 1998). O'Donnell et al. (2005, p. 145) suggest that if "their clients' situation clearly matches criteria specified by regulatory requirements, the appropriate compliance position is obvious and the decision is relatively simple". However, Klepper and Nagin (1989) establish that the tax law

is often unclear, and as a result often necessitates interpretations by taxpayers and their tax advisors. Difficulties arise especially when a client's situation does not match the facts of the tax legislation. In such circumstances, TPs are often left to fill in the gaps and rely on their previous experience in making recommendations (Shields et al., 1995). TPs provide advice on tax legislation as part of their professional service. This includes interpreting the spirit of the law, and sometimes challenging HMRC on its application. In practice, this implies that tax experts use their 'savoir' to comply with the law when the latter is clear, but exploit ambiguity to the benefit of their clients when the legislation is imprecise or simply non-existent (Sikka, 2012; Sikka and Hampton, 2005; Spilker et al., 1999; Tan, 2011). In this context, tax interpretation represents different applications of tax knowledge unanticipated by HMRC (HMRC, 2017a). Although they are legal, tax interpretations are a point of tension between the tax authorities and the tax profession: "underpayment due to 'legal interpretation' is recorded by HMRC when the taxpayers' interpretation of the law and how it applies to the amount of tax owed, differs to its own, often developing view of the law" (HMRC, 2017b, p. 19). As such, public and taxpayers' interests seem to be aligned with regard to compliance, but opposed when it comes to legal interpretation (Scotchmer, 1989; Tomasic and Pentony, 1991). Frecknall-Hughes et al. (2017, p. 731) highlight that "tax practitioners thus have a duty not only to their clients, but also to the government, their firm, their profession, the wider public and of course, to themselves". Hammer (1996) adds to this argument, suggesting that the first duty of tax advisors is to represent their clients to the best of their ability in face of the tax authorities. Yet, in exercising this function, they act as intermediaries between taxpayers and the government, which unexpectedly creates a number of other responsibilities (Brody and Masselli, 1996; Duncan et al., 1989; Yetmar and Eastman, 2000). Ultimately, this could create a difficult ethical situation when the interest of the taxpayer comes in conflict with the interest of the tax authorities.

- Knowledge creation

Choo (2005, p. 177) explains that in order to remain competitive, organisations seek to explore new ideas and develop new opportunities to apply legislation.

The organization evaluates new knowledge in relation to its beliefs about how the application of the knowledge will enhance its competitive position, its interpretations about how the market will react to new products or services, and its expectations about how the new capability supports its longer-term goals and vision.

Hasseldine et al. (2009) highlight the relevance of this approach in considering accounting firms in their role as knowledge brokers. Accounting and law firms distinguish themselves by creating new knowledge. Indeed, to remain attractive and establish competitive advantage over the market, tax firms have developed departments specifically designed to extend and create new tax knowledge. Hasseldine et al. (2009) highlight the relevance of this approach in considering accounting firms in their role as knowledge brokers. These developments and research teams enhance creativity by anticipating clients' needs and trying to come up with 'outside the box' ideas. Tan (2011) argues, however, that competition between firms (and especially between the Big Four) and client satisfaction have played a crucial role in the weakening of professional ethics (see also Braithwaite, 2005; Rostain and Regan, 2014) as firms are often forced to engage in activities that modify their culture to include at least some economically valuable attributes.

This is probably the reason why Gracia and Oats (2012), when describing the complexity of tax knowledge, conclude that more collaborative relationships between legislators and practitioners might improve the regulatory process. Mulligan and Oats (2016, p. 74) add to this debate by demonstrating how the in-house tax intermediaries who have evolved in large multinational organisations influence the regulatory environment and tax practice by creating further knowledge. They explain for instance that:

At the macro level, both collectively and individually, but not as a single uniform body, some in-house tax directors shape and influence the external environment through input to the legislative process, as part of the game in which they are all engaged. At the intraorganizational, micro, level of engagement, in house tax executives apply their professional knowledge base to local problems with varying degrees of improvisation. They are able to influence the tax culture within their own organisations for example by inculcating new organizational actors. They engage in shaping the framework of their professional work at the meso level, and also participate in interorganizational events, discussions and networks. It is at the meso and macro levels where their institutional work is most visible and most influential, as they emerge from the shadows of their respective organizations to participate in complex net-works of interactions.

Chapter 6 enhances the above literature by focusing exclusively on what Hasseldine et al. (2012) refer to as knowledge brokers. These are all the ‘in-between’ professionals who facilitate relationships between HMRC (knowledge producer) and taxpayers (knowledge buyers) in their roles as tax advisors. Doing so, chapter 6 will seek to enhance the literature on knowledge management in the field of taxation from the point of view of the UK tax profession. To achieve this objective, it adopts Kululunga and Mccaffer’s (2001) knowledge management model, as shown in Figure 6.1 (see chapter 6).

4.4 Professional ethics literature

The literature reviewed in the next sub-sections provides a foundation for more specific discussions of tax profession and ethics in chapter 7.

Section 4.4.1 illustrates how Foucault’s work has been applied to and interpreted in the context of the field of profession ethics. This brief overview of his work and modes of analysis will constitute the basis of the literature review that I then address in section 4.4.2 to 4.4.5. Section 4.4.2 examines the notion of definition. Section 4.4.3 describes the process by which individuals construct their professional ethics. Section 4.4.4 considers the ethical issues in tax practice while section 4.4.5 describes the process of ethical decision making.

4.4.1 Ethics and the Foucauldian literature

In *The History of Sexuality: An Introduction, Vol. 1* (1978), Foucault distinguished ethics from morality. In his work, Foucault described ethics as the consciousness and self-philosophy on which individuals base their decisions, whereas morality refers to a code of conduct, a context that surrounds the decision making process.¹⁶ As such, while ethics is a movement from inner thinking to outside action, morality is an external element that is implemented and forced on individuals, who often assimilate it as their own. Morality as viewed by Foucault should be considered as a practice of ‘good’ rather than a virtue discovered by oneself. Watson (1999, p. 847–848) illustrates this point by stating:

For example, murder, rape, and theft are morally repugnant universally. Hence, punishment for any of these offenses does not impinge upon religious or individual autonomy because there is no ethical freedom to choose whether or not to engage in the conduct that would constitute the offense. Rules of ethics, however, rest on a very different foundation. They may be either absolute, like law, or motivational (determined by the motivation of the actor), or consequential (judged by their foreseeable consequences).

Foucault (1997a, 1997b, 1997c) described ethics as deeply embedded in the construction or formation of self. Ethics only reveals a truth in a particular time and space, and therefore cannot be conceptualised as a universal precept since it is, in essence, a cultural phenomenon. Foucault, writing under the pseudonym ‘Maurice Florence’ (1998, p. 461), found that the subject is therefore compelled to self-reform in order to adapt to his/her environment.

The constitution of the subject as an object for him-self: the formation of procedures by which the subject led to observe himself, analyze himself, interpret himself, recognize himself as a domain of possible knowledge.

¹⁶ This is different from the usage of ‘morality’ to refer to individual behaviour and ‘ethics’ to refer to external codes of conduct or the study of a philosophical subject. The definitions used in the thesis run counter to this usage. This is due to the fact that Foucault is using ethics as the consciousness and self-philosophy on which individuals base their decisions, whereas morality refers to a code of conduct, a context that surrounds the decision making process. As to keep a consistency between the definitions, it was important to use definitions that reflect Foucault’s view.

In this context, morality reflects ‘universal values’ shared by a given community on which ethical principles are founded (Goldman, 1980). Moral principles are not intrinsically absolute, since they result in a man-made judgemental framework in which each group decides what is deemed to be immoral (Warnock, 1998). Morality per se “is not to be discovered but made: we have to decide what moral views to adopt, what moral stands to take” (Mackie, 1977, p. 106). Thus, ethics refers not only to a personal relationship with the self, but also the actions that one chooses to take, either by complying and obeying, or conversely, resisting and disregarding approved standards. Ethics reveal the work that an individual exercises on him-/herself as to incorporate a set of moral standards. For Foucault/Florence, this activity is called ‘subjectivation’ and it aims to self-form and self-constitute one’s own moral being.

This objectivation and this subjectivation are not independent of each other. From their mutual development and their interconnection, what could be called the ‘games of truth’ come into being—that is, not the discovery of true things but the rules according to which what a subject can say about certain things depends on the question of true and false (Florence, 1998, p. 460).

Aligned with the distinction between morals and ethics, Foucault also differentiated between moral and ethical obligations. In his work, Foucault describes moral obligation as being a code of conduct that either promotes or precludes certain behaviours. This is to be distinguished, however, from ethical obligation understood as the process (or at least the necessary condition) that allows morally approved conduct to be produced within (Foucault, 1997a, 1997b, 1997c). Ultimately, this develops into what Foucault (1965, 1977) called ‘normalisation’. He suggested that normalisation is a technique of power that operates in order to homogenise the conduct of individuals across society.

This process of normalisation differentiates between individuals who follow the norms and those who behave in an abnormal manner. It ultimately aims to control and subject

individuals to a fixed norm – and to punish or reject those who deviate from it. However, Foucault’s use of normalisation works both ways: it may work positively to enhance self-regulation (Miller and Rose, 1990) and compliance (Likhovski, 2007), but may also generate negative behaviour. The underlying idea is that individuals feel obliged to adopt a different behaviour – that is, a behaviour expected by society – only because their actions are being scrutinised and made visible to an external reviewer. For instance, Lambert and Pezet (2012, p. 67) argue that “the subject, in an organisational context, carries out systematic practices of self-discipline and becomes a calculative self. [...] These management accountants become calculative selves by building the very measurement of their own performance”. As a result, individuals become self-forming subjects (Skinner, 2013) where the construction of the self is never independent of the context and knowledge in which it evolves.

Thus, ethical conduct is action performed by a subject in order to comply and engage with values that are morally approved of and expected by society. In this regard, Luxon and Landis (2005) demonstrate how the definition of an ethical subject (in the case of doctors and educators) is intrinsically based on practice rather than generic knowledge. Baker (2014, p. 216), examining the ethical discourse of the US public accounting profession from a Foucauldian perspective, reveals that:

The ethical discourse of the profession can be found more in the self-forming practices of the profession rather than its code of ethics. These self-forming practices commence early in the career of a prospective accountant and shape the accountant into an idealized ‘ethical being’ in the Foucaultian sense; not an ethical being who complies with a code of ethics, but rather an ethical being who is self-regulated and self-formed into an ideal member of the profession, one who seeks to serve clients while at the same time giving the appearance of acting with integrity and conforming to professional ideals.

Kelly et al. (2007), studying professional independence of the accounting profession, look at power manifestations and more precisely, discourse and discipline. In this case, they demonstrate that accounting, management and the organisation itself are influenced by this

ethical power. Other studies oriented towards the constitution of the moral subject or the ethical receiver subject can be found in the accounting literature. Those studies, using a Foucauldian framework, look at ethics and/or ethical codes and their relevance in our modern society – see for instance, Cordoba (2008) and Messner (2009). Along the same line of discussion, Neu et al. (2015) demonstrate how individuals have become ethical and disciplined subjects by integrating forms of anti-corruption practices. They state (p. 49) that:

While such arrangements do not necessarily prevent corrupt practices, they do encourage certain actions and reactions among organizational actors, suggesting that organizational actors are at one and the same time free and autonomous, yet subject to and constructed by anti-corruption practices. These practices are thus both disciplinary and productive, affecting individuals in specific ways, while also benefitting the organizations for whom they work.

This, according to Hoskin (2015), leads individuals to construct themselves through a disciplinary and ethical lens. Looking at the accounting, financial and legal domains, Hoskin establishes how the manipulations of expertise and disciplinary discourses have surpassed in some respect the traditional creation of the law. This will be the basis of work for this thesis, as I am interested to understand how tax professionals render tax services through a close consideration of their knowledge/power, and the effect it has on the self-ethic and professional self.

Each of these research studies contributes to extending the use of Foucault's theory in the study of the self as an ethical subject by demonstrating how individuals present themselves as ethical being through self-regulating and self-forming into an ideal member of the profession (in this case accounting). While each of these studies has been constituted to address different questions, they enhance the literature on Foucault by analysing how the discourses and codes of ethics are tools by which professionals communicate an ideal of ethical being.

This section conceptualised ethics in order to determine its role in the construction of professionals who are called on to make ethical decisions. Sections 4.4.2 to 4.4.5 will now review the literature on ethics.

4.4.2 Ethics: context and definition

Bartels et al. (2015) describe ‘moral’ (from the Latin ‘mores’) as the conduct universally accepted to which a community or an individual adheres, trusting that those standards are in some sense compulsory. Ethics, however, derives from the ancient Greek ‘ethos’ and designates, as originally used by Aristotle, a man’s character or customs. When looking at the origins of the words ‘mores’, and ‘ethos’ they are actually neutral when observing behaviours, and instead simply refer to practices that are seen as ‘customary’ and ‘accepted’. However, through their uses in Christian and Western philosophical writing these, essentially neutral, terms have progressed to a point where they are now commonly seen to signify behaviours being considered ‘right’ and ‘wrong’. This theme of the word ‘moral’ being closely linked to a behaviour being considered ‘right’ is the basis that will be used throughout this thesis.

At a basic level of understanding, ethics is described by the Oxford English Dictionary as “moral principles that govern a person’s behaviour or the conducting of an activity” while morality is described as “principles concerning the distinction between right and wrong or good and bad behaviour; a particular system of values and principles of conduct” (Oxford English Dictionary, 2010). As such, ‘morality’ refers to individual behaviour, and ‘ethics’ refers to external codes of conduct or the study of a philosophical subject. The definitions used in the thesis run counter to this usage. This is due to the fact that Foucault is using ethics as the self-reflection and self-philosophy on which individuals base their decisions, whereas morality refers to a code of conduct, a context that surrounds the

decision making process (see section 4.4.1). To keep consistency between the definitions, it was important to use definitions that reflect Foucault's view.

Personal ethics is a difficult notion to define since it refers to a set of intangible experiences and beliefs: "ethics is complicated because our morality is an odd mixture of received tradition and personal opinion" (Robinson and Tajfel, 1996, p. 5). Ethics is not a fixed frame since it is a social construct. As such, personal ethics vary greatly from one person to another. There is no precise agreement on a definition of ethics, as various doctrines have their own understanding of ethics. However, it seems that, at its core, minimum ethics represent "the ability to corral the reckless self-interest of extreme individualism [...] forcing the individual to take into account something beyond themselves, something of the general welfare of society" (Strenski, 2006, p. 360).

Ethics is an elusive concept to define, as it is the result of diverse factors such as the environment, society, era, religion and individuals. For the purposes of this thesis and chapter 7, ethics is understood as "the set of values that guides the behaviour of an individual" (Blondel, 1999, p. 17).¹⁷ This usually extends to an assumption that individuals associate actions with ideas of what is right or wrong. In this space, ethics must be differentiated from morality, which can be conceptualised as "a set of principles commonly accepted in a population, which serves as a reference for judging and framing behaviours" (Blondel, 1999, p. 17). Ricoeur (1996) sees in ethics the integration of what individuals deem to be good or bad, while morality is marked by norms, obligations and prohibitions characterised by both a requirement for universality and a constraining effect.

Although, the Oxford English Dictionary speaks of good and bad behaviour, however, as suggested by Descombes (2002), even this classification is open to extensive interrogation:

¹⁷ This definition has been selected as it links with the theoretical framework used in this thesis.

what should be considered as being right or wrong; how should we make sense of the difference; and more importantly, who should set standards for these precepts? Since the application of ethical values is not set in stone and that what is considered ‘right’ or ‘wrong’ varies from society, organisation and even individual, ethical dilemmas might occur in this search of the ‘acceptable behaviour’. According to the Oxford English Dictionary, a dilemma is a double proposition where a person or a group of persons is faced with “a situation in which a difficult choice has to be made between two or more alternatives, especially ones that are equally undesirable” (Oxford English Dictionary, 2010). The concept of a dilemma, adapted from the Greek word ‘lēmna’, codifies the idea of an individual presented with disjunctive choices on which to make a decision, both of which might result in an undesired situation.¹⁸ Ethical dilemmas often arise from conflicting circumstances where a choice made results in a specific outcome. Such scenarios might suppose that either decision is equally good and bad or that one is morally ‘sounder’ in some way than another. In the Platonic tradition, the key feature of an ethical dilemma lies in the fact that the individual can accomplish only one action. Under such circumstances, decision makers may be condemned to fail in their moral duty. The outcome may result in a wrongdoing, or a failure to comply with a moral obligation.

An ethical dilemma is a situation in which the moral precepts or similar mandatory ethical obligations are in conflict, so that any possible solution to the dilemma is morally intolerable. Seen from another perspective, an ethical dilemma is a situation where the moral principles that guide behavior do not allow the obvious determination of what is correct or incorrect before two possible courses of action (Ruíz-Cano et al., 2015, p. 90).

Having discussed definitions of ethics and ethical dilemmas, the next sub-section reviews how these are integrated into the construction of professional ethics.

¹⁸ According to the Oxford English Dictionary (2010) the word dilemma has its origin in the Latin ‘dilemma’ itself borrowed from the Greek ‘dilēmna’, where ‘di’ stands for ‘twice’ and ‘lēmna’ means ‘premise’.

4.4.3 Construction of professional ethics

From a professional perspective, ethics may be defined as “the branch of moral science which treats of the duties which a member of the legal profession owes to the public, to the court, to his professional brethren, and to his client” (Black’s Law Dictionary, 1990). In simple terms professional ethics signifies “acting with integrity and honesty according to widely recognised moral principles” (The Law Society, 2021). The Law Society (2021) stipulates that ethics is necessary to guide professionals to “respond in the right way to any moral dilemmas” that arise in practice. The literature reveals considerable interest in the concept of professional conduct and its relevance to postmodern society. A large body of research examining the construction of professional ethics has rapidly developed (e.g., Abbott, 1983; Beauchamp, 2003; Beauchamp and Bowie, 2004; Brecher, 2014; Jackson, 2011; Koehn, 1994; Rhode, 1985). This well-established literature concentrates mainly on understanding the rules guiding professionals in their practices. For Brecher (2014, p. 241), they offer a “welcome means of safeguarding the public by assuring adherence to basic standards of practice through self-regulation, and in particular ethical self-regulation”. Durkheim (1923) highlighted the importance and necessity of such norms by demonstrating how society as a whole is concerned with a profession’s behaviour, which may be a source of either stability or uncertainty. Hall (1982, p. 60) for his part asserts that:

in developing various aspects of business and professional ethics the primary concern of theorists has been to discover principles (values, rights, etc.) which will direct or guide the activities of people in a given profession or occupation – i.e., the internal side of morality. Durkheim, however, directs our attention to the external – the extent to which stability based upon moral norms contributes to the order of society in general. Business and professional ethics are as essential to society itself as they are important for their own fields of concern. The absence of business and professional ethics puts pressure on the other realms of morality – the individual, the family, religion, the state to compensate by attempting to provide stability.

The construction of ethics within a professional environment takes many forms. It presupposes professionalism, integrity, independence, self-regulation and licensing, which are discussed in the next sub-sections.

Professionalism

Professionalism can be described as “those specializations, which embody values held by the public at large, the state, or some powerful elite are given the privileged status of monopoly, or control over their own work. This monopolistic control is the essential characteristic of ideal-typical professionalism from which all else flows” (Freidson, 2001, p. 32). Evetts (2013, p. 780) offers a different definition of this concept.

Professionalism in occupations and professions implies the importance of trust in economic relations in modern societies with an advanced division of labour [...]. In other words, lay people *must* place their trust in professional workers (electricians and plumbers as well as lawyers and doctors) and some professionals must acquire confidential knowledge. Professionalism, requires professionals to be worthy of that trust, to put clients first, to maintain confidentiality and not use their knowledge for fraudulent purposes. In return for professionalism in client relations, some professionals are rewarded with authority, privileged rewards and high status [...].

Building on research on cultural capital and trust (see also Kay and Hagan, 2003), Hanlon (1998, p. 43) believes that the “levels of trust placed in social service professionalism and its adherents by powerful actors such as the state and capital”. In contrast, Preston et al. (1995) and Beaverstock et al. (2010) link the concept of professionalism with a certain level of credibility and legitimisation of the profession. On a similar note, Evetts (2006) examines the importance of trust and professionalism in the professional project. In so doing, she argues that certain occupations, such as law, have built the foundation of their identity on the concepts of trust and altruism, while the accounting profession has founded its image on public best interest (Lee, 1995; Saks, 1995). It appears that trust in a *True Professional Ideal* (Kimball, 1992) has long been perceived as a form of cultural capital, especially in the legal

profession (Kay and Hagan, 2003; Powell, 1994). Yet the definition itself has become more complex to capture. Indeed, according to Terrell and Wildman (1992, p. 404), “professionalism has become confused and disjointed because it has been diagnosed too hastily”. Consequently, even when examining particular cases, it seems difficult to provide a strict definition of what might be seen as appropriate professional behaviour (Schwartz, 1978), and it is thus even harder to apply this concept consistently (Francis, 2005).

In fact, one recent theme in this literature acknowledges the evolution of the idea of professionalism (Bower, 1996; Kronman, 1995; Moorhead et al., 2003; Parker, 1987; Solomon, 1992; Wasserstrom, 1975). One form of concern that has been raised by some scholars is the changing nature of this concept (Croft, 1992; Evetts, 2003; Noordegraaf, 2007, 2013), as they question what it now means to be a professional (Abel, 2003; Faulconbridge and Muzio, 2008; Maiman et al., 1999; Neuner, 1999; Ramirez, 2010; Regan, 1999). Professionalism is viewed as having been somehow challenged over time, to the point that Abel (1989) explains that, for most legal practitioners, the legal profession is a source of income above all else, and therefore one might wonder whether professionalism is a priority at all.

Code of ethics

The idea of ethics is, in some respects, central to preserving the essence of professions (Abbott, 1983). In fact, some high-end professions such as medicine and law have built their entire ideology on codes of ethics (Boon and Levin, 1999), requiring members to swear oaths to maintain high standards across the practice (MacFarlane, 2002).¹⁹ For instance, in the UK, the modern Hippocratic Oath represents the fundamental standards and values established by the General Medical Council (GMC) that set the duties that every practising doctor shall

¹⁹ See, for instance, the Hippocratic Oath where doctors had to solemnly promise to do no harm or avoid evil, not to assist suicide and to maintain confidentiality about their patients' health.

uphold. Indeed, a key role of professional bodies is to create codes of conduct – sets of rules and precepts that one must follow as a professional (Greenwood et al., 2002). However, it is observed that ethical standards, as presented in codes of conduct, are perceived as being too idealistic (Carey, 1966), and that they fail to reflect the daily practices of lawyers and accountants (Parker and Sampford, 1995; Rhode, 2000). Codes of conduct have the potential to influence behaviour positively (Schwartz, 2001; Weaver and Trevino, 1999). However, unless they are followed up by visible processes and sanctions, the observed effect on ethical behaviour is almost non-existent (Deshpande, 2009; Rottig et al., 2011). Empirical studies argue that, more often than not, codes of conduct are simply artefacts that have no bearing on solving ethical dilemmas (O’Leary and Stewart, 2007; Paolillo and Vitell, 2002). Some scholars go even further, suggesting that the practices of these professionals are not based on ethics at all (Kouchaki, 2013; Pepper, 1986). However, Dodwell (2016) suggests that codes of conduct should be seen as the emergence of soft law, whereby professionals are incentivised to follow a certain pathway in order to comply with a certain moral code, as well as society’s expectations. In this context, soft law should be understood as a tool to: “encourage down, or away from, a particular path. The sanctions are typically adverse publicity, rather than a penalty or finding that arrangements achieve a different effect to that intended” (Oxford English Dictionary, 2010).

Integrity

Indeed, one recent theme in this literature has questioned the ‘virtuous’ behaviour of some professions such as lawyers and accountants. One form of concern that has been raised by some scholars is that globalisation, the market-place (Francis, 2005), the fragmentation of the profession (Suddaby, 2000) and clientelism (Anderson-Gough et al., 2000 and Gendron et al., 2006) have arguably caused the evolution of professionalism and ethical conduct in favour of capitalism and self-interest. Naturally, it has been observed that the highest institutions of

these professions are concerned with conserving, or more precisely regaining, the moral integrity expected of their members (ABA Commission on Professionalism, 1986). Seeking to disengage from this deterioration, there have been calls for a re-conquest of professionalism (ABA Commission on Professionalism, 1986; Atkinson, 1995), urging the restoration of public confidence (Becker, 1996) through the implementation of more ethical conduct in practice in order to recapture the legal and accounting professions' former identity. As a result, the training of these professionals is focusing more closely on integrity and professional values (Farrel and Clevenger, 1994; Henderson et al., 2010). Evetts (2006) has demonstrated that closely linked to the concept of professionalism, there exists a correlation between the ethical discourse on which professionals construct their identity, and a perception that the general public should trust them almost blindly (see also Nicolson and Webb, 1999). This ultimately reveals a close link between ethics and identity, which is considered further in chapters 7 and 8.

Licensing

According to Larson (1977), professionalism can be achieved through licensing, which makes entry more difficult. This ultimately diminishes competition by protecting the boundaries of the profession (Larson, 1977). Briston (1979) and Walker (1991) both justify the application of protective practices, recognising the crucial function and utility exercised by accountants in society. Law and Sukkoo (2005) acknowledge this function, but consider that licensing was originally instituted to protect the consumer. Indeed, they suggest that the level of specialisation and expertise required to understand the quality of the service provided itself makes it almost impossible for consumers to assess their advisors. This point is elaborated on in chapter 6. Kleiner (2000) refutes this idea, arguing that licensing certainly impacts on practitioners' revenues, but does not necessarily guarantee the provision of a professional service to clients. Similarly, Weeden (2002) establishes that licensing and social

closures are important factors that help structure occupational earnings, but questions whether they improve the professionalism of these professions. Zhou (1993) goes even further to question the core utility of licensing in society. In essence, licensing restricts unsuitable candidates' entry to a profession in order to define the boundaries of the domain. This represents a great source of power that diminishes the competition (Dezalay and Sugarman, 1995). Yet such licensing is often described as an unnecessary monopoly that supports the professions' power and control over the market (Berlant, 1975; Parry and Parry, 1976). It is important to note that to this date, the tax profession has no licensing and therefore anyone can become a tax professional. This will be further reviewed in chapters 6 and 7.

Independence

Autonomy is concerned with the extent to which the professional body can set its own rules and standards. It is these rules and standards which illustrate the ethos of a profession and define its character. [...] It is the professionals collectively who have to monitor the profession in terms of procedures and practice and also in terms of entry requirements and licences to engage in specific activities (Kennerley, 1993, p. 43).

The autonomy from the state granted to professions can be explained by the part they play in protecting the public interest and maintaining social order (Abbott, 2005). This is stressed by Carr-Saunders and Wilson (1933) and Dingwall (2004), who believe that through their autonomy, professions help the state to maintain social order in troubled times. This is why Johnson (1982, p. 186) critiques the idea of an opposition between an interventionist state and professional autonomy, criticising the “inadequacy of this dualism when assuming that there is a simple, inverse relationship between the two – the more intervention the less autonomy”. Krause (1999) and Abel (1989, 2003) highlight the relationship between the market, the state and the legal profession. For instance, Abel (1989, p. 285) claims that:

Professions persuade the state to protect them from market forces by arguing that commercialism is inconsistent with their noble calling. At the same time, professions invoke

market imperatives to resist state control, insisting that they must preserve their 'independence' in order to serve their clients loyally.

Sikka and Willmott (1995) maintain that the accounting profession's autonomy is justified by its perceived objective independence in auditing and accounting for corporate affairs, which ultimately assists the state in regulating the market (Freidson, 1970; Rueschemeyer, 1986). However, although autonomy is recognised in theory by professionals, it appears impossible to apply it fully in practice. Scott (2008) suggests that, although unachievable in small boutique firms, autonomy is nevertheless still achievable in big organisations. Leicht and Fennell (2001, 2008) refute this suggestion, considering that the profession no longer has any autonomy. Gordon (1988, p. 19) adds that autonomy may often be an illusion, as work and professional standard setting may force lawyers to adhere to clients' expectations and pressure.

Autonomy, like an attorney's freedom to choose clients, can transform into the freedom to allow a single powerful client or faction to dominate an attorney's entire working life. Lawyers whose practices are regulated from the outside – [...] IRS's TEFRA regulations of tax shelter opinions, for example – are less autonomous in some ways but more so in others, for they can convince their clients that their advice is not an exercise in prissy moralizing, but necessary to save the lawyer's license to practice.²⁰

Ultimately, Gordon (1988, p. 9) even questions the desirability of such autonomy when considering the independence of lawyers: "lawyers have often and eagerly traded potential autonomy for income and the benefits of association with the powerful". This point is considered further in chapter 7.

Self-regulation

Parsons (1939) argues that professions are defined by a specialist body of knowledge, a form of formal examination, and a certain independence from the state. This latter should be

²⁰ TEFRA (Tax Equity and Fiscal Responsibility Act of 1982).

understood as a right granted by a higher entity (today a state) to administer and evaluate those exams, and decide who is qualified to be admitted into the profession. As an example, the CIOT's Charter in the UK is the expression of that right. Since professions are granted a certain autonomy, they have obtained a right to self-regulate their own arena, at least to some extent. This is also alleged to be part of constructing a PI. However, because professions are recognised as providing a service to defend the public interest, they are also liable for their professional actions. This is the case for the UK tax profession, where the OECD (2008) observes that considerable autonomy is granted to tax advisors. In some countries, tax advisors are entirely self-registered and self-regulated, generally within a framework provided by professional bodies. This framework can be very strict, as some tax intermediary businesses are tightly regulated and operate under professional and ethical codes. The UK is an example of a country that, to some extent, relies on self-regulation by professional bodies (OECD, 2008). This autonomy seems important in allowing experts who best understand their domain to create rules adapted and tailored to the services they provide. For example, Cooper and Robson (2006) suggest that accountants have played an important role in the production of technical rules that have structured the practice of accountability and calculation. They highlight the significant contribution made by members of the professions and representative bodies in the framing of accounting practice. Various authors (e.g., Abel, 1981; Loft, 1990; Richardson, 1989; Willmott et al., 1993) reveal the ambivalence of professional associations, such as the Institute of Chartered Accountants in England and Wales (ICAEW), the American Bar Association (ABA), The Law Society and the Chartered Institute of Taxation (CIOT), which seek to preserve their autonomy from any public intervention while still trying internally to establish professional rules and social order. Because certain professions serve the public interest, they are granted the independence to regulate internally the framework and quality of services provided by their members

(Clementi, 2004; The Law Society, 2004). Although criticised by Smith (1776) and more recently by Dingwall and Fenn (1987) as being an unnecessary monopoly positions, this self-regulation is perceived as playing a gatekeeper role, both for the profession and for society (Coffee, 2006). Yet in the UK, membership of a tax professional body is not compulsory, raising questions about the professionalism and ethical conduct of tax advisors.

A second part of the literature focuses on the professional liability to which professionals are exposed in exercising their duties. This is considered further in chapter 7. As partly explained in chapter 1, money laundering (Mitchell et al., 1998), corruption (Gabbioneta et al., 2014), tax avoidance and tax evasion (Bailey and Leaby, 1990; Donnelly and Miller, 1994) have caused academic questioning of the ethical practices of lawyers and accountants (Rhode, 2000), and have led the government to introduce new external controls over the establishment of legal liability.²¹ For example, Bedard (2001, p. 399) questions the reliability of the disciplinary process, suggesting that the “self-regulatory system of the accounting profession was criticized in recent years for its lack of effectiveness, of public representation, and the conflict between the profession's desire to protect its industry”. Rather than always regarding them negatively, the literature sees a positive effect of the government’s efforts to ‘improve’ the profession, as statutory regulations and liability may contribute greatly to the construction of legal and accounting practices. Some authors (Gabbioneta et al., 2013; Kershaw and Moorhead, 2013; Malsch and Gendron, 2013) consider the impact of the market and regulation on the exercise and structure of the profession. They highlight the complex relationship between the autonomy of these professions and the safeguards imposed by the state through legislation:

²¹ See the *Finance Act 2004 (Disclosure of Tax Avoidance Schemes, or DOTAS)* and the *Finance Act 2013 (UK General Anti-Abuse Rule (GAAR))*, which provide guidance, liability and boundaries to tax intermediaries.

The approach of criminal law and equity to accessory liability reveals a legal theory of consequential responsibility which has a broader application, as does its conceptual tool-kit. A theory which justifies the imposition of responsibility on a person who assists wrongdoing by another where the assister is aware of the possible wrongdoing which they are assisting and where there are public interest concerns associated with the activity in question. A theory that, [...] when applied to the context of transactional legal practice makes a strong case that lawyers' consequential responsibility should not simply be left to the criminal and civil law but should be directly addressed by professional regulation (McKerchar et al., 2008, p. 399).

McKerchar et al. (2008) suggest that state regulation may actually assist tax agents in offering a better service by providing clear guidance on what sort of responsibility they expose themselves to if they assist 'wrongdoings'.

Having considered a range of factors relating to the construction of professional ethics, the next section examines ethical issues relating to the practice of tax advice.

4.4.4 Ethical issues in tax practice

Ethical issues in relation to tax practice have received considerable attention in the literature. For instance, there exist important qualitative studies on tax unravelling elements that trigger taxpayers' compliance (Grasmick and Green, 1980; Hite and McGill, 1992). For instance, Torgler (2001) examines the concept of tax morale and why taxpayers do actually comply. Other studies can be found on the topic, such as Alm and Torgler, 2004, 2006; Frey, 1997; Kirchler, 2007; Torgler et al., 2007).

According to Frecknall-Hughes and Kirchler (2015, p. 294), tax research has only recently considered the "the likely impact of the tax practitioner on compliance". This study reveals that "practitioner-prepared returns are more non-compliant than those prepared by the individual taxpayer". From their empirical research, they prove in substance that "practitioners can encourage clients to be compliant or deter them from being so" by advising them on more aggressive avoidance tax strategies (Frecknall-Hughes and Kirchler, 2015, p.

294). Especially when the government has been engaged in various mechanisms to increase revenues and reduce spending, and even for some time previously, TPs' conduct has been called into question by various commentators (Attwell and Sawyer, 2001; Bailey and Leauby, 1990; Becker, 1996; Donnelly and Miller, 1994; Hansen et al., 1992; Marshall et al., 1998; Myers, 1990; Tooley, 1992). The literature in this area takes differing views on the public interest on the one hand, and the tax profession's culture on the other. For instance, Klepper and Nagin (1989), Klepper et al. (1991) and Frecknall-Hughes and Kirchler (2015, p. 294) recognise that "tax preparers' dual roles arise as a result of the complexity of tax law: they act as 'enforcers' in unambiguous contexts and as 'exploiters' in ambiguous ones". These authors suggest that the tax profession has made a major contribution to the avoidance climate (see also Hite et al., 2003; House of Commons Committee of Public Accounts, 2013; Sikka, 2012).

Other non-academic observers (Brooks, 2013; Shaxson, 2011) openly attack the morality of the accounting profession, with headlines such as *Lawyers and Accountants once put integrity first* (Everson, 2011). In this context, Shafer and Simmons (2011) state that the tax profession's participation in non-compliance activities is fundamentally a question of ethics and professionalism. Ethical issues facing professionals seem to occur globally. Marshall et al. (2010, p. 197) found in Australia that the tax administration and tax profession:

rated highly those issues which relate primarily to the conduct of professional responsibilities. Ensuring 'reasonable enquiries' were taken, maintaining an appropriate level of 'technical competence' and 'continuing to act' for a client, when not appropriate, were of most concern to practitioners.

Increasing awareness by the public and tax authorities led the OECD to review the role of tax agents and their implication in tax avoidance (2008), and encouraged the CIOT (2015) to produce a guide on *Professional Conduct in Relation to Taxation*. Yet so far, I would argue

that the literature has paid insufficient attention to the conflictual ethical position of tax advisors. Indeed, practitioners both act in defence of the public interest and represent their clients (Brody and Masselli, 1996; Fogarty and Jones, 2014; Johnson, 1993; Sakurai and Braithwaite, 2001), while evolving within a commercial and competitive environment (Bobek and Radtke, 2007; Bobek et al., 2017; Cruz et al., 2000; Doyle et al., 2013; Frecknall-Hughes et al., 2017; Marshall et al., 1998; Reckers et al., 1991) within a private firm (Sweeney et al., 2010). For instance, Zhang et al. (2009) observed that professionals working in firms perceived as ethical are less concerned about blowing the whistle on wrongdoings. Fear of experiencing possible retaliation by the firm appears to be an influential factor in individuals' decisions to adopt unethical conduct or not report misconduct.

These studies examine how TPs make sense of their own professional ethics in light of the conflictual environment in which they might find themselves (sometimes diverging interests between their client(s) and the public interest may appear). Another explanation put forward in the literature relates to the fact that, despite the developing ethical dimension of accounting and law (Helliard and Bebbington, 2004; Yuthas and Dillard, 1999), in day-to-day practice, practitioners often lack opportunities to develop their professional ethics, since they hardly have time to consider this topic (Doyle et al., 2009a). As a result, professionals seem to rely heavily on firm culture or norms of practices (Collste, 2012; Postema, 1980).

For their part, Addison and Mueller (2015, p. 1263) argue that ethical issues in tax practice are due to the political and economic context. They suggest indeed that tax avoidance is at the mercy of rhetorical and political manipulation.

Two opposing rhetorical framings of 'tax avoidance' are [...] developing incrementally and directly opposing each other. Metaphors are used by the Public Accounts Committee to exemplify the dark side of professions, including potentially transgressing the boundaries of what constitutes 'tax avoidance'. This is counteracted by the Big Four portraying an

alternative market-oriented/neo-liberal view of professions pursuing a societal good through dedication to promoting market competition.

The definition of what is deemed ‘acceptable’ and ‘unacceptable’ tax avoidance can vary greatly, and while avoidance may be legal, there are many moral concerns raised. Governments in particular take the stance that tax avoidance should be targeted and it is often explained in a context that would suggest it is the same as tax evasion (HMRC, 2015). An illustrative example of such thinking was seen in 1997 during Gordon Brown’s official budget speech when he stated that: “a Government committed to the proper funding of public services will not tolerate the avoidance of taxation, and we will be relentless in our war against tax avoidance” (Seely, 2020, p. 4). Such wording would lead the general public to believe that tax avoidance itself is illegal. However, different ideologies exist within the tax profession and when discussing the subject, Wyman (1997, p. 3) explains that:

Customs and Excise appears now to use the term ‘legitimate avoidance’ to distinguish between what they clearly believe to be ‘illegitimate’ avoidance and ‘the legitimate desire to organise affairs in a tax efficient way’. These deliberate attempts to confer an aura of illegality to a legitimate activity are dangerous, and should not be allowed to continue unchallenged.

Therefore, the subtleties between ‘acceptable’ and ‘unacceptable’ tax avoidance seem to be closely linked to the interests of the party themselves, with governments aiming to reduce tax avoidance vastly so as to increase the funds available for public services, while private companies aim to reduce overall tax liability. Freedman (2003) suggests a way of differentiating acceptable from unacceptable tax avoidance. She states that, although both structures take advantage of the tax legislation to minimise the tax burden, unacceptable tax avoidance goes beyond Parliament’s intention in offering a tax relief, and is therefore perceived as an immoral breach of the tax rules. The difficulty lies in the fact that terms used in this context, such as Parliament’s intention and ‘the spirit of the law’, are sufficiently vague to bring confusion and require interpretation (Freedman, 2003, 2004, 2007).

While a distinction can be drawn between avoidance of tax, which has always been regarded as legitimate, and evasion, which has not (Frecknall-Hughes, 2017), there is a spectrum of what is considered to be ethical when it comes to tax planning. Definitions are provided and generally agreed upon, notably those suggested by James (2012, p. 98) where “tax evasion is [seen as] the illegal manipulation of one’s affairs with the intention of escaping tax. It is traditionally contrasted with legal avoidance of taxation”. In this context, Merks (2006) provides an illustrative example of a tax spectrum where tax evasion is described as a bad and illegal, whereas tax planning is seen as legal and harmless.

This section has reviewed the literature on ethical issues relating to tax advice. The next section reviews the ethical decision making literature.

4.4.5 Ethical decision making

This section examines the empirical decision making (DM) literature, which connects a thread employed throughout chapter 7 of this thesis. Key studies are evaluated and gaps in the literature identified, thereby clearly highlighting the contribution of this thesis.

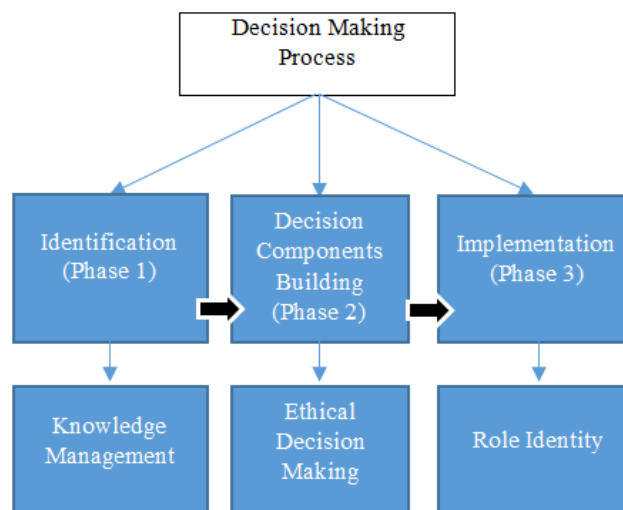


Figure 4.2: Simon’s decision making model
(Source: Simon, 1979)

This literature review is structured around Herbert Simon's three-stage model of intelligence, design and choice (see Figure 4.2). In the context of the tax profession, stage one involves identification of the problem, which requires pre-acquired knowledge. Stage two considers elements building up to a decision, which may include solving ethical dilemmas. Finally, stage three considers the implementation of the decision and how it may influence professional role identity. The next sub-sections introduce the background to DM, present key definitions and ethical considerations relating to DM in the context of tax practice.

4.4.5.1 Background

Hansson (2005) describes DM as a truly interdisciplinary subject. The volume of literature surrounding how individuals make decisions has grown as a result of the participation of several academic disciplines. Owing to its versatile nature, DM has been deployed in various fields, including auditing, marketing and nursing. A particularly large body of research is found in the area of management and business ethics (see Craft, 2013; O'Fallon and Butterfield, 2005).

The literature on DM is particularly rich because it has benefited from combining a wide variety of methods and knowledge from many academic backgrounds to inform similar issues (Hansson, 2005). For instance, philosophers, psychologists, economists and political researchers have traditionally studied DM. Although their common aim is to understand the DM process, the methods used vary. Philosophers usually seek to analyse the rationale for decisions, while psychologists tend to study the DM behaviour of individuals, and political scientists analyse the collective DM process in order to anticipate political behaviour.

4.4.5.2 Definitions

Some key terms require definitions in order to comprehend the DM process. These include ‘decision makers’, ‘decisions’ and ‘decision making’.

Decision makers

In the business literature, the term ‘decision maker’ often refers to an individual. The DM process is usually individual-centric since it is structured around decision makers detecting problems to solve. Even in large organisations where computer programming systems are used, it is ultimately individuals who make decisions to apply certain sets of rules. According to Omarli (2017), this is the only constant throughout the DM literature. However, Kocher and Sutter (2004) challenge this view, highlighting that in real-life situations, decisions are rarely made by a single decision maker. In reality, (small) groups of individuals, such as committees or boards of directors, who share the same economic stakes often reach consensus on decisions. These groups are seen as having the potential to maximise the rationality of decisions. This observation reflects Jun’s finding (2008) that personal decisions are rarely delegated to third parties, whereas organisational decisions are more often than not made by multiple individuals: “personal decisions are made by an individual within an organisation in order for him/her to achieve a personal purpose, whereas organisational decisions are made in order to achieve an organisational purpose” (p. 305). Personal and organisational decisions are not necessarily mutually exclusive. A personal decision may contribute to influencing, altering or developing an organisational purpose. However, Jun (2008) argues that in reality this is rarely the case; therefore, the current study focuses more particularly on personal DM.

A second strand of the literature has recently emerged which considers the impact of characteristics of decision makers on the cognitive process. In this research, gender-related DM has been most widely studied (Andreoni and Vesterlund, 2001; Gneezy et al., 2003).

This literature review focuses on single DM agents with neutral characteristics who occupy business roles. A decision maker, as an individual, has been described as “a limited-capacity information processor with multiple goals for the decision process” (Payne et al., 1993, p. xi). Thus, the role of DM agents is to acquire information in order to address a problem. Payne et al. (1993, p. 20) observe that decision makers exercise a “great deal of flexibility in making decisions”, highlighting that human behaviour is highly influenced by various factors. As such, the same individual may adopt different strategies according to the complexity of the task, the nature of the decision and the availability of information.

Decisions

In this context, the decision is the second core element involved in the DM phenomenon. Decisions have been defined in various ways. In the Oxford English Dictionary, a decision is described as “a conclusion or resolution reached after consideration; the action or process of deciding or resolving a question” (Oxford English Dictionary, 2010). For Omarli (2017, p. 8), a decision:

involves a choice between alternatives; if there are no alternatives, then no decisions are required or can be made. A decision is purposive, to attain some objective; that is, there is a reason for making it.

Similarly, for Haidar (2016, p. 25):

a decision is a position, opinion, or judgement reached after consideration. It is a cognitive phenomenon and the outcome of a complex process of deliberation, which includes an assessment of potential consequences and uncertainties. Decision involves thinking, judgment, and deliberate action to assign irrevocable allocation of resources with the purpose of achieving a desired objective.

Decisions refer to the ability to use a set of information and weigh alternatives in order to find a solution to a problem and reach a conclusion. Such actions are accomplished daily by individuals, from their choice of clothes to career decisions. Individuals use their freedom in

situations where they have more than one option from which to choose. Individuals' decisions are therefore conditional on the aims they wish to achieve in the face of multiple possibilities. Pearce and Robinson (1994) argue that decisions are an inevitable element of life, since avoiding making a decision is a decision in itself. The literature distinguishes between various types of decision characteristics, including the familiarity, magnitude of impact or complexity of the decision; the presence of threats, crises or opportunities; risky decisions; and different types of decision. Fahey (1981) notes the importance of defining the types of decision that individuals are facing since this affects the nature of the DM process. Other empirical research supports this view, showing how characteristics of the decision impact on the planning process, and ultimately encourage certain patterns in the subsequent DM process (Cray et al., 1991; Sinha, 1990). The use of analysis and information collection tools also depends on the type of decision that needs to be reached (Langley, 1990). Rajagopalan et al. (1993) suggest that factors such as risk, urgency and complexity influence the core design of the DM process.

Decision Making (DM)

DM is described by the Oxford English Dictionary as “the action or process of making decisions, especially important ones” (Oxford English Dictionary, 2010). Omarli (2017, p. 84), however, describes it as:

a course of action consciously chosen from available alternatives for the purpose of achieving the desired result. The process of decision making is one of the most complex mechanisms of human thinking, as various factors and courses of action intervene in it, with different results. It is about making choices by identifying a decision, gathering information and assessing alternative solutions.

DM is a complex process through which individuals consider a number of factors in order to reach a pre-defined goal within a specific setting (time and place). This process generally takes the form of various stages, which Orasanu and Connolly (1993, p. 3) describe as “a

series of conscious cognitive operations". In so doing, individuals engage in a routine of thinking in which they scrutinise a set of causes and effects. This will be further explained in chapter 7.

For Halpern (1997), the DM process implies the accomplishment of distinctive steps. The first is to identify the issue to be solved which according to Klein (1997) starts from observation of a practical problem rather than a theoretical one. Once a problem has been diagnosed, the second step is to evaluate the situation and generate possible courses of action. This phase may incorporate applying certain decision criteria. The final step is to select the most suitable course of action to achieve and implement the expected goal effectively (Halpern, 1997).

In practice, implementing ethics may be difficult, especially in a tax environment in which a number of factors may affect decisions. In this situation, Bommer et al. (1987) propose a model which identifies six factors that affect decision makers positively or negatively (Figure 7.2). These include the social environment (religious, humanistic, cultural and social values), the government/legal environment (legislation, administrative agencies, judicial systems), the professional environment (code of conduct, professional meetings, licensing), the work environment (corporate goals, stated policy, corporate culture) and the personal environment (peer group, family, and their influences). The impact of individual attributes on the DM process is also considered. Although this model has been frequently used in business ethics, and especially in management and marketing, it has not previously been used in the tax environment. This is the gap that the chapter 7 of this thesis will try to fill.

Having explained the DM process, the next sub-section explains its application to the context of tax.

4.4.5.3 Ethical decision making in tax

Although previous studies address how the Big Four accountancy firms have been implicated in tax avoidance, there has been little discussion about the ethical dilemmas facing the tax profession in general and individual firms/TPs in particular. Only limited research has been carried out (e.g., Bobek et al., 2010; Marshall et al., 1998; Stainer et al., 1997) on the effects of the environment on tax intermediaries' ethics (see also Bobek and Radtke, 2007; Reckers et al., 1991). However, although these empirical studies explore ethical dilemmas in the context of TPs, they do not measure factors affecting the cognitive process of ethical DM. To date, few studies have interpreted the ethical frameworks used by practitioners to formulate their decisions (Frecknall-Hughes et al., 2017). Using Hunt and Vasquez-Parraga's (1993) experimental design, Burns and Kiecker's (1995) examination of 418 certified public accountants reveals that theological and deontological predispositions orient practitioners in making ethical judgements, whereas Cruz et al. (2000) uncover the role played by contractualism and moral equity in forming ethical judgements in the tax context. Using Rest's defining issues test (DIT), Doyle et al. (2013, p. 325) explore the influences that inform and impact on TPs while addressing ethical dilemmas. In this process, they question:

- (i) the effect of a tax context on issues raised (finding that practitioners generally reason at lower levels than in social scenarios); (ii) whether the profession attracts people who reason at certain levels (finding that it does not); and (iii) whether practitioners are affected by training/socialization in their professional context (finding that that they are).

To date, only Frecknall-Hughes et al. (2017) have examined the conceptual ethical frameworks of TPs. Applying Rest's DIT to tax advisors and a "control group of non-specialists" (p. 735), they assess the responses provided when these individuals were faced with a range of ethical conflicts. Their study asked about the conceptual framework within which TPs make decisions, and how this affects the priority given to the various ethical

considerations that might influence their DM processes, and whether the tax context itself has any impact on the type of ethical reasoning used, compared with more general social situations (Frecknall-Hughes et al., 2017). This chapter enhances this research by expanding on what is meant by the tax context and articulating it in terms of factors and environments.

Chapter 7 of this thesis endeavours to enhance Frecknall-Hughes et al.'s (2017) research by devising an integrated framework to explore factors affecting the decision maker in the context of ethical dilemmas relating to tax. Despite previous research in the accounting DM literature, little is as yet known about the DM process and factors affecting TPs in solving dilemmas. This thesis aims to address this gap by describing how TPs actually make decisions. The intention is to show how TPs adapt their approaches to answer 'decision problems' in the tasks they face.

Having reviewed the ethics literature, the next section reviews the literature on professional identity.

4.5 Professional identity (PI) literature

The literature reviewed in the next sub-sections provides a foundation for a more specific discussion of the tax profession and professional identity in chapter 8.

Section 4.5.1 illustrates how Foucault's work has been applied to and interpreted in the context of professional identity (PI). This brief overview of his work and modes of analysis will constitute the basis of the literatures review that I then address in sections 4.5.2 to 4.5.6.

The following section first conceptualises identity (4.5.2), and then determines its role in the professional (4.5.3), social (4.5.4) and narrative identity literatures (4.5.5), before addressing the construction and reconstruction of PI in the tax environment (4.5.6).

4.5.1 Professional identity and the Foucauldian literature

A focus on professional identity in the Foucauldian literature is a focus on the techniques of the self as a presentation of identity, legitimacy, discourse, and ultimately the appearance of being professional. Discourse, and especially the dominant discourse, enhances how reality is formed and understood in the public sphere. Discourses are therefore concerned with the creation of a reality that shapes ideas, people and things in order to produce institutionalised 'truth'. These 'truth games' are methods through which human beings endeavour to understand themselves. For example, by regulating their thoughts and conduct, they have an effect on how they conceive who they are and how others perceive them. In other words, it is by assimilating discourses that individuals normalise who they are and construct their professional self (such as their professional identity). Foucault/Florence (1998) explains that the subject contains its own meaning by creating its own identity through the conscience and the knowledge of the self. Roberts (2005, p. 636) explores how identity is the result of a power process within the subject in order to integrate and produce an imaginary self.

I have sought to augment or supplement the discursive focus of existing accounts of processes of subjection, by exploring the neglected dimension of the 'imaginary' and its 'self'-defining power within disciplinary processes. The key point of the preceding analysis is the suggestion that we are vulnerable to processes of subjection because they offer confirmation of our existence.

Hodgson (2002, p. 806), argues that "Foucault's work on power/knowledge, discipline and the self reflects the importance of *professional conduct* in the construction and maintenance of a professional identity". Pitsoe and Letseka (2013, p. 25), using a Foucauldian framework, affirm that individuals create who they are by integrating with the discourse of the group with which they identify.

Discursive practices are practices that a subject embodies, lives, and experiences as s/he interacts with discourses. For example, the discourse of femininity inadvertently informs, influences, and shapes women's identity to the point where women act out and behave according to what has been labelled as acceptable and true about females.

This is why, drawing on Foucault's conceptualisation of self, Carrasco et al. (2017, p. 543) argue that construction and/or re-construction of stigma and group identity can only be exercised through social cohesion.

Among study participants, identity reconstruction happened through the production, repetition and performance of new de-stigmatised narratives that emerged and were solidified through collective interaction.

For Foucault, knowledge and discourse shape and order the world, and identity/ies reveal themselves through a discursive procedure of repetition and sameness (Hodgson, 2002). Grey (1998, p. 569) using a qualitative case study of large accounting firms comments that:

Material from an extensive qualitative case study of a 'Big Six' firm is used to argue that being a professional in the firm is understood – by professionals themselves – as being more to do with ways of conducting oneself than with possession of technical knowledge or being certified to practise.

In this process, Grey argues that professional identity is a learnt process by which individuals assimilate how to behave, how to dress and how to function to give the appearance of being a professional. However, in presenting his argument Grey indirectly exposes the fact that each work environment will have different expectations of what it means to be a professional and therefore individuals will need to adapt and evolve to maintain their status of professional. Following this line of discussion, Nikidehaghani and Hui (2017, p. 348) applying a Foucauldian perspective study:

how accounting practices associated with the disability support program were instrumental in identifying desired targets for austerity and the refusal of care. The findings review how accountability assisted the government to construct identities that facilitate the ability of the

State to subject the disabled to continuous monitoring and observation. Further, the article reveals how techniques of accounting functioned as a 'technology of the self' and facilitated the process of transforming individuals into subjugated citizens.

This observation resonates with Hewett's (2004, p. 7) explanation that:

These disciplines had in common a collection of tenets and techniques that Foucault refers to as *normalization*: these collected techniques constitute [principal] ways that disciplines control their own objects. Persons began to be judged according to such norms, and norms became useful within relationships of power because they in turn constructed fields of knowledge, in which 'knowing things' was based on 'knowing norms'. Norms enable certain types of self reflection and alteration. By being assigned a certain identity, not only are we controlled and managed more efficiently through the acquisition of new knowledge and facts about ourselves, but the dissemination of this knowledge causes the development of norms (often statistical norms), which also causes us to control ourselves, and to manage ourselves, in new ways.

More recently in the field of accounting, Tuck (2010, p. 584), using a Foucauldian methodology, notes that practices emerging from public sector administration has prompted tax officials to adapt and shape themselves as knowledge experts, resulting in altering their professional identity. She explains indeed that:

tax official becomes a T-shaped tax official who has emerged from a bureaucratic inward facing technical civil servant to an outward facing new style tax official who still has to engage with the detailed technical tax knowledge as a knowledge expert (the vertical part of the T) but also has to relate to the new way of operating in a strategic and marketing organisation (the horizontal part of the T).

Tuck's work resonates with Hoskin and Macve's study (1986) where they found that tax professionals by subscribing to a role of 'truth' tellers are forced to become knowledgeable and discipline themselves so as to be perceived as experts.

Each of these research studies contributes to the use of Foucault theory in the study of professional identity by demonstrating how techniques of the self have been applied in the field of accounting to allow TPs to give the appearance of being ethical professionals. While

each of these studies has been constituted to address different questions, they enhance the literature on Foucault by analysing how discourses and knowledge serve as tools to transform the self as a professional subject.

The literature reviewed in the next sub-sections provides a foundation for a more specific discussion of PI. Sections 4.5.2 to 4.5.6 will now review the literature on professional identity.

4.5.2 Professional identity: context and definition

The nature of professions and their boundaries has changed. In the past, a professional would be recognised by criteria such as training, qualifications, and shared values or norms (Wilensky, 1964). Demonstrating this expert knowledge would grant autonomy on the job and monopoly over the field, following a vocation to defend the public interest (Carr-Saunders and Wilson, 1933; Carter, 2007). As a result, professionals were distinguishable by the public, and a certain prestige was associated with these occupations. Nowadays, the term ‘professional’ is used more loosely. It often refers to individuals occupying functions entailing a particular set of skills or education (Benveniste, 1987; Ibarra, 1999). This change in definition has indubitably had an impact on how professionals define themselves and how professional identities are constructed (Caza and Creary, 2016). In seeking to investigate and analyse the identities associated with TPs, it is useful first to clarify the notions of identity and PI. Woodward (1997, pp. 1–2) conceptualises identity as:

an idea of who we are and how we relate to others and to the world in which we live. Identity marks the ways in which we are the same as others who share that position, and the ways in which we are different from those who do not.

For Tuck (2010, p. 586), “identity refers to sense of self and what kind of individual the person is.”. Gecas (1982, p. 4) describes identity as “the various meanings that are attached to

a person by themselves and others”, while Alvesson and Willmott (2002) formulate identity as a way of producing the right individual. For the purposes of this thesis, identity should be understood as the meanings associated with an individual that express the self: “identity focuses on the meanings comprising the self as an object, gives structure and content to self-concept, and anchors the self to a social system” (Gecas, 1982, p. 4).²² In this context, identity is a socially-constructed notion that combines both social and personal aspects.²³

In a work environment, Abbott (1988) regards knowledge as being a key characteristic of the professional process that constitutes the basis for any PI. Dent and Whitehead (2002) highlight, however, the constant difficulty faced by professionals in establishing their identity in a world of intense organisational change and developing knowledge. Alvesson (2001, p. 882) nuances this idea by illustrating that “the ambiguities involved in the notion of knowledge, what knowledge workers do and the difficulties in evaluating their work, mean that a potential (experienced) shakiness, arbitrariness and vulnerability characterize many knowledge-intensive workers and organizations. Difficulties in ‘grounding’ lead easily to problems securing organizational identity as well as worker identities”. That recent empirical research refutes therefore Schein’s (1978) hypothesis by exploring the idea that PI is not a fixed concept but an ever-developing state. This point is developed in chapter 8.

As Alvesson (2001, p. 863) indicates, “difficulties in demonstrating competence and performance – as well as the significance of producing the right impression – make work identity difficult to secure”. To illustrate this argument, it is interesting to note that the role and identity of the accounting profession has been subject to increasing criticism and challenge (Burchell et al., 1980; MacIntosh and Shearer, 2000), and The Law Society has

²² A number of other terms will also be used across this thesis, such as ‘self’ and ‘image’. Although very similar, these notions should not be confused with the concept of identity. “Image describes how group members believe outsiders define them” (Taylor and Scapens, 2016, p. 1077).

²³ For the purposes of this thesis, personal identity is conceptualised as a person’s unique sense of self (Postmes and Jetten, 2006).

been regularly questioned on the values that it argues are defended by its profession (The Law Society, 2002). Similarly, Albert and Whetten (1985) illustrate the difficulty of determining a single identity in big organisations with multiple conflicting identities. Ramirez (2009) shows the challenging role of professional bodies in constructing PI, since large and small firms do not share the same characteristics. Gendron and Suddaby (2004) go even further in questioning whether any PI still remains. They observe that accountants expressed significant difficulties in describing the basic features of what it meant to be a professional accountant (Gendron and Suddaby, 2004). Certainly, while *Attributes of the professions* (Greenwood, 1957) and their recognisable callings were quite easy to differentiate in past centuries (Edwards and Walker, 2007; Holmes, 1963), the on-going adaptation of identity facing new professionals blurs the uniqueness of their image (Ibarra, 1999), and ultimately the importance of delimiting their PI. Indeed, Professions that offered secure jobs for life, and even PIs that once attracted great prestige, seem to have faded away (Barber, 1963; Hodgson, 2002; Larkin, 1983; Lee, 1990; Muzio, 2004; Susskind, 2015).

Whereas a significant part of the literature on professions focuses on the structure, organisation and possible conflicting positions of a given profession, the literature on identity seeks to understand connections between people within the profession and how they interact with each other. Therefore, relevant literature on PI appears not only in the discipline of sociology, but also in psychology, counselling and social work (Auxier et al., 2003; Fall et al., 2000; Gale and Austin, 2003; Hansen, 2003). PI serves many purposes, not only at the macro level (i.e., organisation, firm), but also at the micro level for individual workers as it addresses the definition of an entity (Albert and Whetten, 1985). It ultimately makes sense of the work accomplished by the profession (Heck, 1990; Pistole, 2001; Pistole and Roberts, 2002). Identity also helps to establish distinctiveness and self-conceptualisation, as well as

creating a sense of pride in the profession that workers have chosen (Myers et al., 2002).

According to Niemi (1997, p. 408):

It is essential for the development of professional identity that the student develops a realistic view of the challenges and opportunities of the profession. Identity formation consists of exploring the available alternatives and committing to some choices and goals.

Thus, PI is a tool that helps in assessing and constructing one's self while differentiating from those who do not belong to this professional group. In this context, Ashcraft et al. (2012) interpret identity as a branding activity shaped through a dialectic of inclusivity-exclusivity in order to distinguish a professional's characteristics (Woodward, 1997) and appropriateness (MacDonald and Richardson, 2004). In the case of the tax profession, the formation of a professional's identity could be the result of organisational and individual narratives, as previously explored by Gendron and Spira (2010). In their study, it is suggested that TPs construct their identity through the prism of their employers (work environment) and through the narrative they experience during while accomplishing their role. The next sub-sections review role identity theory, social identity theory, narrative identity theory and PI in the context of tax.

4.5.3 Role identity theory

Role identity is described by the Oxford English Dictionary as “the role (or character) people play when holding specific social positions in groups. It is relational, since people interact with each other via their own role identities” (Oxford English Dictionary, 2010).

Role identity examines the process by which individuals actively alter their self-identity in order to conform with and adapt to their professional environment (Ashford and Taylor, 1990; Nicholson, 1984). In this respect, PI construction is often described as “an interpretive activity [which involves] reproducing and transforming self-identity” (Alvesson

and Willmott, 2002, p. 627). As such, the literature asserts that workers voluntarily and actively engage in cognitive tactics that aim to integrate PI (Caza and Creary, 2016; Picard et al., 2014; Pratt, 2012). This ultimately affects the meaning of the self, since professionals are assumed to reconstruct through time their identity depending on the environment (Bronfenbrenner, 2005; Brouard et al. 2017; Pratt et al., 2006).

Consistent with the concept of professional conduct, role identity is created as a result a number of constraints and boundaries. Indeed “professional identity is not a stable entity; it is an on-going process of interpretation and customisation which is shaped by contextual workplace factors” (Webb, 2015, p. 3). However, the limit to this theory lies in the fact that individuals do not always occupy well-defined roles. In modern days, more and more roles feature responsibilities that could be considered as outside the scope of their classic remit. This ultimately causes the description of role to be more blurred and the construction of professional identities to be more complex. Specific aspects of the tax PI will be further developed in chapter 8 of this thesis.

Siebert and Siebert (2007) develop the idea that the construction of personal PI may be sourced from social or role identity. Indeed, they suggest that how individuals make sense of who they are will necessary impact on their behaviour, their affect, and ultimately their work attitude. Cooper and Robson (2006) and Suddaby et al. (2007) argue that certain firms, such as the Big Four, have a particularly strong impact on their PI. Through the construction of PI, professionals can define themselves by the roles they occupy in supporting society, the purpose of their own selves and, more importantly, their meaning in life (Serpe and Stryker, 1987). This resonates with Goffman’s (1956) conceptualisation of life as dramaturgy and that every day is a never-ending play in which individuals are the actors of their own lives. Goffman (1956) differentiates between what he calls ‘front stage’ and ‘back stage’. On the front stage, “people perform and deliver the lines that the role is expected to play” (p. 99). In

this context, everyday life constitutes a front stage as it underlines the idea of an audience. Sometimes, and especially in private areas, individuals retreat to the back stage, where they become their real selves. They no longer need to put on an act, and therefore revert to their inner essence. Yet according to Goffman, such occasions are rare. By extension, professionals adopt the role that is aligned to the position they occupy within their social group. However, some academics warn that given the modern working environment, individuals are required not only to adopt interdisciplinary knowledge (Guthrie and Parker, 2016; Noordegraaf, 2015) but also to undertake responsibilities that could be considered as hybrid or at least outside the scope of their classic remit (Currie et al., 2016). This means that the PI is nowadays less and less clear and many individuals do not feel strongly about their PI. The literature on role identity seems particularly relevant to the case of TPs where PIs appear blurry and uncertain.

4.5.4 Social identity theory

Social identity theorists, such as Ashforth and Mael (1989), and Hogg (2006) develop the idea that individual self-conception can only be constructed through the cognitive process of group membership. Ashforth et al. (2008, p. 327) argue that as “social identities are shared by members and distinguish between groups, conceptualizing oneself as a group member provides a sense of belonging”. Individuals conceive of themselves as belonging to various social groups. Sanders et al. (2011, p. 118) describe indeed how the formation of identity is based on one’s experience of membership of a social group:

Learning to ‘become’ a particular type of professional is less to do with formal schooling and much more a social process (an apprenticeship) where new members, over time, take on the language, behaviours, and knowledge systems of the community of practice through processes of observation and role-modelling.

Indeed, PI can also be determined through belonging to a particular work community that shares significant similarities (Van Maanen and Barley, 1984). Factors such as the distinctiveness of a group's values, beliefs and practices, prestige, salience and competition with other (in/out) groups, and details relating to group formation (for example, similarity, proximity, common history) are all relevant to the process of conceptualising oneself as a member of the group (Ashforth and Mael, 1989; Callero, 2007). Individual's benefit from classifying themselves and others, as it helps them to make sense of their social environment (Ashforth and Mael, 1989; Vough, 2012). In this way, social identity informs how social interactions occur in the work environment, and changes how professionals see themselves through constant exchanges with their peers.²⁴ Caplow (1954) was amongst the first to consider training as a form of socialisation. Following in their path, other academics (e.g., Anderson et al., 1996; Anderson-Gough et al., 1998; Coffey, 1993) interpret socialisation and its impact on identity (see chapter 8). Anderson-Gough et al. (2001, p. 99) consider that the "organizational socialization of trainees into particular forms of *time-consciousness* and temporal visioning is a fundamental aspect of securing and developing professional identity".

In this context, Jenkins (2008, p. 112) highlights that "group membership in itself, *regardless of its context or meaning*, is sufficient to encourage members to, for example, discriminate against out-group members. Group members also exaggerate the similarities within the in-group, and the differences between the in-group and out-group" and often artificially magnifies their similarity with other group members. For example, Pratt et al. (2006) observe that medical students socialise among themselves and that, in the early stages of their fraternisation, stratifications appear between members of this group. Goode (1957) initiated this theory by demonstrating the creation of a *Community within the community*, explaining that the fragmentation and internal hierarchy of the profession begins during the

²⁴ See also Bronfenbrenner's work (2005) exploring how individuals, and more precisely children, develop through social layers over time.

initial socialisation period. Through the socialisation process and observation of peers, individuals such as trainees (Anderson-Gough et al., 1998, 2001; Coffey, 1994; Grey, 1998), managers (Dirsmith and Covaleski, 1985; Kornberger et al., 2011), and partners (Covaleski et al., 1998; Dirsmith and Covaleski, 1985) assimilate a vision of what it means to be a professional. Reproducing the behaviour and image of one's peers ultimately shapes individual PI. On a similar note, Van Maanen and Barley (1984) theorise that identity arising from work experience is a source of control within this community. Bloor and Dawson (1994) conceptualise the significant influence of sub-cultures on dominant organisational cultures,

Building on this theory, several well-established academics (e.g., Brewer and Hewstone, 2004; Capozza and Brown, 2000; Hogg et al., 2003; Robinson and Tajfel, 1996) have expanded its application. In this regard, Brown (2000) reviews past achievements, current problems and future challenges that have shaped the social identity philosophy. According to Brown (2000), social theories are constructed around a sense of belonging and attachment. Extended to the professional environment, identity theories intrinsically constitute a foundation for understanding professional status and self-esteem. This application has developed into a new strand of the literature. For example, Weeden (2002) and Minow (2012) argue that the status of professions is inherently linked to why law school graduates become leaders (Heineman, 2006; Minow, 2012) and why some occupations are remunerated more highly than others (Weeden, 2002). These studies indicate that public perceptions of the prestige of certain professions justify the social and legal closure around the occupation. This aims to eliminate the over-supply of labour, which ultimately preserves the elite status.

Laumann and Heinz (2006) conclude that prestige may develop through specialisation. They argue, for instance, that social standing is closely connected to the types of client that professionals serve and the level of intellectual cognition required by the specialisation. In

contrast, Abbott (1981) strongly contests the idea that it is clients who attribute status to a profession. According to Abbott (1981), only the employer can do that. Meanwhile, Hoyle (2001) suggests that status can also be used to reintegrate esteem into a profession, and particularly into the teaching profession. He considers that, in order to recruit and retain teachers, better esteem for the teaching profession is necessary. Fuller et al. (2013) contribute to this stream of the literature by demonstrating a close correlation between PI and status, showing that highlighting the particular skills and expertise of professionals has a positive influence in clearly defining their profession, becoming a source of prestige, confidence and satisfaction.

Inversely, social professional identity can have pervasive results. For instance, stigmata and stereotypes are considered by the literature as significantly affecting the construction of PI (Goffman, 1963). According to Slay and Smith (2011, p. 86), “a stigmatized cultural identity is one in which members of a group are assumed to be tainted or inferior, resulting in a blemished identity that prevents easy inclusion in society”. For instance, Slay and Smith (2011) highlight that stigmatised professional identities result in lower prestige. A marginalised PI is often reduced to simplistic characteristics that prejudice the practice of an expertise (Miley and Read, 2012; Prasad et al., 2007; Tajfel, 1969, 1978). This finding confirms Jeacle’s (2008) observation that the terms dull and boring are often used by the public to describe accountants. Dellaportas et al. (2015) discuss the importance of stereotypes in PI construction. They highlight how membership of a social group affects how individuals conceive their own identity.

Unsurprisingly, the status of certain occupations constitutes an important part of the profession’s identity. Indeed, status usually reflects the power held by the profession and illustrates the public’s perception of it. Ultimately, this mirrors the respect and social standing accorded to professionals (Frecknall-Hughes and McKerchar, 2013a, 2013b, 2013c). For

example, law is perceived as a gentleman's profession (Burrage, 1996), whereas accountants were initially regarded as 'men of small standing' (Edwards and Walker, 2010; Walker, 2002).

Having reviewed the social identity literature, the next section moves on to review narrative identity. In this study 'narrative identity literature' is being considered according to the theoretical framework used in this thesis. Discourse is a medium by which 'truth' is circulated and articulated, which ultimately has an impact on professional identity construction. In the context of 'tax scandals' and economic hardship, a number of narratives has been associated with the tax profession (see section 2.2). This study will therefore endeavour to study what has been the impact of those narratives upon professional identity construction.

4.5.5 Narrative identity theory

According to the Oxford English Dictionary 'narrative' derives from the Latin word 'narrativus' meaning the action of telling a story. This adjective itself, derived from the Latin verb 'narrarer', refers to "a representation of a particular situation or process in such a way as to reflect or conform to an overarching set of aims or values" (Oxford English Dictionary, 2010). Simply put, narrative signifies the action of recounting a story that may or may not be based on fact. This notion has been used by Foucault to illustrate how discourse, and especially dominant discourse, enhances how reality is formed and understood in the public sphere. This aspect may be an important part of the construction of the tax profession, and more specifically its identity. In this space, narrative can therefore be conceptualised as a form of communication, as well as an apparatus aiming to construct social reality (Czarniawska, 2004). Narratives play an important part in how people thread their way through complexity in their day to day work. They help reduce confusion and ambiguity and

make contradictions manageable, allowing us to make sense of experience as well as being a means of sharing that experience (O’Leary and Chia, 2000).

Faced with growing difficulty in determining PI, social science scholars are increasingly using an identity narrative framework as a way of interpreting professionals’ identity (Czarniawska, 2004; Neary, 2011, 2014).

Narrative identity is a person’s internalized and evolving life story, integrating the reconstructed past and imagined future to provide life with some degree of unity and purpose. In recent studies on narrative identity, researchers have paid a great deal of attention to (a) psychological adaptation and (b) development. Research into the relation between life stories and adaptation shows that narrators who find redemptive meanings in suffering and adversity, and who construct life stories that feature themes of personal agency and exploration, tend to enjoy higher levels of mental health, well-being, and maturity. Researchers have tracked the development of narrative identity from its origins in conversations between parents and their young children to the articulation of sophisticated meaning-making strategies in the personal stories told in adolescence and the emerging adulthood years (McAdams and McLean, 2013, p. 233).

Ibarra (1999), one of the most prolific academics in this field of research, highlights the flexibility of this framework and the authenticity of the data collected. Using autobiographical narratives, Haynes (2006) argues for the central importance of the role played by narrative in the construction of identity in the accounting profession, while Gendron and Spira (2010), who interviewed 25 former members of Arthur Andersen, illustrate the applicability of a narrative perspective to a collapsing company. They argue that narratives play an important part in how people thread their way through complexity in their day to day work. They help reduce confusion and ambiguity and make contradictions manageable, allowing us to make sense of experience as well as being a means of sharing that experience. In the case of the tax profession, studies suggest that identity may be the result of external, organisational and individual narratives, as explored by Briggs et al. (2007), Gendron and Spira (2010) and Morrell and Tuck (2014).

Similarly, both Hanlon (1999) and Ibarra and Barbulescu (2010) suggest that in work role transitions, narratives become the core of the profession's characteristics. The latter suggest that "successful completion of the transition is facilitated by enduring and coherent repertoire changes to express the new role identity" (Ibarra and Barbulescu, 2010, p. 135).

4.5.6 Professional identity in tax environment

Few papers have addressed the actual identity of TPs. Limited research provides informative elements about TPs' identity through reference to the historical construction of the tax profession or the hybrid position of TPs (Anderson, 1957; Currie et al., 2015; Frecknall-Hughes and Kirchler, 2015; Thuronyi and Vanistendael, 1996; Tuck, 2010). However, these studies do not directly appear to address the identity construction of TPs themselves. For instance, Frecknall-Hughes and McKerchar (2013a) highlight the development of the tax profession in the UK and Australia through the emergence of professional bodies, while Thuronyi and Vanistendael (1996), who examined the organisation of the tax profession in Europe, the US, Canada and Australia, suggest that the tax profession is a fragmented industry that lacks monopoly and common regulation. Frecknall-Hughes and Kirchler (2015) examine the identity of tax advisors through factual observation, for example, who they are, rather than through elaborations of self-identification by the tax advisors themselves. Similar comments are made in the OECD's (2008, p. 14) report on tax intermediaries, in which tax advisors are defined as "law, accounting and other professional firms that provide sophisticated tax advice and other services". More recently, Hasseldine et al. (2012) draw on previous tax research to understand how knowledge is shared in in the UK tax advisory industry. In doing so, they investigate knowledge brokers, who represent all the 'in-between' professionals who facilitate relationships between HMRC (knowledge producer) and taxpayers (knowledge buyers) in their tax advisory role. However, in their research, while

they look at actors in the UK tax system, they do not elaborate on the identity of those comprising this system. Carnegie and Napier (2010) go even further and discuss how the image of accountants has deteriorated over the last few decades. Accountants are now often depicted as business entrepreneurs who would do anything for commercial purposes. However, this study does not take into consideration the legal profession involved in the tax industry. Only Tuck (2010) directly addresses the question of the identity of tax officials in the public-sector transition from the Inland Revenue to HMRC, using a Foucauldian approach and semi-structured interviews. However, she does not cover the whole range of TPs, such as lawyers.

In essence, it seems that previous studies have partly established the identity of the tax profession and TPs. However, constructions of the identity of all TPs appear to have been subject to very limited scrutiny. Chapter 8 of this thesis seeks partly to fill this gap by observing how TPs make sense of their identity within the tax profession and their social environment.

4.6 Summary

From the above literature review, I would argue that the prism through which professions were conceptualised in the middle of the 20th century is not suited to the contemporary world, especially considering the development of hybrid professionals/roles in modern occupations (Currie et al., 2015; Frecknall-Hughes, 2012; Tuck, 2010). Professions that offered secure jobs for life, and even PIs that once attracted great prestige, seem to have faded away (Barber, 1963; Hodgson, 2002; Larkin, 1983; Lee, 1990; Muzio, 2004; Susskind, 2015).

A succession of theorists, from functionalists (Barber, 1963) to interactionists (Abbott, 1988; Saks, 2012) and those adopting a critical perspective (Johnson, 1972; Larkin, 1983;

Larson, 1977), do not appear to have been sufficiently adaptable to be able to comprehend the evolution of professions, taking as ‘self-evident’ the knowledge aspect of their construction (Hodgson, 2002).

Furthermore, the tax profession seems to be a neglected area of research, since few studies have addressed this area (Currie et al., 2015; Frecknall-Hughes, 2012, 2014b; Frecknall-Hughes and McKerchar, 2013a, 2013b, 2013c; Tuck, 2010). Themes such as TPs’ identity and tax knowledge seem to be under-developed, whereas on the other hand, there is an abundance of literature on ethics and tax avoidance in the tax profession literature. However, analysis of the rhetoric and how narratives are affected by political purposes has only been addressed by Addison and Mueller (2015) with regard to accountants, and only using an ethnographic approach. The current research endeavours to fill this empirical gap by addressing these important problems.

Chapter 5 will address the methodological approach adopted by this study.

CHAPTER 5: METHODOLOGY

5.1 Introduction

Chapter 4 reviewed the relevant empirical studies on expert knowledge, professional ethics and identity, and identified some gaps in the literature. In doing so, it mirrored the Foucauldian concepts seen in chapter 3 of knowledge/power and the exercise of the self. This chapter aims to explain the how, what, when and the who of this research. This section introduces the research questions, the theoretical framework, the conceptual approach, the design and the data analysis.

A conceptual framework is simply the current version of the researcher's map of the territory being investigated ... it forces you to be selective – to decide which variables are most important, which relationships are likely to be most meaningful, and as a consequence, what information should be collected and analysed (Miles et al., 2013, p. 20).

This chapter sets out the process for gathering the data required to address the core questions of this study. It details the procedures adopted in order to explain the empirical path taken, which will facilitate further research by those wishing to reproduce or extend this investigation. It thus informs the structure of this thesis, and describes how the appropriateness of the design, set in a particular theoretical framework, articulates with the data to produce knowledge that has been justified. Inspired by Thomas's (2013) research design, the research protocol of this thesis is defined in three stages. First, it considers the purpose of the research and the kinds of questions to be asked; second, it explains the paradigm of the study; and third, it explains the design of the research instrument and the data analysis.

In the remainder of this chapter, section 5.2 introduces the conceptual framework of the research, section 5.3 outlines the research design protocol, section 5.4 explains the data analysis procedure, section 5.5 addresses the ethical issues considered throughout the research and section 5.6 summarises the research strategy.

5.2 Conceptual framework

This section outlines the overall approach of the study, which has been focused by an over-arching research question and three sub-questions. Section 5.2.1 begins by providing a detailed description of the over-arching research question by enumerating the three sub-questions and the objectives of each (that will then be addressed in chapters 6, 7 and 8 respectively). Section 5.2.2 continues by explicating the philosophical position relating to these questions. Finally, section 5.2.3 then concludes this first section by discussing the appropriateness of the epistemological approach.

5.2.1 Research questions, sub-questions and objectives

Miles et al. (2013, p. 25) recognise the importance of research questions, which constitute “the facets of inquiry that the researcher most wants to explore”. However, Alvesson and Sandberg (2011) suggest that it may be difficult to determine the right formulation and the key contributions: the most common way across paradigmatic camps is to spot various ‘gaps’ in the literature and, based on that, to formulate specific research. Informed by Foucauldian theory and aiming to fill gaps in the existing literature identified in chapter 4, this study addresses a distinctive over-arching question and three sub-research questions associated with a series of objectives (see below). In terms of methodology, the specific research questions will guide the choice of the research design that is best suited to address the study objectives (Given, 2008).

The over-arching research question represents the key contribution of this research, both empirically and theoretically:

In what way do TPs render professional services?

To answer this question, the following three sub-questions are addressed in this study.

1. *What is the role of **knowledge** in shaping the tax profession?*

Objectives:

- To investigate the extent of tax advisors' knowledge (section 6.2)
- To gauge the extent to which knowledge shapes professional projects (section 6.3)
- To challenge whether tax services are a specialist practice (section 6.4)
- To establish the education and training that are required to offer tax services (section 6.5)
- To capture how tax knowledge is shared, stored and applied (sections 6.6 to 6.8)
- To understand the conflicts occurring within this profession (see section 6.9).

2. *How do TPs manage **ethical dilemmas**?*

Objectives:

- To identify and conceptualise 'tax dilemmas' (section 7.2)
- To understand how ethical dilemmas are solved (section 7.3)
- To capture the societal environment in which UK tax advisors evolve (section 7.4)
- To consider the role of reputation in ethical dilemmas (section 7.4)
- To examine the regulations and controls to which tax experts are subject (section 7.5)
- To consider the role of codes of ethics in tax dilemmas (section 7.6)
- To comprehend the impact of competition and clients on tax experts' practice (section 7.7)
- To understand the organisational structure within which tax experts operate (including firm, competitive market) (section 7.8)
- To establish the role of personal ethics in solving ethical dilemmas (section 7.9).

3. *What **identities** are associated with TPs?*

Objectives:

- To identify and conceptualise 'professional identity' in tax practice (section 8.2)
- To understand how professional identity is constructed (section 8.3)
- To gauge the influence of stereotypes and cultural beliefs in framing experts' identity (section 8.4)
- To observe the role of mass media and societal influences in conveying TPs' identity (section 8.5)
- To assess the impact of community in shaping TPs' identity (section 8.6)

- To gain insights into how firm influence TPs' identity (section 8.7)
- To determine the effect of interpersonal relationships (section 8.8)
- To understand the role of personal identity (section 8.9).

5.2.2 Philosophical approach: qualitative research

Now that the research questions have been established it is important to explain in what way I have decided to address them. In the case of the research questions cited above (see section 5.2.1), it was determined, that a qualitative approach as a research method was the most appropriate method of data gathering, and would lead to a more valuable data set. This is due to a number of reasons sourced from (Bernard, 2012):

1. The thesis is focused on gaining a deeper understanding and analysis of how participants themselves understand their behaviours and thinking, as opposed to the testing of a hypothesis that could be resolved and formulated through numbers and statistics.
2. When using quantitative methods, they are focused more on predictions and hypothesis testing where the aim object is the extract a formulation or a solution that could be extended to others, whereas qualitative methods' primary goal is discovery and understanding of interaction, connection and relationships.
3. A qualitative approach allows for a holistic approach in identifying patterns, categories and themes that permit a greater range of analysis and fluidity in theories, whereas quantitative analysis tends to focus more on finding generalisations.
4. Using a qualitative method allows for new ideas and theories to be generated from the data collected and these are often described as 'inductive' or 'bottom-up' analysis. The research seeks to produce analyses that are grounded in the participants' own experiences by understanding the reality of TPs and giving voice to their opinions.

5. Finally, qualitative results give an in-depth understanding of a respondent’s viewpoint, emotion, experience, feeling and sometimes unconscious desires which ties in with the Foucauldian theory as I am looking for deep understanding, not predictable models. None of the above would have been possible through the use of a quantitative method since this method does not easily allow the researcher to examine the subjective aspect of subject emotion and perception.

Considering the above, this research builds on Silverman’s (1993, pp. 1–2) four basic concepts of theory, domain, methodology and method, which are brought together in carrying out qualitative research efficiently. Following those steps, Table 5.1 illustrates the conceptual approach adopted in this study.

Table 5.1: Basic concepts of qualitative research
(Source: Table created based on Silverman’s 1993 work, pp. 1–2)

Concept	Meaning	Relevance	Application to the study
Theory	A set of explanatory concepts	Usefulness for addressing the research question	Foucault
Domain	A space in which data is collected	Usefulness for addressing the research question	The tax profession
Methodology	A general approach to studying research topics	Usefulness for addressing the research question	Qualitative methodology
Method	A specific research technique	Fit with the theory, hypothesis, methodology, and domain	Interviews and secondary data

As stated above, the philosophical approach is qualitative, an approach also frequently referred to as interpretive, naturalistic, holistic or phenomenological (Tomkins and Groves, 1983). This sets the study within an interpretive paradigm in which theorists:

are informed by a concern to understand the world as it is, to understand the fundamental nature of the social world at the level of subjective experience. It seeks explanation within the realm of individual consciousness and subjectivity, within the frame of reference of the participant as opposed to the observer of action [and] to see the social world as an emergent

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social process which is created by the individual's concerned (Burrell and Morgan, 1979, p. 28).

An interpretative rather than positivist approach is adopted because, as Miles and Huberman (1984, p. 15) suggest:

qualitative data are attractive. They are a source of well-grounded, rich descriptions and explanations of processes occurring in local contexts. With qualitative data one can preserve the chronological flow, assess local causality, and derive fruitful explanations [...] they help researchers go beyond initial preconceptions and frameworks.

As already mentioned, making sense of the reality of TPs and giving voice to their opinions is the main interest of this study, which is why a qualitative approach was conducted as considered best suited to this task. Ahrens and Chapman (2006, p. 823) argue that “qualitative methodology tends and seeks to explore aspects of social order that are not objectively real but are instead subjectively created through the interaction of actors”. In this sense, some aspects of TPs' experiences, such as concerns and enthusiasms, would not be captured using positivist tools. Qualitative interpretative approaches testify to, express and make sense of social behaviours. Chua (1986, p. 615) reinforces this claim in arguing that “social reality is emergent, subjectively created, and objectified through human interaction”.

Furthermore, the core questions of this thesis, the field of research and the types of data captured by this study require the employment of particular methods – in this case, a qualitative approach. Although there is no single ‘best approach’ to research, it was important to select instrument(s) that would enable the collection of types of information suited to addressing the research questions within a Foucauldian framework. Davison and Douglas (2015, p. 15) suggest that a fundamental reason for choosing a qualitative approach is that “it produces the type of data which we require to address the research question”. It was consequently crucial to gather appropriate information that could be used to produce an analysis that would fit within the theoretical framework and address the objectives of the

study. In this study, ‘how’ and ‘what’ questions seek to uncover not only data directly linked to people’s beliefs, experiences, interactions and perceptions, but also complex phenomena currently occurring within the tax profession. In other words, the study seeks to produce qualitative results “predominantly concerned with the analysis of talk and text” (Denscombe, 2010, p. 285), whereas quantitative data tend to express numbers (Robson, 2011). Data collected using a qualitative method would be more likely to fit with the research questions and describe subjective aspects of the tax profession.

Another reason for choosing an interpretive approach resulted from close examination of the literature reviewed in chapter 4. On the one hand, tax appears to have been the focus of numerous studies in the fields of economics, accounting and governance, where the main interest has been primarily to quantify the effects of tax on different phenomena (Hanlon and Heitzman, 2010; Maydew, 2001; Shackelford and Shevlin, 2001). Thus, it appears that tax researchers have been largely inclined to adopt quantitative methods owing to different academic subject lenses. On the other hand, studies of the professions have tended to adopt qualitative frameworks owing to the types of questions being asked. Finally, most studies that have used Foucault as a theoretical framework have adopted a qualitative approach (Kendall and Wickham, 1999). The literature review thus helped not only to identify gaps, but also to understand the types of research that would be feasible and how these types of research questions have been successfully addressed in the past. It was thus apparent that ‘how’ and ‘what’ types of question in research on professions and tax have commonly been best addressed through a qualitative rather than quantitative methodology.

Finally, this thesis was also motivated by a call by the *Accounting, Auditing & Accountability Journal* for more interdisciplinary qualitative research. As stated by Guthrie and Parker (2016, p. 2), professions such as accounting are “rapidly changing in an intensely

networked and interdisciplinary world”. This thesis attempts to respond to the call for further innovative research by expanding the existing literature on accounting and professions.

Having established the philosophical approach adopted in this study, the next section presents the appropriateness of a Foucauldian approach.

5.2.3 Appropriateness of an epistemological approach to analysis

Despite the wide variety of epistemological approaches available to analyse the data collected, these could be summarised into three main philosophical currents: functionalist, interactionist and post-functionalist. In this research, a post-functionalist framework has been determined as being the most suitable for this study. The nature of my research is not to find a truth that would be constituted and found in the world. My study rather, is focused not on how ‘things really are’ behind appearances, but more on how tax professional selves emerge from the complex imbrications of selves, economy, and the current crisis experienced in tax law and by tax professionals. Foucauldian post-functionalist theory does not seek to expose a monolithic reality but instead seeks to find out how operations of power modulate and create institutions and persons. Furthermore, owing to the type of industry this research is looking at (here the tax profession) and the type of question this thesis is asking, a post-functionalist approach seems more adequate. Indeed, as explained in chapter 1, the tax profession is a new and emerging profession the boundaries of which are yet to be determined. Observation needs therefore to be done through a particular lens that allows the study of such a ‘blurry’ community. Moreover, the second and third research questions aim to understand how tax professionals make sense of their professional ethics and professional identity. Only a post-functionalist framework creates the basis to examine self-construction of subject through the concepts such as ethics or identity based on the integration of a particular knowledge. This gives the importance of the self that recognises post-functionalist theorists, this framework seems therefore appropriate to use examine the data.

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It seems also important to clarify why the utilisation of Foucault as an epistemological approach seemed most appropriate as opposed to other post-functionalist theorists. Among the post-functionalist theories, a handful of researchers such as Bourdieu, Latour and Foucault were considered for use in for this research. This ‘pre-selection’ was a result of the researcher’s existing knowledge of those theorists, and of the observation that the themes Bourdieu, Latour and Foucault developed in their research had some similarities with the themes emerging from the literature review. In order to determine the most appropriate theory of these three, I conducted a number of pilot interviews (see Appendix A and below section 5.3.2.3).²⁵ This exercise revealed a number of relevant issues associated with the topic of the tax profession. The initial findings revealed how tax professionals are experiencing their industry through the practice of tax knowledge and how that has entwined their sense of identity and professional integrity. The concepts and issues thus uncovered through the research were similar to those found in the Foucauldian literature. Gendron (2002) addresses this question by expressing the importance of finding a theory that is able not only to link with the themes developed by the interviewees, but more importantly to explain these phenomena. This is why a post-functionalist Foucauldian approach was selected.

Finally, and to consolidate this argument, before considering any theory, the literature was reviewed and frameworks used by similar studies examined. The literature review has been in that sense, a great help not only to distinguish a gap but also to understand the types of research that are feasible and how those types of research questions have been successfully addressed in the past. Thus, studies that have used Foucault as a theoretical framework seem mainly to have employed a qualitative approach (Kendall and Wickham, 1999). This choice was further supported by a review of previous studies that have used Foucault as a theoretical

²⁵ Appendix A was a preparatory work for the actual research itself to see if there was enough interest and enough content and data available for me to ‘mine’. In addition, the pilot interviews allowed me to determine the epistemological approach selected for this research. Finally, though the questions might not directly address the research questions of the dissertation, they did, however, address how tax professionals are experiencing their industry and how that has entwined their sense of identity and professional integrity.

framework, in which interviews (Fadyl and Nicholls, 2013), ethnography (Lewis, 2015) and document-based research were the most commonly used techniques. Lastly, as explained in chapter 1, this dissertation mirrors a Foucauldian approach as exemplified by Hoskin (2015) who published his article *What about the box?* in *Critical Perspectives on Accounting*. In his article Hoskin uses a post-functionalist Foucauldian and qualitative approach to review and frame his argument, which is why this dissertation reproduces the same schema by reviewing the data through the lens of a Foucauldian/qualitative approach.

5.3 Research design protocol

This section describes the research design and data collection methods. Section 5.3.1 explains the sampling process and the rationale for inviting particular respondents to participate in the study, and section 5.3.2 introduces the design for the data collection process.

5.3.1 Purposive sampling

Purposive sampling is a non-probability sampling method that “relies on the judgement of the researcher when it comes to selecting the units that are to be studied [...] The main goal of purposive sampling is to focus on particular characteristics of the population that are of interest which will best enable the researcher to answer the research questions” (Dhivyadeepa, 2015, p. 561). This strategic step involves deciding who should be included or excluded. This is often a difficult task, since “qualitative researchers often struggle with the questions of ‘what my case is’ and ‘where my case leaves off’” (Miles et al., 2013, p. 28), as proved to be true in this study. Identifying the limits of the tax profession was quite challenging, as it was difficult to set clear boundaries around where it starts and finishes. Miles et al. (2013) suggest that in such cases, one should first target the ‘heart’ of the matter (here, the tax profession), and then extend to questioning around the edges to answer the research question. The next

sub-sections are structured as follows. Section 5.3.1.1 identifies the domain and conceptualises the sample criteria, section 5.3.1.2 delimits the study by defining exclusions, section 5.3.1.3 narrates the process of gaining access, and section 5.3.1.4 explains the participant recruitment strategy.

5.3.1.1 Domain and sample criteria

According to Atkinson and Abu El Haj (1996, p. 439):

the first step requires the researcher to identify the primary domains which recur in the interviewees' discourse. The challenge here for the researcher is to ensure that the domains that are defined reflect the concerns of the interviewees as indicated in their narratives, rather than merely reflecting the researcher's own pre-defined set of categories.

Identifying and selecting an appropriate domain that would reflect the respondents was more difficult than originally thought. As mentioned in chapter 1, the 'tax profession' is a generic term referring to lawyers, accountants, chartered tax advisors, tax consultants, civil servants and other professionals who brand themselves as tax experts. In the UK, the provision of tax advice as skilled knowledge has developed in different existing professions. As a result, those who comprise the profession are far from homogeneous, as will be further investigated in chapter 6. Indeed, its 'members' appear to be part of pre-existing professional groups such as legal, accounting, HMRC or auditing. Thus, the first challenge was to determine a representative sample of the target population. The second was to select a sample that was not too heterogeneous, so as to avoid the risk of failing to reach saturation. Researchers may be exposed to the temptation of obtaining large samples in order to gather dense data. However, this raises the danger of obtaining results that are too diverse. In such cases, comparison becomes almost impossible. There are also inevitable limitations arising from the means, time and geographical constraints of the doctoral researcher. Selecting an appropriate sample is a complex issue as it affects the analysis and findings of the research. Selecting professionals

advising on tax who could be compared on the same scale proved to be an intellectual exercise: qualitative researchers strive to include participants who meet the study criteria and who represent the richest and most complex source of information (data) relevant to the phenomena being studied (Given, 2008). After supervisory discussions, a decision was made to apply the following set of criteria (as mentioned in chapter 2):

- The sub-population of the field experts who on a daily basis only provide tax advice to clients (excluding *de facto* financial advisors, bankers, etc.).
- Tax intermediaries who represent taxpayers for the purposes of tax compliance, tax planning and tax litigation in face of the UK tax authorities (effectively eliminating HMRC officials acting on behalf of the tax authorities).
- Experts who earn their income uniquely from providing tax advice (which excludes non-professional activities).

These conditions were specified because “the shape of the field depends on its usefulness for answering the research questions” (Ahrens and Chapman, 2006, p. 6). Delimiting the domain of research is crucial to collecting relevant data. Thus, it was necessary to narrow down to these criteria in order to limit the study to professionals who considered themselves only as tax experts, as opposed to corporate lawyers or general accountants. Indeed, research sub-questions 1 and 3 aim to describe tax intermediaries’ knowledge and identity, so it was important that these professionals shared a certain feeling of belonging and possessed a sense of common knowledge.

5.3.1.2 Exclusions

The relevance of participants had to be assessed in light of the research questions. In doing so, certain populations were excluded, as data gathered from them would not help address the objectives of the research. In this case, civil servants currently practising in HMRC were excluded from the population for several reasons. While it was determined that HMRC

officials are not considered to be part of the tax profession, a decision was still made to interview some HMRC members within the framework of the research, with the purpose of discovering whether they consider themselves to be a part of the tax profession. After speaking to multiple HMRC agents (see list in section 5.3.2.6), they were in agreement that they do not belong to the tax advisory service industry, as they do not provide assistance to taxpayers filing their tax returns. However, it transpired that they still consider themselves to be part of a wider tax profession, which in my case study remains outside the scope of this research, since the over-arching research question seeks to understand how TPs render professional services. As a result, the interviews conducted with HMRC officials are still pertinent to the overall research, but not at the heart of it. It is indeed worth noting that the problem of exclusion was directly asked of interviewees during a series of pilot interviews. Lawyers, accountants and ex-HMRC officers currently practising in the tax advisory service industry commonly viewed HMRC agents as being part of the tax system, but nonetheless outside the tax profession. Second, the CIOT's (2017, p. 7) guide to *Professional Conduct in Relation to Taxation* clearly states that its purpose is "to assist and advise members on their professional conduct in relation to taxation and particularly in the tripartite relationship between a member, client and HMRC". This distinguishes between TPs in the tax advisory service industry who offer tax services, and HMRC agents. Finally, the exclusion question was also asked of a number of HMRC agents. Similarly to respondents in the pilot interviews, they considered the tax profession as facing HMRC, rather than being part of it themselves.

5.3.1.3 Gaining access

Once the population had been selected, the second challenge was to establish how to obtain access to a large number of accountants, lawyers and consultant tax experts in order to carry out the research. Jensen (2008, p. 3) observes "how essential it is that the researcher understands how to appropriately gain access to the intended participants. Access can be

defined as the appropriate ethical and academic practices used to gain entry to a given community for the purposes of conducting formal research”. Sometimes, operating in the research field may be complicated, and “one of the greatest pitfalls in conducting research successfully is the inability to obtain access to the research field” (Johl and Renganathan, 2009, p. 42). A feature common to tax specialists is that they all work with sensitive data, such as details of people’s income and investments. Consequently, a high level of secrecy and confidentiality is maintained around this type of work. This difficulty has been highlighted by numerous academics (e.g., Okumus et al., 2007; Patton, 2002; Shenton and Hayter, 2004). Gaining access to the field of research may prove to be highly time-consuming. For instance, Johl and Renganathan (2009, p. 42) suggest that “obtaining access in large profit enterprises can be more difficult as their managers would value the cost of time”. Certain research methods are also more suited to specific environments (Easterby-Smith et al., 2002; Van Maanen and Klob, 1985). This should therefore be considered when planning research, and for this reason a snowballing recruitment strategy was selected, as outlined in the next subsection.

5.3.1.4 Participants’ setting and recruitment strategy

According to Given (2008), in qualitative inquiry, recruitment refers to the process whereby the researcher identifies and invites (recruits) participants to join the study. In this respect, “determining the most effective recruitment methods suited for [the study] is an important aspect of conducting qualitative research” (Namageyo-Funa et al., 2014, p. 2). Following a snowballing recruitment method, this research made no distinction between the interviewees’ types of roles, processes, activities, infrastructure or location. Snowball sampling, also described as ‘chain sampling’, is often conceptualised as “a technique for finding research subjects. One subject gives the researcher the name of another subject, who in turn provides the name of a third, and so on” (Miller and Brewer, 2003, p. 275). This eventually provides

an “ever-expanding set of potential contacts” (Thomson, 1997, p. 296). This sampling method is often used in domains where gaining access is difficult and where a key insider may provide crucial help in engaging with new respondents. In social research, assessing the domain is a key component of establishing appropriate recruitment methods. Indeed, in some research domains, particular methods may provide unsatisfactory results. In the case of the tax profession, snowball sampling was justified by the confidentiality and sensitivity of the data with which the professionals were dealing. Furthermore, on-going conflictual relationships with the press made them naturally more protective of their arena.

In line with the qualitative and descriptive nature of the research questions, this strategy presented several practical advantages (Hendricks et al., 1992). First, it could be assumed that respondents would be likely to be drawn from a similar population, allowing easier comparison (Berg, 1988). Second, it enabled access to a hidden population, not immediately visible, through peer referrals. Third, it was an economical and efficient method (Atkinson and Flint, 2001). Employment of this recruitment strategy was also supported by the intention to use interviews as an instrument for data collection. In social research, snowball sampling and interviewing are often associated (Atkinson and Flint, 2001) and have proved to be effective and complementary, so it was decided to combine these two methods in this study. Recruitment of the first respondent was facilitated by contacts made available by the CIOT, the reputation of which opened many doors. One participant referred another using social networking. The second set of snowballing samples was facilitated by supervisors granting access to their own networks of tax experts. All recruits participated on a voluntary basis, being contracted initially by email or telephone. All respondents were informed by letter of their right to withdraw from the research within two months of signing a consent form. This document also outlined in details the terms and conditions of their participation.

5.3.2 Design of the data-gathering procedure

‘Instrumentalisation’ refers to the methods by which data are collected. It may be strictly or loosely structured, depending on the research question, the field of interest and the research objectives (Miles et al., 2013). Similarly to how the theoretical frame and sampling were decided, the design of the data-gathering procedure was determined after evaluating the most relevant tools to address the research question, as described in section 5.3.2.1. Once defined, it was important to create an instrument that would be adaptable to unforeseen phenomena and findings. The validity of the method was tested through a pilot process, involving six semi-structured interviews, which revealed some weaknesses in the instruments. This process is presented in section 5.3.2.3. Finally, section 5.3.2.4 explains the interview process.

5.3.2.1 Potential alternative tools

Within the qualitative methodological approach generally, an extensive range of methods can be used to measure the same phenomena. Saldana (2011) presents more than twenty different qualitative research methods, while Creswell (2003) classifies data-collecting procedures into four groups: ethnography, interviews, documents and audio-visual materials. Each of these groups can be sub-divided. Case studies, focus groups, in-depth interviews and reports are the most common methods additional to semi-structured interviews. Van Maanen and Klob (1985) argue that the types of questions asked and the field of study greatly shape the methods of research that are feasible. The topic of this research concerned sensitive issues, so it was unlikely to be possible to gather sufficient data through documents and audio-visual materials to support the analysis. Furthermore, client confidentiality between tax intermediaries and taxpayers prevents any disclosure to a third party. Consequently, study groups and archive reviews would have been infeasible in this case. This research was also interested in understanding and describing the tax profession through participants’ experiences and perceptions. This suggested that ethnography and semi-structured interviews

would be amongst the most appropriate data collection methods for this particular topic. This choice was further supported (as explained in section 5.2.1) by a review of previous qualitative studies that have used Foucault as a theoretical framework, in which interviews (Fadyl and Nicholls, 2013), ethnography (Lewis, 2015) and document-based research, were the most commonly used techniques.

Although ethnography would have been a preferred method of data collection, this unfortunately proved impossible owing to complications in gaining access. The difficulties in gaining access and observation proved impossible to overcome, even with the support of the CIOT. One participant did initially agree to be observed for a period of two weeks, but when this request was referred to higher authorities for approval, the executive management did not allow it. This was unsurprising, since previous studies have highlighted the difficulty of ethnographic research because the researcher may be perceived as a disturbing outsider. Anyone interested in adopting an ethnographic approach would need to employ a range of diplomatic skills to be deemed trustworthy by the participants (Wasserman and Jeffrey, 2007). As a result, few studies of the tax profession have used ethnography (see Boll, 2014). The design of the data collection procedure was therefore shaped not only by the opinions of the researcher and participants, but ultimately also by the feasibility of the procedure and its chances of success. Therefore, interviews were selected since, as previously stated, qualitative research using snowballing methods has often been associated with interviews owing to the positive results obtained from respondents.

5.3.2.3 Piloting of semi-structured interviews (Appendix A)

Before conducting any major study, it is advisable to test the feasibility of the research instrument by undertaking a trial run as to have a small-scale version of the research tool (Polit et al., 2001). As Yujin (2001, p. 1) suggests, piloting has practical advantages, including:

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(1) finding issues and barriers related to recruiting potential participants, (2) engaging the use of oneself as a researcher in a culturally appropriate way and from a phenomenological perspective, (3) reflecting the importance of the process and its difficulty in conducting phenomenological inquiry, and (4) modifying interview questions.

Thus, in order to focus this study and prevent any unproductive work, the interviews were piloted, which resulted in modifications to the original questionnaire (Appendix A was amended and became Appendix B).

Interviews are research instruments through which the researcher conducts face-to-face discussions with respondents (participants in the research) in order to converse in more depth on a specific subject. Interviews may be unstructured, semi-structured or structured (Breakwell, 2000; Robson, 2011; Thomas, 2013). In structured interviews the format is highly designed and the conversation directed, whereas unstructured interviews resemble ‘day-to-day’ exchanges where the topic of discussion will be pre-agreed. The former may be too rigid and rigorous, but the latter may lack reliability and precision. In order to compensate for these weaknesses, semi-structured interviews provide an alternative approach that offers ‘the best of both worlds’, with a planned framework that nevertheless allows the interviewer to divert from the original plan and be led by the respondent’s answers. This most frequently used qualitative research method (Alvesson and Deetz, 2000) identifies themes as connecting threads through the conversation, helping the interviewer to cover specific issues. This pre-planned instrument is also designed to create structure and present the researcher’s competence (Bogner et al., 2009), which may be important for gaining recognition amongst tax experts (Trincek, 2009). To guide adequate interpretations of participants’ experiences, the questions were constructed around the theme of personal perspectives rather than objective views (Gioia et al., 2013).

Conducting qualitative research interviews is not a trivial enterprise. It requires not only the use of various skills, such as intensive listening and note taking, but also careful planning and sufficient preparation. To collect interview data useful for research purposes, it is necessary

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for the researchers to develop as much expertise in relevant topic areas as possible so they can ask informed questions (Qu and Dumay, 2011, p. 239).

Six semi-structured pilot interviews were conducted with three lawyers and three accountants, ranging in length from around three quarters of an hour to two hours (see Appendix A). They all took place as face-to-face meetings in the participant's office or meeting room. Initially, the questionnaire was designed following Robson's (2011) phases, as shown in Figure 5.1.

- *Introduction* - Brief reminder/explanation of the purpose of the research and researcher's identity. Explanation of the nature of the confidentiality/anonymity agreement plus request to tape record. Sign off informed consent before completion as well as brief outline of my research into tax profession. Then slowly start questions about the characteristics of the tax professionals
- *warm-up* - where the inter-profession position questions will be consider
- *main body* - will be tax professional perception
- *cool-off* – will introduce the challenges this profession is facing
- *closure* – will conclude the interview by summarising the discussion and allow the respondent to add off-line comments

Figure 5.1: Phases of semi-structured interviews

(Source: Robson, 2011, p. 75)

As a result, the first questionnaire covered a range of questions, including characteristics of tax professionals, inter-profession position and tax professionals' perceptions (see Appendix A). As explained in section 5.2.3, Appendix A was preparatory work for the actual research itself to see if there was enough interest and enough content and data available for me to 'mine'. Though the questions might not directly address the research questions of the dissertation, they did, however address how tax professionals are experiencing their industry and how that has entwined their sense of identity and professional integrity. This exercise allowed re-designing a more appropriate set of questions (see Appendix B) that targeted professional characteristics, inter-professional competition and knowledge through the tax practice.

5.3.2.4 Benefits and effectiveness of a combined method

The combined method commonly used in social science research is perceived to provide deeper perceptions and understandings. From examination of the literature (Douglas, 1985; Fontana and Frey, 1998; Kvale, 2007), it appears that, despite some limitations, interviews present great benefits when combined with external data. Qu and Dumay (2011, p. 238) caution that “we cannot lift the results of interviewing out of the contexts in which they were gathered and claim them as objective data with no strings attached”. Building on Alvesson’s (2003) critical reflection, it would seem crucial to counter-balance interviews with more objective data owing to their highly individualistic nature which often makes them an “unreliable, impressionistic, and not objective instrument” (Denzin and Lincoln, 2000, p. 12). While interviews allow a richness of responses combined with a one-to-one format that promotes dialogue, they should nevertheless be supported by external documentation, such as government reports and articles in order to obtain real insights into the situation. Indeed, while interviews elicit a wide range of nuances to highlight certain opinions and experiences, external sources allow the researcher to capture the daily settings and environment of the participants. This potentially reveals different opinions from outsiders’ perspectives. Combining these methods therefore provides a richer understanding of the context. Combining methods also has the benefit of rationalising the validity of the research by enabling triangulation of the data to support the findings of the thesis. Effectively, these two methods compensate for each other’s weaknesses and attest to the veracity of the data collected from interviews and archival material. By comparing data collected from external sources, the researcher is able to critique data collected through interviews. This ultimately renders the analysis more accurate and reliable.

5.3.2.5 Limitations of interviews

The limitations and weaknesses of the research instrument must be considered by the researcher in determining the appropriateness of the design and deciding whether the instruments can be used to answer the research question. Certain data collection methods would have been unsuited to answering the research question, and conducting pilot interviews was essential to highlight any restrictions or flaws in the research tools.

For instance, during the pilot, it was noted that some questions could be interpreted in several different ways. Some answers were consequently unforeseen, which opened up a new range of unplanned follow-up questions. Similarly, contradictions and inconsistencies appeared in the interviews, which rendered analysis of the data more difficult. The interviews also exposed the researcher's own limitations in running semi-structured conversations without leading the interviewees. The following modifications were therefore made after the first six pilot interviews:

- *Format*: On the questionnaire, the different groups of questions were unclear. It was therefore difficult to see which questions had already been asked, which ones remained to be asked, and which answers had covered more than one question. Therefore, the format of the questionnaire was changed to allow for easier reading.
- *Number of questions*: The pilot led to an appreciation of participants' time constraints. This led to a reduction in the number of questions, since it was often impossible to go through all of them.
- *Formulation of the questions*: The pilot revealed that some questions were repeated or were too theoretical, which confused the respondents. Some of the questions were therefore rewritten, or simply deleted.
- *Probes and follow-up questions*: In the pilot questionnaire (Appendix A), there were no probes or further questions, and at times it was difficult to know how to stimulate

respondents further to explain themselves. Using methodological practice sources (Gendron and Spira, 2009; Ravasi and Stigliani, 2012; see also Bansal and Roth, 2000; Malina and Selto, 2001), the initial set of questions was complemented with a number of follow-up questions, extracted and informed by reading of the literature and the pilot interviews.

The second set of modifications arose from reflections on the initial interview process:

- *Take notes*: Too many notes were taken during the pilot interviews, leading to failure to hear what participants were saying or the points they were trying to make. It was harder than anticipated to take notes while listening to and re-engaging with participants.
- *Stay silent*: Reading back the transcription (see later) and listening to recordings of the interviews revealed how much the interviewer was talking, sometimes to the point of cutting off the person being interviewed.
- *Do not try to be too polite*: Sometimes it felt uncomfortable to challenge participants on what they had to say. Yet on some occasions, it would have been beneficial to question their answers. In addition, since the respondents were mostly senior, the transcriptions revealed that they sometimes took over the interviews.

As a result of these observations, the revised questionnaire covered the themes of knowledge; ethics and identity (see Appendix B).

5.3.2.6 Interview process

The researcher personally contacted 40 tax advisors by email in December 2015. Two replied negatively, eight responded positively and 30 did not acknowledge the email. Consequently, 75 per cent of candidates did not become interviewees, revealing the failure of the ‘cold call’ approach. The first six interviews were made possible through the research supervisors’ personal contacts. Twenty-five further interviews were then facilitated through the CIOT’s

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Education Development Manager, who emailed its members explaining the project and the need to recruit participants. Ten interviewees were reached thanks to the snowballing effect of two respondents who became involved in this research. Finally, one participant was contacted through a colleague who had previously worked for PwC.

The interviews were conducted in English. Twenty-two were conducted by telephone or Skype, and 20 were face-to-face. Two interviews had multiple participants. Most of the face-to-face interviews occurred in the participants' offices or meeting rooms, except for two persons who preferred a neutral environment (bar or coffee shop) in view of potential conflict between the interviewees and their managers. All interviews were recorded as the participants had agreed to this and had signed an ethical consent form which guaranteed their anonymity and confidentiality. The first interview was transcribed by the researcher, and the remaining recordings were externally transcribed by a professional. Twenty-four interviews were transcribed verbatim, and 16 semi-verbatim, resulting in 2,281 pages of transcription. During the early days of research, the interviews were transcribed verbatim, so as to give a truly accurate depiction of the interview. However, due to the realisation that the minimal benefits it provided to the research, in conjunction with the high costs, a decision was made to transition into creating the transcripts semi-verbatim.²⁶ This change in method allowed a more cost-effective method of research but still allowed the essence of the interview to be captured. In total 42 interviews were conducted with 44 senior tax advisors between November 2015 and April 2016, each lasting between 25 minutes and 2 hours 35 minutes. The 44 tax professionals included directors and partners of the 'Magic Circle' and big accountancy firms, sole practitioners and HMRC agents as follows:

- 10 tax consultants
- 7 tax directors or senior managers in Big Four firms

²⁶ A semi-verbatim transcript is a word-to-word transcription that eliminates the sentence fillers and false starts.

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- 6 tax solicitors
- 5 heads of tax or tax managers in the tax advisory service industry
- 4 tax barristers
- 4 tax technicians
- 2 tax editors
- 2 retired tax advisors from the Big Four
- 1 tax judge
- 1 advocate general
- 1 tax inspector
- 1 tax partner in a law firm.

A code was applied to each group to facilitate the analysis, as follows:

- A Respondents working in or retired from the Big Four
- B Lawyers, including barristers, solicitors, judges
- C Sole practitioners and tax consultants²⁷
- D Civil servants
- E Tax managers working in the tax advisory service industry
- F Tax advisors in public bodies
- G Tax editors.

Key information from the interview process is summarised in Appendix C.

Having explained the interview process, the next section presents the design of the data analysis procedure.

²⁷ The term 'sole practitioner(s)' is used to provide consistency throughout the PhD as the research question refers to the term 'tax practitioners'. By using the term 'sole practitioner' I refer to individuals who do not belong to a firm, but work for themselves, yet still belong to the 'tax profession'.

5.4 Design of the data analysis procedure

This research is based on a qualitative study of UK tax professionals to determine how the seemingly negative identification with tax professionals has impacted on the practice of tax law, and how professionals see themselves. The importance and prominence of this issue in the media makes it necessary to disentangle the rhetoric from what is actually happening. Moreover, as I am a tax professional myself it is necessary to theorise and understand the new and different regimes and how power/knowledge have impacted on those who practise tax law. This case study data have been analysed qualitatively through an interpretative method, as the interest of this research was not to unearth the causal chains behind social and political phenomena, but in how practices of self-making as a professional in tax law have changed in reaction to the criticisms and sense of crisis the profession has endured recently through scandals of tax avoidance, and lawyers and tax experts being implicated in legal, though suspect, tax avoidance practices. As advanced by Geertz (1973, p. 5) in his interpretation of cultures, “man is an animal suspended in the webs of significance he himself has spun”, hence I contend that one is always dealing with multiple levels of interpretation, especially when looking at the law, institutions and their norms, and the people who work in them. Owing to this hermeneutical methodological perspective, I am against a naturalist perspective that there is a reality that exists objectively before interpretation. In terms of validity, since this is a qualitative case study research using an interpretative approach, I contend that this research kind does not aim for validity but is instead subjective – a different way of understanding the current crisis in tax law as a profession. The same is applicable to reliability, as interpretative methods will produce different findings depending on each researcher because of how each individual will code, and items to which each individual awards importance within the narratives that constitutes coding blocks and labels. Interviews and coding are very suitable for theory testing and developing, but are limited in terms of

giving concrete insights into social and political structures and processes as they are not generalisable. However, this research aims to provide research for an area in which the existing theory seems inadequate, hence it is useful to use this methodology to provide insight in these “later stages of knowledge” (Eisenhardt, 1989, p. 549).

Interviews and how they were coded

Miles and Huberman (1984, p. 21) argue that data analysis is a process of “selecting, focusing, simplifying, abstracting, and transforming the ‘raw’ data that appear in written-up field notes”. Data reduction occurs continuously throughout the life of any qualitatively-oriented project (see Figure 52). This is part of the analysis.

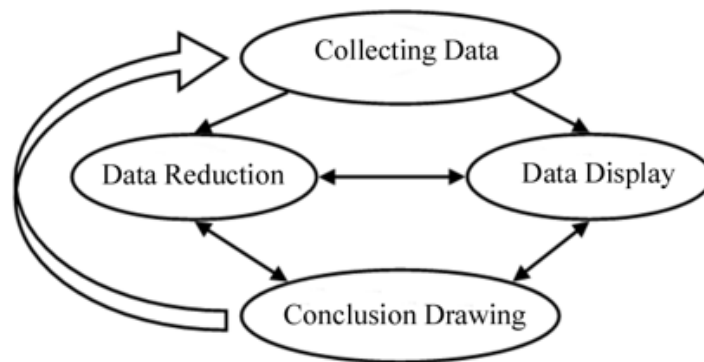


Figure 5.2: Interactive model of data analysis
(Source: Miles and Huberman, 1984, p. 26)

According to Saldana (2016, p. 4), “a code in qualitative inquiry is most often a word or short phrase that symbolically assigns a summative, salient, essence-capturing and/or evocative attribute for a portion of language-based”. Coding is a means by which the researcher translates the data into significant ‘chunks’ (Vogt et al., 2014). This coding process can be facilitated by coding and computer-aided qualitative data analysis (CAQDAS), which uses a range of software to store, manage, organise and order the data. For the purposes of this research, NVivo was used since this program was freely available at the University of Birmingham. The interface was found not to be user-friendly, and even with the support of YouTube tutorials, it took considerable time to become familiar with the program’s functions.

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However, the convenience of using an electronic tool for re-coding, identifying overlapping codes and managing a complex coding system was recognised. These tasks would have been difficult to accomplish using an Excel spread sheet or manual coding using Microsoft Word. Moreover, with 2,281 pages of interview transcriptions plus external videos, government reports and articles, it would have been challenging, if not impossible, to use manual coding, which is only recommended for small samples or at an initial stage. The result of this coding process can be found in Table 5.2, where the data is organised using seven different categories: identity, status, role, autonomy, knowledge, control and monopoly.

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Table 5.2: Interview coding
(Source: Researcher's own data)

Identity	High/ Elite status	Role/ Responsibilities	Autonomy	Knowledge	Control	Monopoly
Narrative-Identity	Sense of pride	Ethic	Private Practice/ Firm	Education/ Training/ Continuing Education	Domain/ Boundaries/ Jurisdiction	Power
Role Identity	Socialization	Conduct/ Behaviour	Work Autonomy	Common Language	Organisation/Inte rnal Formal Power	External Competition/ Conflict
Social Identity	Work Place Interaction	Duties/ Obligations	Professional Network	Technical Expertise in the Law	Performance	Inter-Discipline Relation
Collective Identity	Prestige	Client Protection/ Representation	Licensing/ Testing	Abstract Skills	Statutory Regulation	Influencing Policy Formation
Distinct Identity	Recognition	Public Interest	Representatives Association/ Institute	Tax planning/ Innovation	Self-Regulation	Claim of Domination
Capabilities / Competency	Legitimacy	Trust	Tradition of Service	Related Discipline	Liability/ Contract	Market Control
Individual Reputation	High Calling/ Values in Common	HMRC/ Client Relationship	Peer Review	Cooperation/ Information Exchange	Subordination	External Forces/ Heterogeneous actor
Business Reputation	Salaries/ Fees	Discretion/ Secrecy	Selective Process and Registration	Market and Business Acumen	Social Order	Internal Competition
Self- Conceptualization of the profession	Reward/ Compensation	Standard of Advisory Function		Tacit Knowledge		

Regarding the coding methods, a number of possibilities was available. Research question alignment was chosen, as described by Trede and Higgs (2009), owing to its consistency with the ontological and epistemological approach, since “researcher questions embed the values, world view, and direction of an inquiry; they are also influential in determining what type of

knowledge is going to be generated” (Trede and Higgs, 2009, p. 18). In other words, the study was structured in a full circle, where the code was directly produced from theory and the research question. This enhanced the fluidity between the data instruments and analysis. For the full working out of the coding please see the Appendix D where all the raw data and coding have been collated.

5.5 Ethical reflections

As Macfarlane (2010, p. 21) states, “there is an important distinction between ‘procedural ethics’, which is about satisfying the research ethics process, and ‘ethics in practice’, where the real challenges rest in making decisions in the field”. The University of Birmingham’s ethical process required the submission of a self-assessment form to the Research Report Group, which is responsible for reviewing the integrity of all studies carried out at the university. In accordance with the regulations, five documents were sent to the Ethics Department in July 2015, including an invitation to participants, the interview questionnaire, informed consent forms for both interviewees and observations, and an ethics submission. Full ethical clearance was received in September 2015, two months prior to the start of the first interview in November 2015 (see Appendix E).

The participants were all consenting adults, typically professionals with many years’ experience in tax, most of whom were senior managers in law or accountancy firms. As previously mentioned, accessing the tax advisors presented considerable challenges, as did obtaining accurate information from certain participants, largely owing to the confidentiality of client information and company policy. The interviewees were careful not to expose any details that might hint at a particular client. They were also alert to remaining vague about any tax planning their firm might be undertaking. They were usually happy to engage on general, non-specific matters, as long as the questions were not too targeted. It was

anticipated that the range of work methods would differ between tax advisors and that the practitioners might hold conflicting opinions, and this proved to be the case. The main ethical risk to individuals in this project was exposure of any controversial views held by junior staff to more senior staff in the same organisation, or personal views versus official statements. Thus, the central consideration was to ensure that all data remained confidential and that no references to specific individuals or line managers were included in any materials published or shared with third parties (for example, with reviewers or transcribers).

The interviewees generally seemed at ease while being recorded, with the exception of one who seemed particularly concerned with what he/she was saying on tape. This may have been because the interviewees were relatively senior and from an elite group, rather than because of concerns about the content of the interview. They may not have wanted their words to be taken as an official statement by their company, and *vice versa*. On a number of occasions, interviewees stated that a view expressed during the meeting was their personal view and not the official line of their firm. Beyond this issue regarding control or worry about the firm's reputation, the participants were open and receptive. They took the time to explain in detail what they meant, even though they were extremely busy and their time was precious (Odendahl and Shaw, 2002). The depth of their responses was at times surprising, and sometimes bold and passionate, which had not been anticipated prior to starting the interview process. The tax advisors interviewed appear to have been interested in the research, and curious about who else was being interviewed and the initial findings. A number of participants emailed both before and after the interviews to clarify their thoughts or provide further reading to help in the research.

Finally, transcripts of the interviews were made available to all interviewees to check, and this option was exercised in some cases. The purpose of offering transcripts was originally to ensure their accuracy and provide transparency in the research which both

facilitated access to the interviewees and establish the basis for an open conversation. When speaking to the interviewees it transpired that their primary reason for checking the transcripts was to verify that their words had not been modified in any way and none of them asked for any amendments to be made.

5.6 Summary

In addition to introducing the conceptual framework, this chapter has presented the three sub-research questions and the objectives associated with them. It has also described the qualitative approach chosen for this study, has detailed the research design protocol, and has explained the rationale for the design of the data analysis. In the process, key aspects of the research have been highlighted, explaining the selection of participants and the suitability of the semi-structured interview research method. As a result, various aspects of the purposive sampling used have been distinguished, including familiarisation with the domain, possible exclusions, the setting of participants and issues relating to gaining access to an elite professional group. The chapter has also explained the research instrument itself, and has discussed possible alternative tools, the appropriateness of the design and the elaboration of the interview process. This chapter has also developed and explained the data analysis process, justifying the data condensation and coding of the empirical evidence. More importantly, it has illustrated the appropriateness of a Foucauldian approach to analysis of the data collected from the interviews, and has explained how the emergence of Foucauldian theory helped to interpret the findings in the context of the tax profession. Finally, this chapter has clarified a number of ethical considerations. It has explained the formal ethical review process, acknowledged the potential impact on respondents and reflected on the interview process. Chapter 6 will address the first research question of this thesis: *What is the role of knowledge in shaping the tax profession?*

CHAPTER 6: TAX KNOWLEDGE – A PROFESSIONAL DISCIPLINE

6.1 Introduction

Chapter 5 outlined the methodological approach adopted in this thesis. It discussed the philosophical framework for the data collection and described the research design of the study. This chapter introduces the findings relating to tax as a professional discipline, and argues for the importance of knowledge management in tax practice. In so doing, it examines how tax intermediaries acquire, share, store, implement and create tax knowledge across the profession, and presents findings relating to the first empirical sub-question:

*What is the role of **knowledge** in shaping the tax profession?*

To answer this research question, the following objectives are addressed throughout the sections of this chapter. Section by section, I will present the data, demonstrating how knowledge is the core element that binds tax professionals within a distinct discipline.

- To investigate the extent of tax advisors' knowledge (section 6.2)
- To gauge the extent to which knowledge shapes professional projects (section 6.3)
- To challenge whether tax services are a specialist practice (section 6.4)
- To establish the education and training that are required to offer tax services (section 6.5)
- To capture how tax knowledge is shared, stored and applied (sections 6.6 to 6.8)
- To understand the conflicts occurring within this profession (see section 6.9).

In addressing these objectives, this chapter is divided into two parts. The first part (sections 6.2 to 6.5) investigates how knowledge is acquired, and the second part (sections 6.6 to 6.9) investigates its dissemination. Section 6.2 begins by defining the notion of tax knowledge,

and section 6.3 goes on to illustrate how tax has become a recognised discipline over the last few decades. Section 6.4 categorises and compares different types of tax knowledge, and section 6.5 outlines the architecture of tax knowledge by presenting the formal and informal knowledge held by TPs, how tax knowledge is extended and kept up to date, and the market value of this knowledge. Section 6.6 reviews how tax knowledge is shared, section 6.7 examines how it is stored, section 6.8 looks at its implementation, and section 6.9 investigates its creation across the profession. Section 6.10 discusses the findings in light of the Foucauldian literature, and section 6.11 summarises this chapter.

6.2 The extent of tax advisors' knowledge: definition

The notion of knowledge and how it can be managed has been extensively theorised in many fields, including business, management, organisation studies, economics and communications. This is why, in seeking to investigate and analyse how tax intermediaries acquire, share, store, apply and create tax knowledge, it is useful first to consider what is meant by the notions of 'tax knowledge'. This first section aims therefore to articulate a definition that would serve as a basis for discussion for this research. In the context of tax, acquiring knowledge covers more than just understanding tax legislation, as tax knowledge also relates to other areas such as accounting, economics, bureaucratic business and politics. Tuck (2010, p. 594) looking at tax officials from a Foucauldian view, describes the complexity and the depth of what is meant by tax knowledge.

The old style tax official 'world' was restricted to the interior of the then tax authority, the IR [Inland Revenue], where specialist tax technical knowledge was prized and desired. However with the increased strategic and managerial focus of HMRC the tax technical form of disciplinary knowledge no longer suffices. New style working practices have incorporated the move from purely documentary interactions with large corporates to more apparently open two-way and informal negotiating processes involving meetings. The tax official has to engage with the exterior world. Thus the inspector has to become a new type of tax official –

T-shaped. They need to have both the ‘old’ technical knowledge (the downward part of the T) and also a new broader knowledge of ‘soft skills’ such as non-confrontational meeting skills, customer service skills, and treating taxpayers as customers, in addition to greater specialist knowledge as multinational corporates and tax legislation becomes increasingly complex (the horizontal part of the T).

Yet Bogenschneider (2015, p. 67), using a Foucauldian framework, argues that tax knowledge is often misunderstood and misrepresented as ‘truth’ and institutional knowledge, when instead it should be presented as undetermined and abstract.

Of all the great minds engaged in tax law analysis around the world, few would agree that the tax laws can only be interpreted in black and white. The tax law is indeterminate both as a matter of law and as a matter of enforcement practice. The IRS accordingly operates along the lines of *Don Quixote* engaged in a proverbial crusade toward a romantic notion of the tax laws in modern society. This represents an organizational, teleological, systemic approach to tax enforcement that manifests in an extraordinary, institutionalized impracticality.

This institutional impracticality caused not only by the complexity of tax knowledge but also by inconsistency in its enforcement practices, is the reason explaining the emergence of a distinct discipline. In this context, tax professionals represent knowledge experts who undertake technical services on behalf of non-specialist taxpayers. This specialised knowledge is argued to be the reason that “binds these professionals into a distinct and cohesive group” (Mulligan and Oats, 2016, p. 65). In light of this distinctive tax knowledge, the remaining sections of this chapter endeavour therefore to show how this particular knowledge has effectively shaped the contours of the tax profession through its acquisition and its dissemination. To achieve this objective, I adopt Kululanga and Mccaffer’s (2001) knowledge management model (as shown in Figure 6.1) in order to discuss how tax

knowledge is commonly acquired but also shared, stored, applied and created across this discipline.²⁸

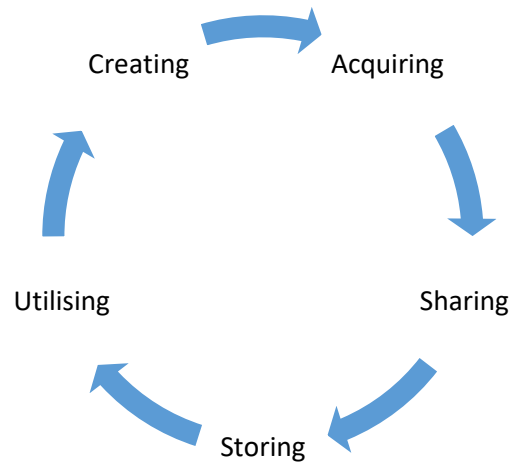


Figure 6.1: Knowledge management model

(Source: Figure created based on Kululanga and Mccaffer's (2001) study)

In this thesis, knowledge management is used to understand the various organisational strategies that aim to acquire and disseminate knowledge to secure a better position in a competitive market (and even perhaps create new disciplines). To achieve success, firms and also professional groups (such as the tax profession) must share, store, develop and augment their intellectual capital portfolio. Alavi and Leidner (1999, p. 6) illustrate this point by presenting knowledge management as “a systemic and organizationally specified process for acquiring, organizing, and communicating both tacit and explicit knowledge of employees so that other employees may make use of it to be more effective and productive in their work”. This chapter intends through the use of knowledge management to demonstrate that the systematic process of acquiring, organizing, and communicating of both tacit and explicit tax knowledge results in grounding and uniting tax advisors into a distinct tax profession.

²⁸ For the purposes of this chapter, knowledge management should be understood as: “strategies and processes designed to identify, capture, structure, value, leverage, and share an organization’s intellectual assets to enhance its performance and competitiveness. It is based on two critical activities: (1) capture and documentation of individual explicit and tacit knowledge, and (2) its dissemination within the organization” (Business Dictionary, 2018).

As enunciated in the literature review (chapter 4), although a number of studies has explored the battle for knowledge between TPs and tax officials (Gracia and Oats, 2012; Long and Basoglu, 2016; Morrell and Tuck, 2014; Mulligan, 2008; Mulligan and Oats, 2016; O'Donnell et al., 2005; Toumi, 2008; Tuck, 2007), only a handful have applied the knowledge management literature to the case of the tax profession (see Hasseldine et al., 2011, 2012). Therefore, for the purposes of this study, this chapter focuses exclusively on what Hasseldine et al. (2012) refer to as knowledge brokers, who represent all the 'in-between' professionals who facilitate relationships between HMRC (knowledge producer) and taxpayers (knowledge buyers) in their tax advisory role. In doing so, this chapter seeks to enhance the literature on knowledge management in the field of taxation from the point of view of the UK profession.

6.3 Tax knowledge shaping the professional project

This section considers tax knowledge through a Foucauldian approach to understand how tax professionals gained authority over the field of tax by demonstrating the extent of their specialist and expert knowledge in this particular discipline.²⁹ Data gathered in the process of this research suggest that TPs provide both technical and specialist services that would be difficult for a lay-person to perform equally well. Tuck (2010, p. 594) describes how tax professionals need to acquire “greater specialist knowledge as multinational corporates and tax legislation becomes increasingly complex (the horizontal part of the T)”. While non-professionally trained individuals might be able to complete straight forward tax returns for employed workers, the data reveal, however, that if a tax structure involves complex calculations and multiple transactions, it will be difficult for those for whom tax is not their main activity to keep up with the complexity of the tax code and changes to the legislation.

²⁹ Discipline in this context is understood as a separate school of knowledge.

When I think of what I do, advising global, multinational businesses on a whole range of complex areas and analysing and concluding on it and giving advice, I certainly do think it is clearly an unequivocal profession (E4, Senior Tax Manager, FTSE 100, February 2016).

In this sense, the complexity of the tax world creates a gap between those able to understand the content of a tax Act and those unable to translate the technical language. On one side appears to stand a net of experts disciplined and trained to engage with tax knowledge (Tuck, 2010), while on the other side, stands anyone else excluded from this scientific community. The findings confirm indeed that tax services demand a significant amount of technical training and practice, as the ever-changing environment requires constant learning. Amongst the interviewees, there was a consensus that in order to keep up with and adapt to these changes, they had to research and read constantly, sometimes up to two hours daily (C1, Tax Consultant, sole Practitioner, December 2015). With 160 years of jurisprudence and a Finance Act that changes once or twice a year, it can be difficult to keep up with the pace of revisions.

It's quite a sort of solitary pursuit, keeping up with the law. I spend an hour or sometimes even, you know, two hours a day just reading – reading articles, reading online. I mean, they probably have one case on tax every couple of days. This year there will be two Finance Acts. Every year there's one. And a Finance Act is published in draft, there's sort of two or three thousand pages of legislation or explanatory notes published every year. So ... I just read them (B2, Tax Solicitor, law firm, November 2015).

The complexity of tax knowledge and regular alterations to the legislation were a point of tension reiterated on many occasions throughout the interviews.

Oh, the other thing is, tax legislation. Say if the tax legislation was that big on a shelf [showing a small amount] when I began my career, now it's that big [showing a much larger amount]. So there's, you know, there's a huge amount of extra information out there (A2, Tax Partner, Big Four, November 2015).

The existence of expert knowledge seems to be related to the time necessary to keep up with basic tax knowledge. Tax practice appears, in effect, to be characterised by the complexity of the tax legislation, which becomes more elaborate, lengthy and specialist year on year. Technical and specialist language is indeed heavily used in the tax environment, which sometimes makes it difficult for clients to understand their own tax affairs: “advisors ... can be a little bit prone to talking in their own special language” (C1, Tax Consultant, Sole Practitioner, December 2015). Tuck (2010, p. 588), taking the specific case of tax officials, explains that the “focus on tax technical knowledge constitutes the tax inspector as an expert”. In Foucauldian words, tax professionals, by endorsing a role of ‘truth’ tellers, are forced to become knowledgeable and discipline themselves to be perceived as experts (Hoskin and Macve, 1986). Since it would seem, in essence, that the unique selling point of tax intermediaries “is tax knowledge” (A1, Head of Tax, Big Four, November 2015). They specialise in providing a technically advanced tax service to taxpayers who would struggle to comply with the law without an advisor.

I think the tax profession does a fantastic job, and without us, tax authorities couldn't function. We are helping clients comply with the law, and I do mean that. I've been doing this for 20 years. It gets harder and harder every year as more legislation comes in; and you think, if you're sat within a company and tax is just one of your jobs, how could you ever keep up with it? (A10, Tax Technician, Big Four, March 2016).

This observation has been highlighted by a number of academics (e.g., Freedman, 2017; O'Donnell et al., 2005). Freedman (2017) describes UK tax law as long, complex and not sufficiently clear. Richardson and Sawyer (2001) justify tax complexity in terms of the continual sophistication of the law, which may adopt many forms. For instance, they explain that tax is complex because of its diverse forms, rules and compliance requirements. Cox and Eger (2006) add that tax procedures may become convoluted owing to unreadable legislation. This is especially the case in the UK, as Strader and Fogliasso (1989) argue that the UK tax

system is one of the most complicated in the world. Bogenschneider (2015, p. 60) believes for his part that tax law complexity is grounded in inconsistency in jurisprudence.

The IRS's view of its enforcement function is dominated by a desire to seek a teleological 'Truth' in the enforcement of the tax laws. This implies that for every tax question there is a 'correct', or determinative, legal answer. However, in actual practice the tax law is indeterminate.

So why is tax intermediaries' knowledge important? Saad's (2014, p. 1074) study of taxpayers' knowledge and the perceived complexity of New Zealand's income tax system provides an answer to this question.

From the interviews, taxpayers appeared to have inadequate knowledge on the technical aspects of the income tax system. This issue was even critical among the self-employed participants who are expected to deal with onerous tax matters, such as PAYE, GST, Kiwisaver etc. In dealing with these tax affairs, they may have to incur more compliance costs. The income tax system was also perceived as inherently complex. The huge amount of paperwork to be completed in complying with their tax obligations further escalated the problem.

This observation was confirmed by the interviewees in this study, who stated that tax advisors are needed to help taxpayers comply with even basic tax legislation. Indeed, a number of tax intermediaries reported that most of their clients did not understand the tax rules sufficiently well to be able to complete their own tax returns.

The part of the job is managing the client and managing HMRC. Uh, the client could deal with HMRC directly but wouldn't understand the questions, wouldn't understand why the questions are being asked (C2, Tax Consultant, Sole Practitioner, December 2015).

Tax advisors are needed to help lay-people comply with the law. Drawing on the work of Foucault, Skinner and Franz (2018) believe that individuals in a context of compliance find it increasingly difficult to interpret and apply knowledge, which is why individuals seek advice to achieve compliance. However, surprisingly, this need extends beyond helping lay-people.

In-house tax advisors mentioned that even they, who clearly understand the law, still refer their companies' tax returns to external TPs to verify their accuracy.

We have a retainer with Deloitte's who are our people on the end of the phone And we go along and have meetings with them once a quarter and they help us with various aspects of the VAT return every year to make sure that it's all correct (F2, Tax Consultant, University, January 2016).

In such cases, the TPs placed in the situation of clients will seek quality assurance on their work because they fear the risk associated with completing a tax return incorrectly. Any mistakes might potentially prompt fines, legal prosecution of their company, and possibly reputational damage.

There are a lot of us who have a job because the tax law is so complex that if you didn't have someone who specialised in it then you'd easily make massive mistakes and be fined huge amounts of money (E6, Head of Tax, FTSE 100, February 2016).

Mihret and Grant (2017) suggest in that regard that Foucault's notion of governmentality (used throughout this thesis) serves as a conceptual tool to explain internal auditing as a disciplinary mechanism in the corporate governance. They formulate the idea that modern corporations protect themselves via auditing to justify and validate their activities.

Internal auditing as: *ex post* assurance about the execution of economic activities within management's preconceived frameworks and *ex ante* advisory services to enhance the rationality of economic activities and accompanying controls (Mihret and Grant, 2017, p. 699).

The interviewees suggested a second reason for the importance of the tax profession. Tax intermediaries explained that 60 per cent of taxes in the UK are collected without a single intervention by HMRC. Although this number is rather difficult to substantiate since no figures are publicly available, according to the interviewees, 60 per cent of tax collected is

accomplished with the help of the tax profession, whether accountants, solicitors, barristers or payroll agents.

You have to rely on the tax profession to collect 60 per cent of your tax from companies and individuals, for example. Or that thousands of people wouldn't be able to complete their tax returns without tax advisors (A7, Senior Tax Manager, Big Four, January 2016).

In Australia, this number may be even greater, since 75 per cent of individual taxpayers are represented by TPs (Devos, 2012). It was also argued quite frequently that, owing to the number of budget cuts that HMRC have experienced recently, they would be unable to support the UK tax system without the tax profession.

HMRC is shrinking substantially. I think it's down to about 65,000 staff this year, from a high about few years ago of 135,000. The consequence for our job is that our clients have fewer places to go to get advice on what to do in a particular situation. And HMRC isn't providing it (E1, Senior VAT Consultant, Tax Insurance, January 2016).

The tax profession needs to educate the public in why it needs to exist. And the UK system wouldn't be nearly as good, I don't think, without the tax profession helping HMRC because HMRC is too poorly resourced to actually be able to support the general public in its tax affairs because it's just been crippled too much with cuts. I think legislation is a little confusing and complicated (G2, Tax Editor, Tax Publisher, April 2016).

Therefore, tax intermediaries are not only needed to explain the law to taxpayers, but appear to offer crucial support for the functioning of the UK tax system. Recent recruitment patterns corroborate this argument. As shown in Figure 6.2, half of tax advisors recruited in 2015 were in-house TPs. In-house tax advisors' main duties are to complete payrolls, report income tax and national insurance contributions, and file VAT and corporate tax returns. Although working behind the scenes in their organisations, they support HMRC in collecting tax from individuals and companies. These findings resonate with Mulligan and Oats' finding (2016) that TPs have economic and political influence over tax law and practices.

Recruitment market share

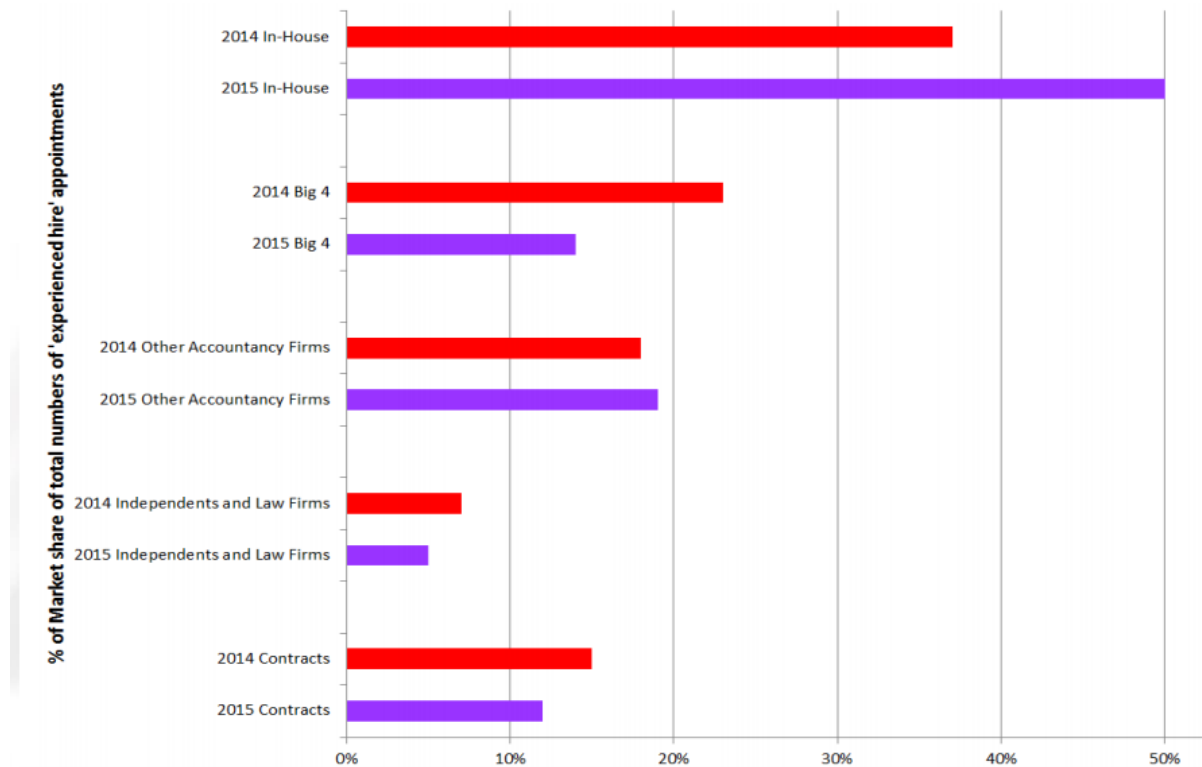


Figure 6.2: Tax recruitment, 2015–2016

(Source: Unpublished Market Report 2016 established by Building Leading Talent, p. 10)

As a way of conclusion to this first section, it is interesting to observe that the tax industry service constituted itself in order to respond to a social need. Taxpayers lacking the necessary knowledge to calculate their tax liabilities started hiring tax professionals to advise them and complete their tax returns on their behalf. At that point, tax professionals were merely intermediaries between taxpayers and the Inland Revenue. Yet this industry has grown in importance by first becoming a distinct discipline, expert in the field of tax (justifying in itself the emergence of a new profession), but also by exercising a new form of governmentality across the modern period by extending, challenging and applying the tax legislation.

This section has explained tax as a discipline. The next section examines different types of tax knowledge.

6.4 Tax services as a specialist practice

In *Discipline and Punish* (1977), Foucault describes the formation and evolution of modern society through the role played by the disciplinary institution. An example of such a Foucauldian disciplinary institution is the tax legislation that aims to normalise knowledge and, by extension, discipline human behaviour with regard to tax liability. In the UK, such a social institution composes the foundation of the legal system as it accounts for what is deemed as true at a particular point in time. Serving both as a framework and a disciplinary tool, tax law in the UK is characterised by its complex nature. To provide a clearer explanation and observation of this argument, the following pages provide a picture of the legislative environment across which tax professionals are required to develop.

In the UK tax legislation evolves annually through Finance Acts, case law, guidance, etc. Compared with the foundations of accounting and the principles of contract law, changes to tax legislation are frequent, resulting in new tax rules (B9, Barrister, Tax Chamber, February 2016). Keeping up to date with the volume of changes appears to be a key concern for tax intermediaries, and as a result, firms and TPs appear to have become more sector-specific and specialised in a single aspect of tax. Following a Foucauldian view, Tuck (2010, p. 591) describes in her research that “tax officials had to become sector specialists as well. Whilst this may previously have been the situation in the banking and insurance industries due to specific legislation applying solely to those sectors, this was felt to be a new development in other sectors as specific tax legislation did not apply to the particular sector”. The data below gather confirm this statement by demonstrating how tax has become a granular/specialist expertise.

When I started, even though I worked for a big firm, it was sort of expected that the tax department would do anything that was to do with tax, whatever type of tax it was; whereas at present in the big firms you will have a specialist department for each type of tax or each type of particular problem area – almost from the moment they kind of are graduates and they join those big firms, they’re doing just one type of thing. You might have somebody who spends ten years doing nothing but how to structure property funds, real estate funds. Just something very specialist (A5, Retired from Big Four, December 2015).

What else has changed? I think specialisation. There’s much more specialism in what people do. You don’t get people advising on anything and everything. You’re expected to know the area in which you’re advising because there is so much more to know (E7, Tax Manager, FTSE 100, February 2016).

I would argue that in essence the tax profession looks at cases as shown in Figure 6.3.

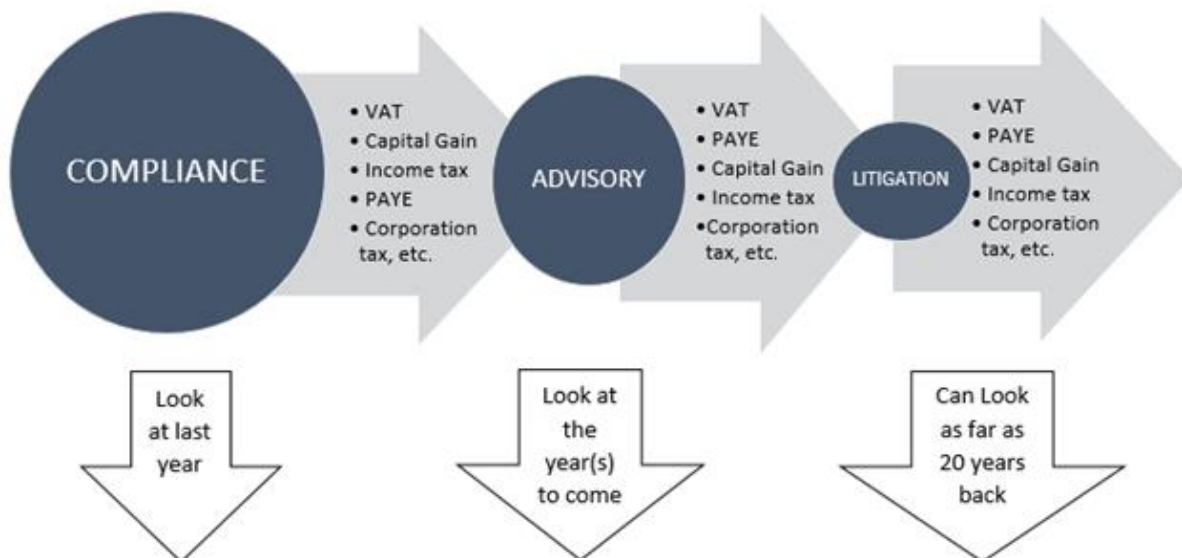


Figure 6.3: Horizontal and vertical division of the tax profession
(Source: Author’s own model)

This confirms Thuronyi and Vanistendael’s (1996, pp. 148–151) summary of tax advisors’ roles and functions within the tax system:

- A. Tax planning; B. Advice ancillary to financial and other services; C. Preparation and auditing of commercial accounts; D. Preparation of tax returns; E. Representation of the taxpayer before the tax administration; F. Representation before the courts.

The horizontal slice of the profession (as shown in Figure 6.3) covers a very wide range of specialisms, including: indirect taxation (VAT, sales taxes and duties, excise duties such as

car benefits, motoring taxation); stamp duty, property tax; various taxes relating to income, such as corporation tax and income tax, sub-divided into national insurance, social security contributions, employment taxes, payroll and workforce tax; exemptions on investments (UK government bonds, individual savings accounts, pensions, venture capital trusts, enterprise investment schemes, insurance bonds); council tax; expatriation tax in respect of the USA; capital taxes, including capital gains tax, inheritance tax and wealth tax; environmental taxes; and international taxes, etc. Within the VAT specialism alone, there are at least 11 sub-sections, each covering different applications and knowledge of the law (Figure 6.4). As such, a public sector VAT specialist may not necessarily be able to advise on VAT applied to the banking sector. Similarly, a VAT generalist may not be the best person to comment on VAT relating to energy or mining.

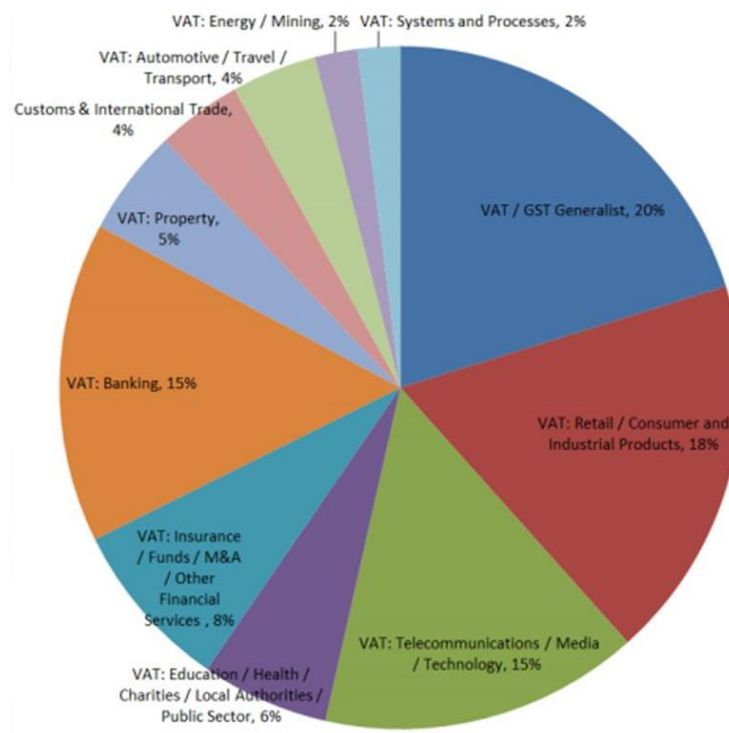


Figure 6.4: VAT specialisms

(Source: Unpublished Market Report 2016 established by Building Leading Talent, p. 6)

Furthermore, each specialism requires training and extensive knowledge:

Every time I go to a VAT lecture, I think, “That’s really interesting. Why don’t I do VAT?”
And you go, “The answer is, ‘cos you can’t do everything and VAT specialists do only VAT”
(B5, Tax Solicitor, FTSE 100, January 2015).

Oats and Tuck (2008) have found that consultancy firms have become increasingly specialist in order to address issues arising in specific sectors. This observation resonates with Tuck’s finding (2010, p. 591):

Another aspect of new knowledge is specialist knowledge which is functional knowledge but which is not sector specific. Tax legislation has become more complex as a result of both anti-avoidance legislation and adapting existing legislation to new business types and transactions, including different types of financial instruments. The IR, to match the corporates’ expertise, had experts in their Technical Department who would be specialists in transfer pricing, thin capitalisation or international experts but these specialists were outside the main operational departments such as the LBO. Specific transactions and situations would be referred to them by tax inspectors and then the specialist would conduct enquiries with the taxpayer directly.

In addition to this horizontal division of the tax profession as explained above, and also as a result of the complexity and difficulty of tax law, I would argue that the tax profession is also vertically segmented (see Figure 6.3). This vertical segmentation distinguishes between three main activities. One is compliance, which mainly involves completing annual tax returns. Although this task necessitates a great deal of knowledge in order to be carried out correctly, it is a retrospective action that assesses what happened in one or more previous years. This is often done on a more administrative basis and in general by lower-graded tax agents or unqualified workers. This represents the largest portion of work carried out by the tax profession. The second aspect is advisory, also called tax planning, which is mainly forward-looking and assesses what the client will do next. Here, the difficulty lies in determining in advance which tax structure will be the most adequate and efficient to minimise the tax charges. Advisory work is often done by tax accountants, chartered tax advisors and tax

lawyers.³⁰ It is on this very specific service that competition between the legal and accounting professions tends to focus. Lawyers are very rarely involved in submitting annual tax returns since compliance work is usually done by accountants:

within each of those kinds of sectors you will have people who will just do the compliance and you will have people who will do the advisory. Clearly, there's a certain overlap. But those are the sort of distinctions (B5, Tax Solicitor, FTSE 100, January 2015).

Finally, the third activity is litigation, which is handled exclusively by solicitors and barristers. In such cases, tax barristers act on behalf of taxpayers to rationalise tax positions taken by clients who are being challenged by the tax authority:

the First Tier Tax Chamber hears appeals by individuals and organisations against decisions made by HMRC. The Upper Tax Tribunal and Chancery Chamber deals with decisions made in First Tier Tribunals and with issues relating to the Financial Conduct Authority and the Pensions Regulator. The website offers guidance on the appeals process and information on tribunal decisions (B4, Barrister, Tax Chamber, January 2016).

Owing to the rules surrounding legal representation, litigation represents the smallest portion of work carried out by the tax profession. For instance, in the Upper Tax Tribunal and Chancery Chamber, only barristers are allowed to advocate and defend a case, although they may be instructed by a professional third party.

As a barrister, I can take instructions from solicitors, accountants, chartered tax advisors, tax, um, technicians. I can't take them strictly from a formal tax inspector who just happens to run a tax advisory business. They have to have a recognised professional qualification to instruct me, but that's the way the Bar Council works (B4, Barrister, Tax Chamber, January 2016).

Litigation may be complex since the tax authorities are allowed to raise assessments going back as far as 20 years. HMRC's time limits for tax assessments are four years for standard cases, six years for careless behaviour and 20 years for deliberate behaviour where:

³⁰ The advisory segment of tax services forms the core topic of this thesis.

the loss of tax is: brought about deliberately by the person attributable to a failure to notify liability, or attributable to an avoidance scheme notifiable under DOTAS and the person making the return has not complied with their obligations under DOTAS to tell HMRC they have used that scheme (*Finance Act 2004*, Section 36(1) and (1A)).

The extent of this knowledge must also be considered in light of the wide variety of clients, from multinationals to single individuals. Indeed, advice will need to be adapted to the structure of the client (see section 6.9).

This section represents one of the most illustrative in explaining the role of knowledge in shaping the tax profession. The above data demonstrate indeed that, owing to the technical and specialist tasks that the tax industry has to undertake on daily basis, technical departments have emerged within already specialist sectors (see for instance VAT Retail that is a speciality within the VAT tax environment). This has forced the tax profession to construct itself vertically and horizontally (Figure 6.3).

Having explained different types of tax knowledge, the next section examines how tax knowledge is acquired.

6.5 Education and training required to provide tax services

As explored in chapter 4, knowledge may be either explicit or implicit. This section considers these two types of knowledge, and the market value of such knowledge.

6.5.1 Explicit formal knowledge

Education, examination, and formation are important factors in the learning process for the tax profession. They compose the ensemble of formal ‘savoir’ necessary to do the job (O’Donnell et al., 2005). In this sense, the academic journey through which professionals acquire tax knowledge may give a guarantee, or at least an impression, of competence. With

regard to education, the UK tax profession does not merely rely on state institutions (such as universities) to educate its professionals, since very few universities offer a tax programme. To this day, taxation is not offered as a subject in the UK academic system, and even at university level, if we only consider generalist programmes, taxation more often constitutes an optional module for law and accounting students (Miller and Brewer, 2003; Tuck, 2007). The potential to learn in a more linear path through a three-year tax academic programme is admittedly not common and only some universities do offer undergraduate tax degrees (e.g., Bournemouth). Although, there is a wider provision of masters' degrees in tax, such as at Oxford, and an MSc by Research in Taxation at Birmingham (where this PhD was undertaken), tax degrees across the UK tax system remain the exception rather than the norm. The fact that tax is rarely taught as a degree at university could be explained by the absence of a specific academic route to becoming a tax advisor. As one respondent commented: “in terms of education, the difference is incredible. There is no single path or manner to become a tax professional. Some did not even have a degree.” (A7, Senior Tax Manager, Big Four, January 2016). By comparison, this differs from the legal and accounting professions, where knowledge is traditionally learnt through the graduate route, commonly in a three-year course.³¹

In this context, what could be described as the most ‘traditional’ path includes deciding on a more direct tax route into chartered accountancy or taxation through a more explicit ‘tax’ route. In the UK, specialist programmes exist where taxation is being taught as a core subject and therefore can be seen as a direct route into taxation (this would be the case of the HMRC Graduate Programme for tax professionals). However, those programmes are limited in terms of student numbers and require a proactive interest in joining the tax

³¹ There exists a number of different routes in legal and accounting professions. For instance, if we regard the legal route to become a solicitor in England and Wales, the most ‘traditional’ is the ‘graduate route’, which supposes taking either a law degree, or other degree followed by a Graduate Diploma in Law, then followed by a period of recognised training. However, there exists other qualifying routes including but not limited to apprenticeships and period of recognised training.

profession.³² Others may have started as an audit trainee and moved into tax on qualification as an accountant – and since this route is seen as a ‘direct route’ into tax, those professionals are exempt from the first tier Chartered Institute of Taxation examinations. However, it seems important to note that the various routes into the tax profession are becoming increasingly convoluted and can take any number of forms, meaning it continues to be unnecessary for an individual to have what may be described as a ‘relevant’ degree to enter into the accountancy and tax professions.³³ This is somewhat surprising since, as previously noted, taxation is a complex specialism that requires training, learning and continuous development. Yet this expert knowledge seems to be more often learnt on the job than developed through formal education. To illustrate this argument, Table 6.1 shows the undergraduate programmes undertaken by the 44 interviewees who had become tax advisors.

Table 6.1: Undergraduate programmes undertaken by tax advisors

(Source: Author’s interview data)

Law (x10)	Microbiology	Philosophy
Maths (x5)	Theology	German / French
Economics (x4)	Classics	Physics
Modern history (x3)	Biochimie	Accounting
Business study (x2)	English literature	Astronomy / Astrophysics
Do not hold a university degree (x2)	Engineering	Geography
Science	Industrial economics	Chemistry
Statistics probability	Language and literature	Public administration

³² Most interviewees did not undertake the direct route into taxation as seen in Table 6.1 below.

³³ For the purpose of this research the degree route will be the one extensively explained.

As can be seen from Table 6.1, a wide range of undergraduate programmes had been studied by the interviewees: 24 different degrees had led to the same professional occupation. Only the lawyers knew at an early stage that they wanted to practise within the legal profession, and hence thought it better to study law at university. The data shown above also reveal that tax advisors come into tax from different work streams, including but not limited to accounting, public administration, audit and economics. Taxation constitutes for some a second career. In this scenario, I would argue that the data suggest that tax is not a specialism that requires pre-existing knowledge of the law or accounting. Professionals only need to demonstrate an ability to learn and develop on the job, allowing them to enter into tax from a range of backgrounds, through possibly a transfer of their pre-existing knowledge (accounting, audit, etc.).

With regard to professional training, since taxation is not traditionally learnt within the UK educational system, accounting firms, including PwC, KPMG, EY, Deloitte, Grant Thornton and BDO Stoy Hayward, all offer intense tax training through graduate entry schemes (E4, Senior Tax Manager, FTSE, February 2016). For example, Deloitte's graduate programme (in tax) starts with a three-week condensed course that runs six days a week, including Sundays.³⁴ After the three-week course, students are expected to undertake basic work, carry out research, shadow senior colleagues and be able to make skeleton arguments (A10, Tax Technician, Big Four, March 2016). In general, during the first years at a big firm, most of the graduate's schedule is split between study leave and on-the-job training to learn the necessary knowledge to do the job:

³⁴ The explanation provided assumes that the type of training contract undertaken exclusively relates upon the subject of tax. As such and for simplicity reason, the researcher (I) has excluded times where the graduate associate undertake a training combining different subjects.

In the first year, the amount of client work you do can be more linked, but that's purely because we invest such a lot in training. So if you're doing all your modules, you might be at college for three months at a time. So you go specifically to college to pass whichever exams you're doing, and then on top of that you would have the internal training that we run, and then you might have group-specific training for your own specialism. So there is quite a lot of time in the first year, 18 months, maybe two years, where you're not doing client work, but that's because you're spending the time doing training. It is hard. You can't just improvise being a tax advisor (A10, Tax Technician, Big Four, March 2016).

In contrast, legal professional training takes the form of seats for solicitors or pupillage for barristers, a period in which law students rotate around various departments within the firm. At this stage, they do not yet choose their specialism. They are trained by a number of tutors and explore different areas of expertise. Nowadays, trainees typically undertake either four six-month training rotations or six four-month training rotations. It is only at the end of this two-year training contract that they decide on the expertise they wish to pursue:

My first six months of pupillage was not tax; it was commercial work, and more sort of more general work. [...] My second six months' pupillage was tax and then I've done tax ever since (B3, Barrister, Tax Chamber, November 2015).

No, I did a seat; it is part of the training as a lawyer to do a "seat", which means you have four or six months' rotation in the various practice areas; I did four months in tax, I enjoyed it, and from there it was just a question of a lot of reading, learning on the job as I said, learning from seniors to such a point they feel you have the ability to do it yourself, and then it just continues. I mean, learning doesn't stop. Every day I would read legislation, UKCs³⁵ or new revenue publications, to make sure my knowledge is up to date (B1, Tax Solicitor, law firm, November 2015).

In the case of graduate programmes in tax, accounting firms devote the entire training contract to specialising in tax (whereas lawyers only spend six months)³⁶ in terms of

³⁵ UKCS (United Kingdom Copyright Service).

³⁶ For the purpose of this thesis, the graduate route programme in tax is extensively described, although it is important to note that this example only illustrates time where the individual goes straight into a tax training contract and not a different type of training contract.

professional training, and it appears that lawyers and accountants have a rather similar type of experience.³⁷ They learn on the job and/or shadow more senior colleagues.

In terms of continuing professional development (CPD), once on the job, TPs are mandated to comply with CPD requirements. This requires lawyers, chartered tax advisors and chartered accountants to undertake further training throughout each year, with the number of hours varying according to the professional body to which they belong. CPD takes various forms, and how it is achieved varies quite considerably from one person to another. However, the data suggest that a tight network exists across the tax profession. Indeed, this ‘keeping up to date’ with tax knowledge is supported by a system of knowledge provision. Conferences, tax groups, websites, journals, articles, classroom training, etc., are available for TPs to help them continue to expand their competence and share their knowledge (see section 6.6):

Every tax professional needs to keep themselves up-to-date. We do have requirements for continuing professional development ... I tend not to go to formal conferences unless I’m organising them or speaking at them, which is quite a bit! [laughing] But I will go to ... so I went to an International Fiscal Association event last week. I will go to an Institute for Fiscal Studies event next week. I have attended a number of webinars by the OECD (B11, Tax Partner, law firm, April 2016).

As a lawyer, I am required to do continuing professional development in terms of ... So conference attendance will count as training. I also write a number of articles for that purpose, and I’m checking the legislation as I go along. I also teach a tax law course. All of that counts for CPD training (B7, Tax Solicitor, law firm, February 2016).

As part of being a chartered tax advisor, and also part of our continuing professional development within [firm], we have to do training. We have to do a minimum of, I think it’s 120 hours over three years. And in any twelve-month period there has to be a minimum of 20 hours. So we have lots of training sessions. There’s lots of continuing professional development. Some of it’s online, some of it’s workshop-based, some of it’s classroom-based (A6, Tax Director, Big Four, January 2016).

³⁷ This scenario only depicts times where the training contract is devoted to taxation.

With regard to CPD, there appears to be very little difference between lawyers and accountants. They go to the same conferences, read the same websites and attend the same types of seminars. This could potentially be explained by the facts that, in practice, when TPs deliver tax services, their roles are to provide recommendation on the law. This is distinctive of the training they receive, whether from an accounting or legal background. As such, TPs might not belong to the same professional group, but they all represent taxpayers and update the content of their knowledge upon the exact same content, for example, legislation, case law, guidance, etc.

Since tax knowledge is not specific to a particular professional background (lawyers, accountants or ex-HMRC), TPs are free to move from one firm to another. In practice, the tax profession reveals great flexibility and mobility in the exchange of TPs. A large number of interviewees had worked within many different structures.

Turning to tax qualifications, another key characteristic of the UK tax profession is that there are no entry restrictions or conditions in this profession, despite the high quality of services delivered and the expert knowledge required. A number of UK TPs hold no tax qualifications, as indicated by the following interviewee:

there are people – very eminent tax advisors – who have got no professional qualifications whatsoever. That’s not to say that the quality of advice isn’t up there because [Mr X] is number one in the UK around property. Now I could be a solicitor. I am. I’ve got no other professional qualifications and I still work in, if you like, the ‘tax industry’. But I haven’t got a recognised professional qualification in tax (B8, Tax Solicitor, law firm, February 2016).

This observation is supported by the Building Leading Talent unpublished Market Report 2016, which reports that almost 30 per cent of TPs have no professional qualifications (Figure 6.5).

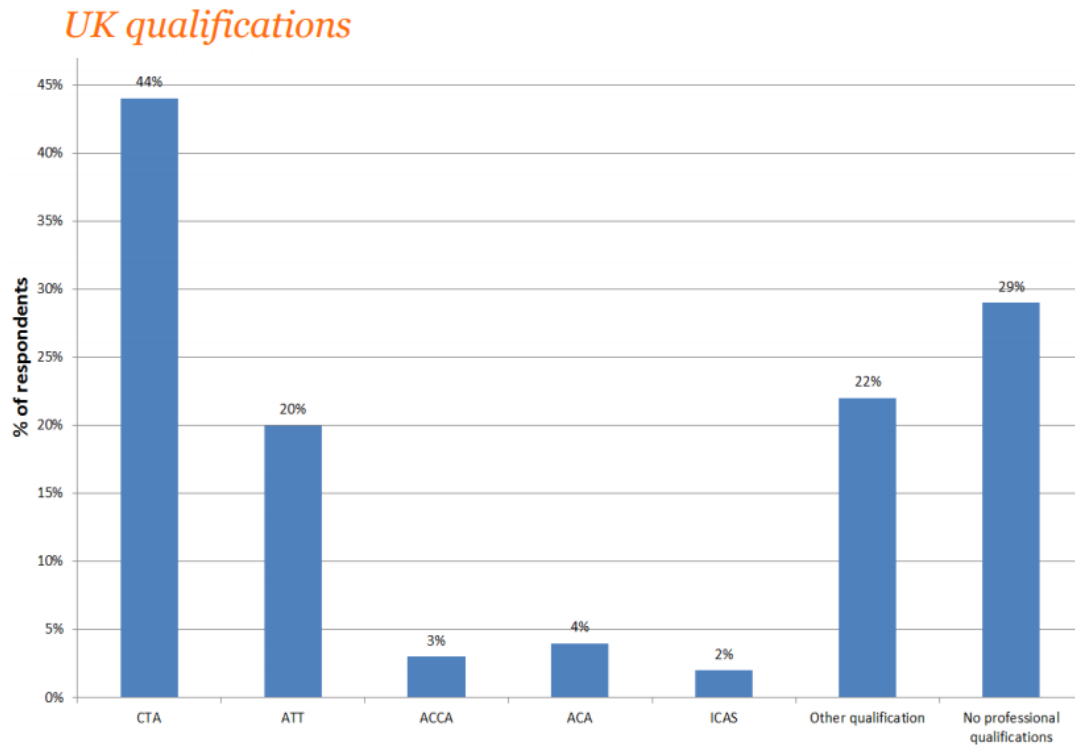


Figure 6.5: Qualifications of UK tax practitioners
(Source: Building Leading unpublished Talent Market Report 2016, p. 8)

Despite the absence of any qualification requirement as a condition to practise tax, most interviewees had nevertheless passed some sort of examination during their careers. Even those who had undertaken a seat during their legal training or had been trained as tax inspectors by HMRC had still voluntarily undertaken tax examinations (Tuck, 2007). Indeed, the interviewees frequently held a number of qualifications. Almost all of them combined more than one qualification or professional training, such as both Chartered Tax Advisor (CTA) and ICAEW Chartered Accountant (ACA) qualifications, or the Association of Taxation Technicians' qualification (ATT) and the CTA, or a lawyer's seat or HMRC training combined with the CTA qualification. Although there is no entry level to the profession, the data reveal that, of the 44 interviewees, only two had neither qualifications nor prior professional training, and the remaining 42 had 77 different forms of professional training or qualifications (see Table 6.2). Twenty-eight of them had two or more qualifications/professional training, and 14 only one.

Table 6.2: Qualifications and professional training of tax advisors

(Source: Author's own data)

CTA (x25)	ACA (x14)	Solicitor's seat (x12)
HMRC training (x7)	ATT (x6)	Bar pupillage (x5)
Financial Conduct Authority qualification, FCA (x5)	CII	Institute of Financial Planning (CFP)
Tax Judge training		

It appears that tax lawyers/barristers do not usually have tax-specific qualifications. In this study, only three out of the 12 lawyers interviewed had a tax qualification such as the CTA. However, tax-specific qualifications seem usually to be held by accountants, since 17 of the 19 professionally trained accountants had passed a tax qualification (CTA or ATT). In relation to the above, the CTA qualification was the most popular form of voluntary examination, taken by 25 interviewees. This suggests some sort of recognition of the quality of the CIOT's examination: "our institute [CIOT] considers that our exams are the most rigorous and our standards are the highest. But, um, you know, I suppose it's a truism – you have to take our word for it" (A5, Retired from Big Four, December 2015). In the UK, it is common practice for TPs to take tax qualifications such as the ATT and/or the CTA exam (De Widt et al., 2016).

As shown in Table 6.2 (above), 59 per cent of tax intermediaries interviewed had one or two tax-specific qualifications. This tendency seems to be encouraged by large firms, which provide financial support and time for their staff to undertake these qualifications: "so I did my ATT exams with Deloitte and passed, and then I went to Ernst & Young and I did my CTA exams there" (A7, Senior Tax Manager, Big Four, January 2016). This is confirmed by data from the CIOT's 2017 annual return (Table 6.3), which shows that of the 777 people who classified themselves as directors, partners or members of the Big 10 or LLPs, 704 were CTA-qualified.

Table 6.3: Qualifications of CIOT members

(Source: Author's own data collected from unpublished CIOT documents)

	All responses	CTAs
BDO	71	65
Deloitte	166	149
EY	120	102
Grant Thornton	41	39
KPMG	100	91
Mazars	15	15
Moore Stephens	20	18
PWC	150	133
RSM	57	57
Smith & Williamson	37	35
All	777	704

Thus, although qualifications are not a prerequisite for becoming a TP in the UK, large firms appear to offer strong incentives, especially at senior levels.

The interview data also reveal that, although the education of lawyers and accountants appeared to differ in terms of the types of undergraduate programme they had undertaken and the sorts of tax examinations they had passed, this distinction diminished owing to how lawyers and accountants are trained, that is, on the job. This difference between accountants and lawyers almost completely disappeared with regard to CPD, as they go to the same conferences, read the same websites and attend the same types of seminars.

This section has examined explicit tax knowledge. The next section moves on to consider how tacit tax knowledge is acquired.

6.5.2 Tacit informal knowledge

In addition to formal knowledge, TPs are expected to develop tacit knowledge, which refers to the non-academic knowledge, the ‘know-how’ aspect of tax practice. Business-oriented

skills and an ability to deal with clients are identified as key requirements for promotion. Amongst the business skills that TPs are expected to develop are abilities to identify the true problem and to understand their clients' needs. Clients are often not experienced, so they may be under the impression that they have a particular type of problem, when in reality they have not actually addressed more significant issues (A1, Head of Tax, Big Four, November 2015). Larger clients such as corporates often have in-house tax teams with more expertise. This means that they are better equipped to diagnose problems by asking tax-focused questions. However, the difficulty in such cases is to understand the legal structure of the business, the geographical environment, the core activity, how this activity is undertaken, the firm's objectives, business culture and risk approach, etc. (A1, Head of Tax, Big Four, November 2015). This requires a business-oriented mind-set, since this type of understanding has little relation to tax knowledge but is crucial in order to address tax queries.

The second pertinent skill required of TPs is the ability to be commercial in order to win new clients, especially in large firms. Indeed, the interview evidence suggests that, in general, accounting firms are more active in this area than law firms, since lawyers traditionally identify themselves as being more academic and less business-oriented. This relates to accounting being seen for a long time as a low-grade type of knowledge/work (see chapter 2).

The ability to win work is a very valuable skill. I think at the start of my career, when I regarded myself as very academic, I was a little bit dismissive of the sort of sales side ... of financial services. And I now think there are people who are really good ... You know, they're bright and they're ... they're witty. There are people who have skills that I sort of highly regard and I think, 'God, I couldn't do that. The marketing. It is a real ... That's a real skill. I no longer despise that side of what lawyers have to do. I think that people are just very good at it and I'm not (B2, Tax Solicitor, law firm, November 2015).

In this context, firm reputation and, more importantly, personal interactions, appear to have become key elements in winning over new clients:

Most of the time people will go to advisors that, I guess, they've had either good experiences with, i.e., the advisor has given them advice in the past that was good advice or that they trusted, or they go to an advisor who has a very good reputation and just thinking that the reputation in itself will mean that they will get good advice. So I don't actually really think that people think, 'Shall I go to an accountant, a self-employed consultant or a solicitor or a barrister?'. They just think ... I think that if they need advice they just ask people they know – their friends – and say, 'I have this question. Who should I ask?' (B9, Barrister, Tax Chamber, February 2016).

In this process, some TPs have developed skills in initiating new relationships:

How do you build this relationship? Just trying to have some beginning, some sort of small-talk that's not just about tax. And it's the way you get to know anybody, really. Making sure that you meet them as much as you can. I mean, it's very easy to do everything by email these days. But meetings are always better. Um. And then it's listening and talking to people. And understanding what they need, 'cos every client needs something a little bit different (A3, Tax Director, Big Four, November 2015).

With the increased commoditisation of knowledge, it seems that reputation and relationships have become essential tools for developing business relationships. In the past, clients went to certain firms or individuals because they knew that a particular TP would be able to create a tax structure that others could not. Now, as knowledge is available through the Internet and can be rapidly replicated by other firms, clients no longer come seeking pure knowledge, and in-depth specialised tax knowledge is expected of almost any of these experts (see Figure 6.4).³⁸ Nowadays, clients choose firms because they know their tax advisors, because they interact well with them, or because they have been referred by a trusted third party (friend, colleague). This type of business approach did not exist in the past, as suggested by one respondent:

³⁸ Except on very rare occasions when a very specific tax issue arises and therefore distinctive tax knowledge is required.

When I started to practise at [second-tier accounting firm], part of the reason people would come to you was because you knew things that other people didn't. So all that knowledge that is now just available to anybody who wants to subscribe to PLC³⁹ was, you know, enshrined in probably Magic Circle law firms because they were the ones that did those transactions and nobody outside knew how to do them. Because they could read the legislation but they didn't have anything else. They didn't know how they worked in practice. They didn't have the documents to do it. And, you know, all the law firms had their sets of tax warranties and tax indemnities. All that's been standardised. So I think with the advent of, you know, knowledge itself being commoditised, that has changed the way things have worked (B3, Barrister, Tax Chamber, November 2015).

Although business skills and how to deal with clients were traditionally the forte of commercial firms such as accounting practices, a tax partner in a Magic Circle law firm highlighted how large firms behave in a similar manner, regardless of the profession to which they belong. The explicit knowledge described in section 6.5.1 seems no longer to be a determinant in terms of knowledge, since big accounting firms and large legal practices now seem very similar in this respect. In practice, large law firms have caught up with the commercial side of tax services, and therefore offer very similar facilities to those offered by the Big Four. This resonates with Kornberger et al.'s (2011) ethnographic study of Big Four managers, in which they described accountants as being no longer disciplined professionals, but entrepreneurially-minded agents.⁴⁰ This observation could even be extended to accounting bodies producing not just accountants but 'business-savvy people'. Dealing with clients seems to be a core element of tacit knowledge. Indeed, I would argue that commercialism has become more important than the technical side of the tax practice itself. This aspect of tax practice is extensively documented in the accounting profession literature (Anderson-Gough et al., 2000, 2001; Gendron, 2002; Gendron and Spira, 2010; Kornberger et al., 2011; Malsch and Gendron, 2013). For instance, Robson et al. (2007) highlight that,

³⁹ PLC (Practical Law).

⁴⁰ Carnegie and Napier (2010) go even further and discuss how the image of accountants has deteriorated over the last few decades. Accountants are now often depicted as business entrepreneurs who would do anything for commercial purposes.

nowadays, being a professional, whether in a Big Four or Magic Circle firm, implies being client-centric. Carter and Spence (2014, p. 950) add to this argument:

It is perhaps an overstatement to argue that a ‘good’ auditor is one who caves in to client demands while a ‘bad’ auditor is one who holds firm in the face of client demands [...] yet it is clear that good client management is central to a director’s or partner’s career.

Putting the client at the heart of tax services may take many forms. In its basic form, it may mean explaining issues in simple terms to the client and adopting commercial language. For instance, tax is reputed to be a very dry, technical subject. It is often difficult to understand the technicalities of tax. Therefore, TPs learn to break down and simplify tax language to make it comprehensible in lay terms and ultimately outline the tax situation:

tax being such a technical area, I see that from other lawyers or accountants, if you are not a tax person you cannot understand what they say, and I think part of the skill at being successful at tax, it’s putting it in such a manner that they [the clients] can understand what you are saying (B1, Solicitor, law firm, November 2015).

A large part of dealing with clients also lies in listening to what they want, establishing clear objectives and ensuring that the firm provides those services. Some clients may want to receive full details and understand the minutiae of the tax planning, being aware of each argument, referencing every point to the legislation, and highlighting specificities and exceptions. Others may just want the ‘big picture’ and may not be interested in the technicalities of their tax affairs. Thus, it is important to adapt to the interlocutor and develop some empathy (A3, Tax Director, Big Four, November 2015). In essence, there are very different relationships and expectations between dealing with the finance director of a large corporate, where the relationship tends to be professional, and dealing with private clients, where it is crucial to become their trusted advisor, the ‘go to’ person (A3, Tax Director, Big Four, November 2015). Sometimes, putting the client first will mean removing a TP from a

project when the professional or personal relationship does not work well with the client. At other times, it will mean sacrificing family time and holidays:

Putting the client in the centre of everything. You know? I was in France on holiday a few years ago and I was doing a major client project, and we were having meetings every week with the client and with the Revenue. And I was staying in, uh, the Île de Ré, La Rochelle? And I had to fly home. I had to fly back for a meeting. And then I had to spend a night in London and then fly back the next day. I could only get a flight to Nantes and I had to cab all the way from Nantes to La Rochelle and catch the boat to Île de Ré. And I had to do it! And it was a bummer. I absolutely didn't want to do it at all. I was there with my wife, children, my sister-in-law and her family, and I had to leave for two days to do this. But I did it, because it was really, really, really important. And I had to be there. Well, uh, I, I, I'm not trying to make myself sound like a hero. I'm not. But it was just, it was one of the key things. If I hadn't have been there, I'd have let the client down. It was a very big issue, it was a very sensitive subject, and I had to be there. So you just have to put it first. And you talk to every partner in this firm who would have done something like that at some stage (A2, Tax Partner, Big Four, November 2015).

In this context, some tax firms have developed very sophisticated approaches to maintaining these trusted 'go to' personal relationships, which go beyond being a good client-centric advisor:

So when I got given a client, I wasn't just told, 'This is your company to deal with'. What I was told is, 'Right. Here's your new client. Mark is the Head of Tax. If nothing's going wrong, you will still be phoning Mark at least once every two weeks to say, "Hi, how are you?", have a chat, talk about football or his children or something, because it's all about developing a relationship'. [...] How do you build relationships? It depends on the person, doesn't it? I mean, as it happens, the big coincidence with that particular client is that Mark and I both support the same football club, Watford. So yes, Mark and I went to a few football matches. Mark and I would go when Watford played Aston Villa or Birmingham, or maybe Nottingham Forest or whatever. I had another lady client who wasn't the slightest bit interested in sports at all. And we just tended to go out for lunch, because she liked to have the excuse for having a drink at lunchtime and not doing much work in the afternoon because she was going out for lunch with me (C1, Tax Consultant, Sole Practitioner, December 2015).

Personal relationships and friendships may eventually transform into long-lasting business relationships, even if a tax structure fails or a business endeavour goes wrong. This may raise further ethical issues, this matter will be further developed in chapter 7.

The account below reflects the process for progression within large law and accountancy firms, where the above-mentioned skills seem crucial to gaining authority and grade. One interviewee (B11), a tax partner currently working in a law firm, explained the process of making it to partner as follows. Typically, in any professional firm, the first couple of levels of promotion are almost automatic. Once the training programme has finished and the tax trainee has become a newly-qualified solicitor or accountant, that person will be promoted to the next level up, and probably the one after that, which is manager level in an accounting firm or associate in a legal firm. If the manager or associate works well and makes good progress, this person will obtain these promotions almost automatically within about four years of qualifying. There is then a big difference up to the next level, which is senior associate in a law firm or senior manager in an accounting firm. This type of promotion typically occurs after another four years. However, there is much more variation in how long this takes because, in order to make promotion to senior manager, TPs must normally show that they have the potential to progress to partner. This means demonstrating that they are doing more than just their day jobs. Therefore, candidates must be able to prove that they are particularly technically talented and good at working on certain types of projects, or that they have other particular skills required at the next level. There appears to be quite a rigorous assessment process for promoting candidates to senior manager/senior associate level. After that, progressing from senior manager/senior associate to partner requires a combination of continuing to develop those skills and having a very strong range of skills across the board.

There's a combination of all of those things. So it's the amount of billings that you've brought in, the billable hours that you've got, the feedback that you've got from clients, how well you are working with other people across the firm, how well you are developing your junior people and whether you're doing extra things. So the PR work that I do is something that doesn't apply to most people; but for me, I get credit for the fact that I'm doing that (B11, Tax Partner, law firm, April 2016).

In big professional firms (law and accounting), it seems that TPs who are considered to be partner material are not necessarily those who know the most about tax, but are more often those who perform well with tacit knowledge. At a certain level of tax advice, it appears to be a given that everyone knows how to deal with tax issues, but not everyone will be good at dealing with clients, bringing in new contracts and running projects. In this context, Gendron and Spira (2010) describe partners as aggressive pursuers of new business opportunities. In essence, in the tax profession, power appears to lie in tacit knowledge more than in formal knowledge.

Overall, it can be concluded that through this particular set of training, education and shaping of formal and informal tax knowledge, tax professionals observe the same experience of the tax service industry (making those professionals distinct from any others). Those trained to read and advise on the tax law would be in a position to share the same practices or the same challenges, and as a result, the account of their experience would be able to capture and explain a sense of community. As such, lawyer and accountant might not necessarily feel a sense of community, yet the day-to-day experience of a tax lawyer might be much closer to that of a tax accountant, than of a family lawyer for instance, despite belonging to two different professional backgrounds.

The next section examines the market value of this knowledge.

6.5.3 Market value of tax knowledge

The market value of tax knowledge is quite high for taxpayers. For instance, barristers' hourly charge-out rate may be as high as £500. This hourly rate is negotiated with the clerk and the tax Bar, but usually averages between £430 (B8) and £445 (B7) in London. Although high, this rate is much lower than the cost of advice from partners in Magic Circle firms, who currently charge over £1,000 an hour (F2). The same sorts of tariffs are applied by London tax partners in the Big Four. Outside London, charge-out rates are substantially lower. For instance, the services of a tax advisor in a medium-sized accountancy firm in Birmingham cost £300 an hour or £400 an hour for a partner (E2). The hourly rates of consultants also vary greatly from one tax advisor to another. Depending on the type of work and the consultant, the hourly income will be between £80 and £600 (C3): "If it's corporate work that I'm doing, I charge out at £210 an hour. If it's one of my very few direct personal clients, it's £80 an hour" (C5, Tax Consultant, Sole Practitioner, February 2016). A tax trainee in a Big Four firm would average around £60 an hour (B4), and at the other end of the spectrum, tax practitioners with specialist or niche knowledge have very high charge-out rates, which may be reflected in extremely high salaries as well.

Such a high-level, specialist area of tax and environment law ... and it was international tax but as it applied to environmental taxes and levies and this sort of thing, and he was basically one of the only people in the UK who could do it so he could charge what he wanted. And that was 15 years ago and he was on three-quarters of a million pounds a year (F2, Tax Consultant, University, January 2016).

From these billing rates, I would argue that tax advice is an expensive service that few can afford. The richest individuals and corporations are able to get the best advice. However, tax intermediaries do not receive as much as their billing hours might suggest as shown in Tables 6.4 to 6.7 directly extracted from the unpublished Market Report 2016 established by Building Leading Talent (p. 3–4).

Table 6.4: Salaries of tax professionals working in Big Four firms

(Source: Unpublished Market Report 2016 established by Building Leading Talent, p. 3)

	London Base Salary	Regional Base Salary	Car allowance	Bonus
Director	Typically £90 – 140,000 (£116k) but on occasion up to £190,000	£80,000+	£5,000 - 7,500	0 – 20% (12.3%)
Senior Manager	£70 – 98,000 (£85k) NB. Some long established Senior Managers earn over these figures.	£47 – 78,000 (£73k) NB. Some Senior Managers based in the regions earn London salaries, should they fulfil national roles from a regional location	£4,500 – 6,000	0 – 20% (9.4%)
Manager	£50 – 70,000 (£60.5k)	£40 – 55,000 (£48k)	£4,500 – 5,000	0 – 15% (6.1%)
Assistant Manager/ Senior Associate	£34 – 51,000 (£40k)	£26 – 35,000 (£31k)	Not applicable	0 – 4%
Assistant/ Associate	To £32,000	To £28,000	Not applicable	0 – 4%

Notes: Median figures, where available, in brackets. Those working in the North/Scotland in the UK may find themselves at the lower end of the regional base salary banding. Partner salaries vary so considerably that it is impossible to quote ranges. Indirect tax salary bandings have remained largely static for some years now. The norm is to reward exceptional performance through bonus payments.

Table 6.5: Salaries of tax professionals working in the top 20 accountancy/law practices
 (Source: Unpublished Market Report 2016 established by Building Leading Talent, p. 3)

	London Base Salary	Regional Base Salary	Car allowance	Bonus
Director	£100 – 135,000 (£118k)	£82 – 115,000 (£96k)	Usually on offer, between £3,500 - 5,000	0 – 13%
Senior Manager	£62 – 88,000 (£77k)	£53 – 75,000 (£62k) NB. Some Senior Managers based in the Home Counties earn London salaries	When offered, between £3,500 – 5,000	0 – 13%
Manager	£52 – 70,000 (£61k)	£42 – 55,000 (£47k)	Very occasionally offered, the exception rather than the norm	0 – 13% (most firms do not offer bonuses at this grade)
Assistant Manager/ Senior Associate	£28 – 45,000 (£35.5k)	To £40,000	Not applicable	0 – 3%
Assistant/ Associate	To £30,000	Very rarely exist!	Not applicable	0 – 3%

Table 6.6: Salaries of tax professionals working in independent firms
 (Source: Unpublished Market Report 2016 established by Building Leading Talent, p. 3)

	London Base Salary	Regional Base Salary	Bonus
Director	Varies considerably depending on the type of firm £65 - £150,000	£60 – 80,000 (£65k)	Some independent professional services firms offer commission based earnings, which can be quite sizeable depending on business model. Smaller accountancy practices occasionally offer bonuses.
Senior Manager	£55 – 80,000 (£63k)	Usually called Directors. See above figures	
Manager	£45 - £57,000 (£52k)	£40 – 57,000 (£47k)	
Assistant Manager/ Senior Associate	£30 – 45,000 (£35k)	Very rarely exist!	
Assistant/ Associate	Very rarely exist!	Very rarely exist!	

Table 6.7: Salaries of in-house tax professionals working in the UK
 (Source: Unpublished Market Report 2016 established by Building Leading Talent, p. 4)

	Consumer & Industrial Products; Retail & Pharmaceuticals	Technology, Media & Telecoms; Leisure & Entertainment	Energy, Mining, Utilities; Automotive, Travel & Transportation	Banking	Insurance / Funds / Other Financial Services & Property	Education / NHS / Charity / Local Authority / Public Body
Global Team Leader	£95 – 145,000 (£124K). On occasion more	£100 – 125,000 (£114K). On occasion more	£120 – 140,000 (£132K) On occasion more	£150K +	£110K +	N/A
European Team Leader	£90 – 125,000 (£106K)	£75 – 115,000 (£92K)	£95 – 120,000 (£106K)	£110 – 130,000K (£118K)	£90 – 138,000K (£111K)	N/A
UK Team Leader	£70 – 100,000 (£86K)			£82 – 120,000K (£101.5K)		£70 – 86,000 (£78K)
Global / EU/ UK Senior Advisory Manager	£90 – 110,000 (£100K)	£95 – 118,000 (£105K)	£85 - £130,000 (£98K)	£90 – 110,000 (£98K)		
Global Manager	£65 – 86,000 (£74K)	£68 – 89,000 (£76K)	£60 – 80,000 (£70K)	£60 – 75,000 (£67.5K)	£55 – 76,000 (£67K)	N/A
European Manager	£55 - £86,000 (£72K)	£65 – 89,000 (£75K)				
UK Manager	£58 – 73,000 (£66K)	£50 – 70,000 (£61K)	£50 – 65,000 (£56K)			£40 – 62,000 (£55K)
EU Compliance Manager	£50 – 64,000 (£56K)	£53 – 65,000 (£60K)	£53 – 75,000 (£61K)	£60 – 75,000 (£68K)	£44 – 57,000 (49.5K)	N/A
Asst Manager / UK Compliance Manager	£40 – 55,000 (£47.5K)	£40 – 53,000 (£47.5K)	£45 – 65,000 (£51K)	£45 – 60,000 (£53K)		
Accountant / Compliance Assistant	£27 – 48,000 (£39K)	£27 – 45,000 (£35K)	To £45K	£34 – 45,000 (£38K)	£32 – 47,000 (£40K)	£22 – 35,000 (£27K)

This section has discussed knowledge acquisition. It is equally important to understand how tax knowledge is shared, stored, applied and created, which aspects are examined in sections 6.6 to 6.9.

6.6 How tax knowledge is shared

Knowledge sharing or knowledge transfer is defined by the Oxford English Dictionary as “an efficient handling of information and resources to support mutually beneficial collaborations” relating to “the transfer of tangible and intellectual property, expertise, learning and skills” (Oxford English Dictionary, 2010). This section looks at the transfer of tax knowledge amongst knowledge brokers. In so doing, it enhances research by Hasseldine et al. (2009), whose main focus was on observing how knowledge is shared between knowledge brokers (such as accounting firms) and the knowledge seller (HMRC).

Within the tax profession, the diffusion of tax knowledge is supported by a sophisticated network system, which participates in the creation, expansion and continuation of knowledge. From training to technical support, conferences and tax groups, access to and sources of knowledge seem to surround these experts (see section 6.5.1). This section analyses more specifically the technical support available across the profession. Tax advisors often need to reach out to other TPs to verify the validity of their recommendations. Fear of submitting incorrect returns or making mistakes was a prevalent theme in the interviewees’ narratives. Indeed, they repeatedly used terms such as ‘right amount’, at the ‘right time’, with the ‘right tax’, revealing the importance of ‘getting it right’ (A2, Tax Partner, Big Four, November 2015). Large firms provide technical support for internal staff. In this case, TPs refer work internally to a technical helpdesk, another department within the firm, which suggests possible ways to address tax issues.

The service I work in, the technical consulting, is all for internal PwC staff. So they can come with any query regarding a private client. Usually, I can cover it. If I can't, then I'll normally know somebody who can. Or we can suggest ways that people can make a start. Sometimes we won't know the answer. Tax is difficult. So it depends. But we always ask people what they want. Sometimes people want a second opinion. Sometimes it's a very particular point. Sometimes they just want some general help on understanding a topic. So we try to have a range of material that helps people do that (A7, Senior Manager, Big Four, January 2016).

This type of specialist team dedicated to a technical helpdesk can only be found in big firms that have sufficient resources to devote people to support roles. In some large firms, technical assistance is given a charging code, and teams receiving queries are debited through the billing code.

If I'm helping you on a question about your client, then I will usually try to charge my time to your code so that there's some charge that goes through (A7, Senior Manager, Big Four, January 2016).

When I was in PricewaterhouseCoopers, uh, I soon learnt that if anybody came over to my desk to try to get me to do some work for nothing, I'd have to send them on their way. 'Get me a chargeable code, otherwise I'm not even thinking about it!' [laughing] (E1, Senior VAT Consultant, Tax Insurance, January 2016).

Technical support and knowledge sharing can easily be accomplished in large firms since the necessary resources are available. Through emails, meetings and the in-house technical team, TPs receive a constant flow of information (see section 6.7).

If someone in the practice has a question that they can't find an answer to. For example, I spoke to somebody today who had a question about a particular type of tax release, and they didn't know the answer and they wanted to see what experience we had. So I did some research and then I spoke to them about how I think the legislation works, what the commentary says about it, what experience we've got, what my view is on that topic. So she will then use that information to go back to her client (A7, Senior Manager, Big Four, January 2016).

In medium-sized and small firms, technical support and knowledge sharing may not always be possible owing to a lack of resources. For this reason, Tolley's has created a special

technical consulting service, which enables tax advisors to ask a third party (in this case, Tolley's) to accredit and confirm their tax advice:

Tolley's-type thing, where you can ring up and say, 'help' (F2, Tax Consultant, University, January 2016).

The idea is that if a tax intermediary is struggling to address a particular question within the law, Tolley's can provide an answer through its helpdesk and telephone assistance. Firms pay a monthly fee for this verification that they are making correct recommendations to their clients. However, they consult this service because they do not actually know the answer. Tax is so difficult and specialised that even specialists need other specialists to help them. Technical support may also be provided freely through group networks and tax specialists. In such circumstances, firms and tax intermediaries meet up or contact each other to enquire about a specific point of law. As previously mentioned, since 'getting it right' is a pivotal issue highlighted by the interviewees, tax advisors do not hesitate to reach out to their peers to verify their recommendations. For example, the narrative below reveals this network of technical tax knowledge.

Prime example: a smaller firm came to us two years ago now, with regards to a change in the law (and it was to do with corporation tax). And they said, "Well we've read this change in the law and we think, although it was only originally presented by the Inland Revenue to encourage research and development within middle-sized enterprises, we think it also applies to universities. And what it means is that you can go back three years ... it's actually money from the government for doing research and development. And it's effectively money in your pocket. And we think, although it's meant to be for all these other firms, it also applies to universities". We talked about it not just amongst ourselves here but in the wider university tax manager sector. Have you heard of the British Universities Finance Directors' Group ? ... Well there's a tax section of it. So all of the people who are in that, we all spoke to each other about it. We also obviously spoke to the firm of accountants that had thought of this idea, and they went away and spoke to some lawyers, and the tax lawyers also said, "We are 100% sure that this does apply". So with all of that, and it took probably nine months to get to the stage whereby we said, "Okay, we believe you. Do the work for us" (F2, Tax Consultant, University, January 2016).

As a result of this long technical exchange and knowledge sharing, the whole UK university sector applied for this tax refund.

At other times, technical consulting takes the form of specific arrangements in which large firms help smaller firms on specialist topics. Keeping up-to-date with the number of adjustments appears to be a key concern for tax intermediaries. As a result of this ever-changing profession, firms and TPs seem to show an increasing tendency to become sector-specific and specialist in one aspect of tax, as mentioned in section 6.4. Small firms seem to have adopted a similar approach. Where there was once a will to try to do everything for their clients, it appears that tax boutiques now recognise their limitations and admit their inability to provide a full range of tax services. For example, a growing number of small firms refers work to other tax specialists when a technical tax issue arises. Indeed, if firms do not have the resources necessary to undertake a complex query, they will sub-contract the tax problem externally (C1, C3 and C4, Sole Practitioners, December 2015 and January 2016). Surprisingly, large firms may also require the assistance of smaller consultancy firms. In this scenario, technical support may mean that work brought in by clients in London will be undertaken by a firm in Birmingham at a cheaper rate, so although the client is charged the full London price, the firm saves itself money by sub-contracting the work to its regional firm (A4, Tax Director, Big Four Regional, December 2015). Alternatively, the work of big firms may go to smaller external consultants/firms for completion. The big firms will contact people they know to undertake certain work at a lower cost, and the sub-contracted work done by another tax advisor is often passed off as their own (C1, Tax Consultant, Sole Practitioner, December 2015).

In relation to networking as regards knowledge, little or no distinction is made between lawyers, ex-HMRC officers and accountants. As previously mentioned (section 6.5.1), since tax knowledge is not specific to a particular professional background, it is easily

transferable, regardless of the type of structure in which the TP is working. With regard to knowledge transfer, a distinction appears to be made between large firms that can be almost autonomous, and smaller firms that need to network externally. This argues for the existence of a real network of tax knowledge that creates the invisible boundaries of the discipline. As the sociology of work and professions' literature, has recorded and noted, workers exist in communities and cultures of practice and work. They exchange ideas, etc., using media such as websites, social media (LinkedIn), and the ritual of a conference where they share common practices. In this sense, the communication of tax knowledge through a net of experts, represents the invisible link to tax professionals beyond their original group (lawyer, accountant) and sustains the idea of a tax profession.

Having established how knowledge sharing takes place, the next section examines how tax knowledge is stored.

6.7 How and why tax knowledge is stored

Storing knowledge is one of the most difficult objectives for an organisation to accomplish. Previous studies highlight that although organisations generate and produce new knowledge, they often fail to retain their acquired knowledge (Argote et al., 1990; Darr et al., 1993). Since knowledge is a fluid concept, it may be difficult to objectivise and manipulate it. Heath (2003, p. 187) postulates that “‘knowledge objects' which can be catalogued, stored, retrieved, packaged and shared as necessary” through a database. Such databases represent the core of organisational memory, retaining collective knowledge (Kühn and Abecker, 1997). Empirical studies in the knowledge management literature (e.g., Stein and Zwass, 1995) reveal that memory is not exclusive to individuals, and that supra-individual collectives such as organisations also develop memory. In this context, organisational memory can be defined as

“the means by which knowledge from the past exerts influence on present organizational activities” (Stein and Zwass, 1995, p. 85–86). This includes the various constituents of knowledge, such as “written documentation, structured information stored in electronic databases, codified human knowledge stored in expert systems, documented organizational procedures and processes and tacit knowledge acquired by individuals and networks of individuals” (Alavi and Leidner, 2001, p. 118). For McQueen (1998), knowledge memory is a crucial component of the organisation, since he theorises knowledge only through access to information. This view supposes that organisations develop infrastructures that facilitate the retrieval of data, which is why large firms have invested heavily in internal databases and policy teams to retain the knowledge developed and acquired.

In recent years, storage of knowledge has been facilitated by the development of IT systems that play an important role in retaining organisational memory: “drawing on these technologies, most consulting firms have created semantic memories by developing vast repositories of knowledge about customers, projects, competition, and the industries they serve” (Alavi and Leidner, 2001, p. 119). However, smaller firms do not have the resources necessary to invest in these types of resources. They therefore rely almost exclusively on external publications to store acquired knowledge and keep up with developments in jurisprudence and legislation or expand their knowledge.

Internally to large firms, the creation of databases and newsletters allows the omnipresence of knowledge. Every employee of the firm has access to court decisions, legislation and important tax events:

So if there’s a Budget or a Finance Bill or a change, a proposed change to the legislation, or if there are new cases going through the courts, then I keep an eye on all of those for personal tax, and I will decide what we need to tell our tax people about that. Do we need to write a news item? Do we need to write a more detailed technical paper? (A7, Senior Tax Manager, Big Four, January 2017).

This kind of internal system of knowledge tends to be seen where large infrastructures exist, where resources permit the time and commitment of a dedicated team to run, coordinate and update the database. In the Big Four firms, these groups, known as ‘Tax Policy’ or ‘Change in Policy’ groups, usually comprise 10 to 30 TPs. Their daily task is to look at and review any modifications to the tax legislation and feed them back to all business areas.

At the moment I work in a group called Tax Policy Group. It’s a sort of central group, designed to give support to the whole of the tax practice. And within the group, there is sort of different teams supporting different bits of the tax practice. So my role in Tax Policy Group is to head up the support that we give to our private clients within the bigger practice. So, I’m responsible for providing sort of technical updates for the team. When new legislation comes out, we will be kind of reviewing it, summarising it for the practice. We provide lots of briefing notes that people can send to clients on various topics (A3, Tax Director, Big Four, November 2015).

So we work in our tax policy group. So that’s an internal resource which does things like – well, part of our remit is, as well as training, making sure the practice is up-to-date with tax developments. So as we said, there is a lot of change. So you have databases, you need news items, new cases, things like that. We’ll produce bulletins, both internally and externally. We do webcasts internally and externally. And so a lot of that is really about keeping the practice up to speed (A10, Tax Technician, Big Four, March 2016).

A lot of information is accessible electronically on computer systems. Most big firms offer an in-house knowledge website. Updated daily, these usually cover the ensemble of tax practice undertaken by different departments within the firm. This internal information takes the form of a Wikipedia-type databank specialising in tax.

We have this thing called [x], which scrapes all the tax knowledge from the Internet and puts it into our systems and relays it to us and so we can see everything as soon as it happens. If there’s a change in VAT rate in Kazakhstan, we will know the next day with stuff like that. But it does rely on being ... on reading it. So what you tend to do is you read it at a high level, and then if it’s something that’s applicable to what you do at your practice, then you go through a hyperlink or something and you read it in more detail (A2, Tax Director, Big Four, November 2015).

In addition to the support provided by policy teams, TPs in large accountancy and law firms are also constantly updated about amendments to the law and relevant cases, either by webcast, bulletin, email or Rich Site Summary (RSS) feeds. They also receive regular training and refresher sessions:

I get updates or training during the year constantly. So as a team within the firm, we have a technical meeting every two weeks. We have a weekly email from our ... We have an in-house technical team who prepare a summary every week. I get daily technical updates from the publishing firms with recent cases and recent articles. So there is a constant flow of information (B11, Tax Partner, law firm, April 2016).

Large firms often have the specific position of ‘liaison agent’. The aim of this tax agent is to link practitioners within the firm when a specific tax issue arises. This position was set up as a result of observing that, in large firms with 3,000 tax intermediaries practising law, most tax scenarios will have been encountered at least once at some point by one of tax agents. However, the challenge is to trace who has come across this specific scenario and the results that they found.

With a big firm you can feel, ‘well obviously someone must have answered this question before’, or ‘somebody’s done this before’, but how do you know who it was or what they did? So one of our jobs is to try and join that up. So that we put all the things on the system that people can find, we help people use the system, and then we help them shortcut. So if they haven’t got time to look on the system, we can say to them, ‘Well okay, I’ll look for you and here it is’. So it’s just trying to help people make the most of the advantages of being with a big firm (A7, Senior Tax Manager, Big Four, January 2016).

The idea is to save time and not struggle to solve a problem that might already have been answered elsewhere. This ultimately saves money for the organisation and may provide clients with a better service.

So if they’re spending less time, if they’re not having to reinvent the wheel, if they know what the latest development is, then the faster they know that then the better the service they can

give their clients. What you don't want is everybody starting from scratch with something. You want to share the experience (A7, Senior Tax Manager, Big Four, January 2016).

This resonates with Alavi and Leidner's (2001, p. 118) finding that organizational memory:

helps in storing and reapplying workable solutions in the form of standards and procedures, which in turn avoid the waste of organizational resources in replicating previous work.

Naturally, this sort of system tends to be less common in small firms and sole practitioners owing to a lack of investment or simply the means to have a dedicated team or databank at their disposal. In such cases, TPs usually rely on external publications to store knowledge.

External publications are used by both large and small firms as they offer a useful series of articles, technical guidance on new legislation and discussions of current topics. External publications are usually highly regarded by the profession, as they aim to ensure that the information and training provided meets the ever-changing needs of TPs. Indeed, as tax law changes frequently, publishers need to adapt and respond almost instantaneously by providing commentaries and notes on new elements of the law. In essence, publishers ensure that the information provided is up-to-date, relevant and current. More importantly, the content of tax journals focuses on the types of information needed by the market as a basis for their decisions and tax strategies.

We write about UK tax, we publish the laws on UK tax and we sort of provide commentary, guidance, training and everything on that. So we're an information and training provider servicing the tax profession. So we provide them information on which the profession bases its tax advice (G1, Tax Editor, Tax Journal, January 2016).

Unlike large firms, which have other ways of storing knowledge and communicating tax updates, sole practitioners, barristers and small/medium-sized firms rely exclusively on external publications issued by tax journals, online libraries and tax books. However, these charge high membership fees, so only a few firms, such as Deloitte, KPMG, EY and PwC,

have access to all of them. The most used external publications in the UK include *Tax Journal*, *Tax Adviser Magazine*, *Tolley Library*, *LexisNexis*, Thomson Reuters's *Westlaw* and *Journal of Taxation*, Wolters and Kluwer's *CCH*, and Bloomsbury's *Tax Online*. Their clientele comprises all sizes of accountancy practice, from the Big Four down to individuals working in a small study, and includes people working in tax roles or semi-tax roles within companies in the UK (G1, *Tax Editor*, *Law Journal*, January 2016).⁴¹ Since tax knowledge is not specific to a particular professional background (see section 6.5.1), the sources through which TPs acquire and update their tax knowledge are the same, regardless of the types of structure in which they are working.

It's a membership magazine for people who are members of the [x] Association. And that's a really diverse readership, so that might be people that are just left school and studying ATT and don't know very much about tax at all; or just after ATT, they have a knowledge of tax; to people that have been doing tax all their life or might be very specialist in a niche area. [...] Often the articles are written by practitioners to give other practitioners the awareness and the comfort and guidance of what other people are doing (G2, *Tax Editor*, *Tax Journal*, April 2016).

It appears that the distinction lies not between lawyers, ex-HMRC agents and accountants, but between large firms that can invest in both internal and external sources to store knowledge, and smaller firms that depend exclusively on external publications. However by demonstrating the means by which tax intermediaries preserve knowledge, this section confirms Hasseldine et al.'s finding (2009) that 89 percent of tax advisors recognise the importance of capturing and retaining knowledge. Tax knowledge derived from the tax legislation represents the raw material binding all tax professionals together. Regardless of their background, they all learn, evolve, practice and advise about the law. As such, retaining

⁴¹ Semi-tax roles would represent the sub-population of the experts who on a daily basis provide not only tax advice to clients (as an example this would be financial advisors, bankers, etc.).

this knowledge can be considered as shaping their behaviour owing to being a crucial part of their job, and of common interest for this professional community.

It is equally important to understand how tax knowledge is utilised, which is the topic of the next section.

6.8 In what way tax knowledge is applied

Alavi and Leidner (1999) maintain that the key to gaining competitive advantage in a market resides not in the knowledge itself, but in its successful application. In the context of the UK tax system, the profession's implementation of tax legislation has been challenged by the tax authority. Indeed, O'Donnell et al. (2005, p. 145) observe that tax intermediaries "rely on their knowledge of tax rules and regulatory requirements to evaluate client information and recommend tax reporting positions".

TPs' role is to advise on a compliance position that reduces their clients' tax liability while remaining within the latitude granted by HMRC (Robertson and Swan, 1998). O'Donnell et al. (2005, p. 145) suggest that if "their clients' situation clearly matches criteria specified by regulatory requirements, the appropriate compliance position is obvious and the decision is relatively simple". However, Klepper and Nagin (1989) establish that the tax law is often unclear, and as a result often necessitates interpretations by taxpayers and their tax advisors. Difficulties arise especially when a client's situation does not match the facts of the tax legislation. In such circumstances, TPs are often left to fill in the gaps and rely on their previous experience in making recommendations (Shields et al., 1995). TPs provide advice on tax legislation as part of their professional service. This includes interpreting the spirit of the law, and sometimes challenging HMRC on its application. In practice, this implies that tax experts use their 'savoir' to comply with the law when the latter is clear, but exploit

ambiguity to the benefit of their clients when the legislation is imprecise or simply non-existent (Sikka, 2012; Sikka and Hampton, 2005; Spilker et al., 1999; Tan, 2011). In this context, tax interpretation represents different applications of tax knowledge unanticipated by HMRC. Although they are legal, tax interpretations are a point of tension between the tax authorities and the tax profession: “underpayment due to ‘legal interpretation’ is recorded by HMRC when the taxpayers’ interpretation of the law and how it applies to the amount of tax owed, differs to its own, often developing view of the law” (HMRC, 2017b, p. 19). As such, the public’s and taxpayers’ interests seem to be aligned with regard to compliance, but opposed when it comes to legal interpretation (Scotchmer, 1989; Tomasic and Pentony, 1991). Ultimately, the latter could be described as destabilising the UK tax system (HMRC, 2017a).

Table 6.8: Attributions of the UK tax gap, 2010–2016
(Source: HMRC, 2017b, p. 19)

Behaviour	Percentage tax gap											
	2010-11		2011-12		2012-13		2013-14		2014-15		2015-16	
	%	£bn	%	£bn	%	£bn	%	£bn	%	£bn	%	£bn
Failure to take reasonable care	0.8%	4.0	0.8%	3.9	1.1%	5.4	1.1%	5.6	1.1%	6.0	1.1%	6.1
Legal interpretation	1.0%	4.7	0.9%	4.7	1.0%	5.3	1.0%	5.4	1.0%	5.5	1.1%	6.0
Evasion	0.9%	4.2	0.8%	4.3	1.0%	5.2	1.0%	5.0	0.9%	4.9	0.9%	5.2
Criminal attacks	1.1%	5.2	0.9%	4.7	0.9%	4.6	1.0%	5.4	0.9%	5.0	0.9%	5.1
Hidden economy	0.6%	3.0	0.6%	3.1	0.7%	3.5	0.7%	3.7	0.6%	3.3	0.6%	3.5
Error	0.5%	2.3	0.5%	2.6	0.6%	3.2	0.6%	3.2	0.6%	3.2	0.6%	3.3
Non-payment	0.8%	3.8	0.9%	4.5	0.8%	4.0	0.8%	4.1	0.7%	3.6	0.5%	3.1
Avoidance	0.6%	3.1	0.5%	2.3	0.4%	2.2	0.4%	2.2	0.3%	1.8	0.3%	1.7
Total	6.3%	30	6.0%	30	6.6%	33	6.5%	35	6.1%	33	6.0%	34

In the UK environment, the provision of tax knowledge under unclear conditions has raised a number of concerns. Analysis of the £34 billion tax gap in 2016 (HMRC, 2017b) suggests that legal interpretations constituted the second biggest cause of income lost, at £6 billion (Table 6.8). The same analysis indicates that although the tax gap due to avoidance consistently declined over the period 2010–2016, with a variance of 1.4 percentage points, the tax lost owing to legal interpretations over the same period grew significantly, from £4.7

billion in 2011 to £6 billion in 2016. While this suggests a shift from avoidance to legal interpretations, possibly as a result of the legislative framework put in place to rule out avoidance in the UK (see chapter 7), it would be misleading to draw conclusions based on legal interpretation being considered within the tax gap. This is due to the argument that if the law is genuinely subjected to interpretation then tax may legitimately not be due and should therefore not be classified under a possible loss of income unless stated otherwise by a court judgment. The reason why ‘legal interpretation’ is not considered within the analysis of the ‘tax gap’ is due to the danger of this being viewed incorrectly, and to avoid giving rise to the notion that were tax to be open to interpretation, then it may not legitimately due.

I would argue that the tax profession is placed in a difficult position, as it would appear from the public debate (see chapter 7) that these experts are now expected both to reduce the amount of tax avoidance and advise taxpayers on the law without providing interpretations that may harm the public interest.⁴² In essence, I would argue that the expectation is for tax advisors to apply their knowledge of tax law to satisfy both clients and the rest of society simultaneously. Yet this conflicts with natural business behaviour and TPs’ professional obligation to provide taxpayers with advice on the law. This ultimately raises the question of whether tax experts are really in a position to balance their professional obligation with their duty to the system (Watson, 1999). This concern seems to be rooted in the distinction between moral tax avoidance and immoral tax avoidance, a concept that is still emerging (Torgler et al., 2007). During the UK government’s 2015 Budget presentation, ministers publicly criticised abuses of tax planning, differentiating between ‘acceptable’ (or legitimate) tax avoidance, that is, tax planning and ‘unacceptable’ yet legal tax avoidance. According to HMRC (2017a, p. 10), tax avoidance involves:

⁴² Welfare of the general public (in contrast to the selfish interest of a person, group, or firm) in which the whole society has a stake and which warrants recognition, promotion, and protection by the government and its agencies. Despite the vagueness of the term, public interest is claimed generally by governments in matters of state secrecy and confidentiality. It is approximated by comparing expected gains and potential costs or losses associated with a decision, policy, programme, or project.

bending the rules of the tax system to gain a tax advantage that Parliament never intended. It often involves contrived, artificial transactions that serve little or no purpose other than to produce this advantage. It involves operating within the letter, but not the spirit, of the law.

On the other hand, tax planning involves “using tax reliefs for the purpose for which they were intended, for example, claiming tax relief on capital investment, or saving via ISAs or for retirement by making contributions to a pension scheme” (HMRC, 2017a, p. 10). As such, tax planning/avoidance work:

involves a definite and deliberate manipulation of the taxpayer’s affairs to reduce the amount of tax payable. For example, in the UK, inheritance tax may be charged on an individual’s death where the value of assets in the estate, or given prior to death, exceeds certain exempt bands. Hence, it is a normal part of inheritance tax planning to devolve estates so as to preclude a tax burden occurring on death, as this is legitimately avoidable. Such tax planning involves deliberately framing reality in a particular way to ensure that taxpayers are enabled to act pre-emptively in order to obtain future benefits, which they would otherwise miss because of a lack of knowledge of the technicalities of tax law (Frecknall-Hughes and Moizer, 2015, p. 57).

Based on these definitions, it might be assumed that tax avoidance means using tax structures only for the purpose of saving tax, whereas tax planning implies saving tax as a result of a genuine business transaction. The contrast between acceptable and unacceptable thus appears to be very subtle (Gracia and Oats, 2012). Indeed, the definition of what is deemed ‘acceptable’ and ‘unacceptable’ tax avoidance can vary greatly, and while avoidance is legal, there are many moral concerns raised. Governments in particular take the stance that tax avoidance should be targeted and it is often explained in a context that would suggest it is the same as tax evasion. An illustrative example of such thinking was seen in 1997 during Gordon Brown’s official Budget speech when he stated that: “a Government committed to the proper funding of public services will not tolerate the avoidance of taxation, and we will be relentless in our war against tax avoidance” (Seely, 2020, p. 4). Such wording would lead

the general public to believe that tax avoidance itself is illegal. However, different ideologies exist within the tax profession and when discussing the subject Peter Wyman⁴³ explains that:

Customs and Excise appears now to use the term 'legitimate avoidance' to distinguish between what they clearly believe to be 'illegitimate' avoidance and 'the legitimate desire to organise affairs in a tax efficient way'. These deliberate attempts to confer an aura of illegality to a legitimate activity are dangerous, and should not be allowed to continue unchallenged (Wyman, 1997, p. 3).

Therefore, the subtleties between 'acceptable' and 'unacceptable' tax avoidance seems to be closely linked to the interests of the party themselves, with governments aiming to reduce tax avoidance significantly so as to increase the funds available for public services, while private companies aim to reduce overall tax liability. Meaning it is increasingly difficult to 'draw a line' between the opposing standpoints on tax avoidance.

There seems a deliberate attempt to shift appreciation of certain taxation issues such that avoidance should be regarded as ethically dubious. If avoidance is legally permitted, this approach casts doubt on the validity of the law permitting it by blurring terminology, and shifting hitherto acceptable behaviour on to morally dubious ground by altering the meaning of words. As a result, depending on what is encompassed in any particular means of avoidance, these days it might be categorized by UK Revenue authorities as 'unacceptable', 'illegitimate', 'illegal' or 'abusive', which appears semantically rather odd if avoidance itself remains a legal concept, and it is merely a (difficult) question of deciding where to draw a line between legality and illegality (Frecknall-Hughes, 2014(b), pp. 119–120).

Freedman (2003) suggests a way of differentiating acceptable from unacceptable tax avoidance. She states that although both structures take advantage of the tax legislation to minimise the tax burden, unacceptable tax avoidance goes beyond Parliament's intention in offering a tax relief, and is therefore perceived as an immoral breach of the tax rules. The difficulty lies in the fact that terms such as 'Parliament's intention' and 'the spirit of the law'

⁴³ At the time head of tax at Coopers & Lybrand accounting firm.

are sufficiently vague to bring confusion and require interpretation (Freedman, 2003, 2004, 2007).

From the above, I would argue that there is no single truth as to what is an acceptable or unacceptable utilisation of tax law, as this regime of truth will differ between HMRC tax agents, political discourse and media reports. The ‘acceptability’ of tax planning is essentially a question of how well one can rationalise a tax position, and whether it is considered by the reviewer to be ‘excessive’ or ‘aggressive’. As such, the difference between tax planning (acceptable) and avoidance (deemed morally unacceptable) is fundamentally a question of semantics and interpretation rather than the truth.

It’s very hard to define what avoidance is because, if you like, if the technical analysis works and therefore your tax avoidance scheme works, then it’s not tax avoidance because it obviously complies with the law, and therefore it can’t be avoidance. So it’s a definition that disappears up its own bottom (C1, Tax Consultant, Sole Practitioner, December 2015).

Distinguishing acceptable planning from unacceptable avoidance may involve case-by-case judgements, which naturally create great uncertainty for both taxpayers and tax advisors. Ultimately, I would argue that this approach forces TPs to state their personal views and engage with moral issues, which might be seen as blameworthy since it brings a moral dimension to the practice of tax. The interviewees in this study refuted this approach, arguing that applying the law – even the tax law – should not be a case of personal morality.

It’s difficult because the question of what is or isn’t acceptable is fundamentally a moral question. And as I say, my view is tax is about money and it’s about compliance with the rules. As soon as you make it a moral question, it depends on what your morals are, doesn’t it? It depends on what your ethics are. And some people have very different views, as you would expect on anything political (B6, Barrister, Tax Chamber, January 2016).

This argument confirms Shafer and Simmons’s (2011) statement that the tax profession’s participation in non-compliance activities is fundamentally a question of ethics and

professionalism. This unending debate between government representatives and the tax profession seems to have extended the field of professional uncertainty, as in practice, unless tax advisors can use past examples to guide their conduct (O'Donnell et al., 2005), it is difficult for them to be sure of what will be accepted as right or wrong, and what will be understood to be 'excessive' or 'aggressive'. Indeed, a piece of tax planning/avoidance is deemed unacceptable only if challenged by HMRC and declared as such by a court. Thus, a tax structure might be applied for decades before being reviewed by HRMC and deemed unacceptable by a tribunal. In this context, it may be difficult to anticipate what might potentially be considered unacceptable tax avoidance in a few years' time.

This section has provided a basis for discussion of the second research question on ethics, looking at the impact of using tax knowledge and legal interpretations for the benefit of taxpayers rather than in the public interest. This will be examined in greater depth in chapter 7. The next section examines how tax knowledge is created.

6.9 Knowledge creation and the conflicts occurring within this profession

In today's competitive business environment, knowledge has become a tool for maintaining one's position in the market. However, Alavi and Leidner (1999) show that it is not so much existing knowledge that gives a firm competitive advantage, but its ability to develop and create new knowledge. This involves adding new components or replacing existing components within the organization's tacit and explicit knowledge (Alavi and Leidner, 2001, p. 118).

Organizational memory extends beyond the individual's memory to include other components such as organizational culture, transformations (production processes and work procedures), structure (formal organizational roles), ecology (physical work setting) and information archives (both internal and external to the organization).

This is a feature of the tax profession in particular, as competition is present at all levels of the tax profession: “there is definitely competition. It’s who’s in competition with whom that’s the issue” (C1, Tax Consultant, Sole Practitioner, December 2015). This section reflects on the competition between accounting and law firms. As explained by a tax partner currently working in a Big Four firm (A4), tax advisory services are traditionally divided into three types of market: high-end, middle and low-end.

At the high end, Magic Circle and Big Four firms tend to deal exclusively with the largest businesses in the world. These are the very big public limited companies listed on the FTSE 100 that would not usually consider working with anyone other than large accountancy and law firms. This is because their tax matters require significant resources, as well as international facilities, that only Big Four and Magic Circle firms can offer. This means that Big Four and Magic Circle firms compete for a limited number of clients, putting pressure on them to offer excellent services: “we need to make sure our advisors are able to service whatever they need, whenever they need and wherever they are in the world” (A4, Tax Director, Big Four, December 2015).

The middle market generally services the large to medium-sized enterprises (FTSE 250) and wealthy individuals. This type of work is generally undertaken by second-tier accounting firms immediately below the Big Four (e.g., Grant Thornton LLP, BDO Seidman LLP, and RSM McGladrey LLP), which are similar to the Big Four but have a smaller client base, as well as legal firms, the Big Four and Regional Big Four, and the Magic Circle. To a lesser extent, or rather because they are in a different tier of business, all national firms are in competition for the same types of client. As such, competition occurs with all other national

firms of a similar size. This means that second-tier firms compete not only with each other, but also with the Big Four/Magic Circle, especially for regional work. According to interviewee A4, the middle market is the most competitive, since the competition crystallises around cost, value, services offered and size of the firm.

Finally, at the low end of the market, the third level represents self-employed workers, small enterprises and individual taxpayers. This type of tax advisory work tends to be undertaken by second and third-tier accounting firms and tax boutiques. In this context, Choo (2005, p. 177) explains that in order to remain competitive, organisations seek to explore new ideas and develop new opportunities to apply legislation.

The organization evaluates new knowledge in relation to its beliefs about how the application of the knowledge will enhance its competitive position, its interpretations about how the market will react to new products or services, and its expectations about how the new capability supports its longer-term goals and vision.

Hasseldine et al. (2009) highlight the relevance of this approach in considering accounting firms in their role as knowledge brokers. Accounting and law firms distinguish themselves by creating new knowledge. Indeed, to remain attractive and establish competitive advantage over the market, tax firms have developed departments specifically designed to extend and create new tax knowledge. These developments and research teams enhance creativity by anticipating clients' needs and trying to come up with 'outside the box' ideas. According to the following interviewee, accounting firms are better at this task than lawyers.

They [accountants] are good at creating products, actually ... And they're good at commoditising things. So let's look, for example, the concept of tax risk which is ... partly come out of all the Amazon and Starbucks thing ... you know? Everybody's looking at, 'What's my reputational risk?' 'What's my risk with various revenue authorities?' You know, all the common reporting standards' stuff. And accountants go, 'Right, I'm turning that into a product'. So now most of the accountants have risk management – tax risk management services – that, you know, they're just, 'Right, we're going out and we're selling that' (B3, Barrister, Tax Chambers, November 2015).

As a result of this inevitable competition, the tax profession has become a key actor in producing tax knowledge. Yet, as argued by Hasseldine et al. (2009), only tax authorities should, in principle, be tax sellers. By creating new knowledge, the tax profession is challenging HMRC's position, which ultimately creates tension between the profession and the UK government. Some commentators have suggested that the tax profession has been using its knowledge to create loopholes so as to gain competitive advantage in the market and reduce tax payments (Gracia and Oats, 2012; Hasseldine et al., 2012). Indeed, various headlines have accused the Big Four of decreasing public service funding and resources by creating and maintaining the avoidance industry (Armitstead, 2013; Treanor, 2009). As to whether such attacks are justified, profession practices that used to be commonly accepted as being norms in the tax profession between the 1980s and mid-2000s might support the views of Treanor (2009) and Armitstead (2013). Two interviewees recollecting this period illustrated what used to be a norm within the Big Four. For example:

There was a period of time when every firm around, certainly all the Big Four, as well as lots of other people, were developing ideas that were going to give you a better tax result than was probably expected from the legislation. These firms were out there saying, 'Are there ways in which we can get a surprising tax result?' And obviously 'surprising' was always in the sense of 'better for our client than the Revenue might appreciate' (C1, Tax Consultant, Sole Practitioner, December 2015).

Other interviewees testified to the same experience. Tax avoidance was not only common across the tax profession from the early 1990s to the mid-2000s, but was the unquestionable practice of most firms. Tax advisors were involved in creating products for their clients and individually targeting the sale of these packages:

Probably about 1990 to early 2000, some [Magic Circle/Big Four firms] would have specific sales targets and recording in terms of developing a tax planning idea and deciding which clients you would take it to. At this time the public debate on tax avoidance was very different. The perception was almost that tax planning was a game. If you were clever enough to find things that worked, even if they weren't what the system intended, then that was a

bright idea you would take to clients. But certainly within [the Magic Circle/Big Four], there was a strong process for having product development groups, teams that came up with the ideas, and then a selling process to make sure that those ideas were communicated to the firm and people took them out and tried to implement them (B11, Tax Partner, law firm, April 2016).

During this period, accountancy and legal firms set up teams to create new structures to promote to their clients. The above examples illustrate how the tax advisory service industry was led by commercialisation and clients' demands. This resonates with Stuebs and Wilkinson's finding (2010) that the tax profession was mainly pursuing financial gain at the cost of the public interest. However, by the time the effect of the recession was felt between 2007 and 2011 (see chapter 2) and damning media headlines were printed around 2009, the tax profession had already started to move away from these kinds of practices. The tax avoidance schemes recently criticised in the media are the types of practice that used to occur a decade ago, when the public debate on avoidance was very different and when 'dodging' tax was a game (B11). Yet these old practices are now being judged and reviewed against today's standards:

If you look at the cases that came to court afterwards, I think it's quite noticeable that in the last two or three years we've seen several cases which are Big Four tax planning ideas from the early 2000s coming to court (B11, Tax Partner, law firm, April 2016).

Arguably, TPs were only doing what they thought to be acceptable at that point in time. Tax advisors were indeed planning tax structures without knowing what would be acceptable ten years later. Yet the media criticises yesterday's practices in terms of today's morals, and it is debatable whether such cases are being reported accurately and fairly. I would argue that how the media reports tax scandal cases is motivated mainly by politics:

It's important to recognise that the world has changed a lot over the years. What was seen to be acceptable 20 years ago would no longer be seen as acceptable now. The expectations have

changed enormously. The sort of artificial structuring was seen as perfectly acceptable once upon a time and it's definitely not now (E5, Head of Tax Group, FTSE 100, February 2016).

The next section moves on from examining knowledge creation to look at how knowledge can be interpreted in light of Foucauldian theory.

6.10 Foucauldian approach to knowledge

Inspired by a Bourdieusian framework, Mulligan and Oats (2016, p. 65) consider that:

this abstract specialized knowledge that binds these professionals into a distinct and cohesive group [...] and also provides them with linguistic capital [...] that serves as a source of power in their dealings with non-specialists within (and beyond) their parent organization.

Foucault also defined a scientific discipline as a learned community through manipulation of the same expertise.

We must cease once and for all to describe the effects of power in negative terms: it 'excludes', it 'represses', it 'censors', it 'abstracts', it 'masks', it 'conceals'. In fact power produces; it produces reality; it produces domains of objects and rituals of truth. The individual and the knowledge that may be gained of him belong to this production (Foucault 1977, p. 194).

Both Bourdieu and Foucault conceptualised the idea that through mastering a particular knowledge, individuals and groups gain authority and power over the field. This power is maintained, for instance, through technical and expert language. As a consequence of this unique knowledge, a transfer of power takes place between client and advisor, acknowledging indirectly the legitimacy of the tax profession over the field of tax (Miller and Rose, 1990). Foucault developed the idea that knowledge is deeply intertwined with the exercise of power, with one being unable to exist without the other; and since knowledge is everywhere, so is power. Individuals are thus vehicles of power and knowledge, as everyone to some extent acquires knowledge, transfers power and implements authority (Allen, 2000).

However, Foucault narrowed this approach down by specifying that knowledge requires the aptitude to pass assertions off among others as correct and true:

We are subjected to the production of truth through power and we cannot exercise power except through the production of truth (Foucault, 1980, p. 93).

By way of explanation, the exercise of power is dependent and conditional on the production of truth, as it is only through a discourse of truth that power and knowledge are interlinked. According to Foucault (1980), experts hold a particular discursive power since they manipulate and construct knowledge within a specific domain. However, it is through the study of Foucault's later work (1978) on knowledge that the analysis reveals his effort to describe and understand the relationships that occur between the diverse fields of knowledge through discourse. Yazdannik et al. (2017, p. 4), using Foucault's concept of discourse, thus questioned:

how some discourses have shaped and created meaning systems that have gained the status and currency of 'truth', and dominate how we define and organize both ourselves and our social world while other alternative discourses are marginalized and subjugated.

Graves et al. (1996), using Foucault's theory, demonstrate how discourse can be used to exert an influence over certain aspects of power, or on the other hand, can be understood as a way to influence concepts/ norms (Norreklit, 2003) or extend scientific knowledge itself (Grant et al., 2001). In the context of the tax profession, the data reveal that this community must exhibit a degree of expertise in order to be regarded as authorities and ultimately deemed trusted by the general public and acquire autonomy (Yagatich, 2018). These discursive regimes serve their own purpose since they communicate the idea that the truth can only be produced by a body of experts. Allen (2000) believed that knowledge requires the aptitude to pass assertions off among others as correct and true, and it is through the use of discursive practices and scientific discourse that power is integrally linked with knowledge. This is why

Mihret and Grant (2017) formulate the idea that modern corporations and professions protect themselves via auditing to justify and validate their own activities and expertise (thus, reaffirming their unique stand on knowledge). As a consequence of this unique knowledge, a transfer of power takes place between client and advisor, acknowledging indirectly the legitimacy of the expert over the field of tax (Miller and Rose, 1990). Bogenschneider (2015) argues, however, that tax knowledge is often misunderstood and misrepresented as ‘truth’ and institutional knowledge, when instead it should be presented as undetermined and abstract. This is why Skinner and Franz (2018) believe that individuals in a context of compliance find it increasingly difficult to interpret and apply knowledge, thus explaining why individuals seek advice to achieve compliance.

Therefore, a community that retains knowledge will also hold power by governing and creating the regime of truth. In the case of the tax profession, providing services is an expression of power. In providing tax services to clients with insufficient tax knowledge to complete their own tax returns or plan their own tax strategies, tax advisors guide on what is right or wrong and what should be done. In this process, there is a transfer of power between client and TP, as the client has no choice but to sub-contract the work to a third party. Nevertheless, it seems that power is not a ‘one-way street’, as clients may retain power by paying fees, eliminating competition between firms and commoditising knowledge. Similarly, TPs’ knowledge and ‘right’ practice are continually challenged by the tax authority and by public opinion. However, Foucault (1981) explained that a specific ‘savoir’ (such as tax expertise) may potentially determine and create a specific domain or discipline. Foucault stated that through expansion of the scientific discourse and normalisation of a system of knowledge, a specific ‘savoir’ may gain legitimacy and ultimately constitute a distinctive discipline.

By having one's focus on this, one will be able to see how an expert domain appears, which is to a high degree connected to a form of legitimacy, because a discipline seeks to individualize itself in relation to other disciplines in a way, which makes it unique and legitimate. In this way the legitimacy of a discipline is tied to a clearly defined area, by which it can raise itself by acting as the representative of a particular constituency. Once achieved, a discipline can speak its own truth (Finken, 1999, p. 319).

In the context of the tax profession and using Foucault's lens, I would argue that it is not power that tax knowledge highlights, but the constitution of a scientific community that ultimately creates a distinctive discipline: the tax profession. Hewett (2004) argues that disciplines have established techniques of power, referred to by Foucault as 'normalisation', which aim to control their own members. He adds that "persons began to be judged according to such norms, and norms became useful within relationships of power because they in turn constructed fields of knowledge, in which 'knowing things' was based on 'knowing norms'" (p. 7). However, in the case of the tax profession, it is not individuals that have been the subject of normalisation but the knowledge itself. Through normalisation and codification of knowledge, individuals such as tax intermediaries have acquired knowledge of tax norms. These norms are in practice drawn from the same source, are updated and developed in the same sphere, and compete on the same level to construct the discipline and enhance the field of knowledge. In other words, it could be argued that it was only because tax knowledge had become so normalised and codified that a need for tax experts emerged.⁴⁴ The law and accounting professions offered this expertise, which ultimately became commoditised. In conclusion, I would argue that, although TPs may come from different backgrounds, with different education and training, the data reveal that through normalisation of the field of knowledge, tax lawyers, tax accountants and ex-HMRC agents all exemplify and consolidate the same community of scientific knowledge.

⁴⁴ This is a debatable position as Frecknall-Hughes and Kirchler (2015) argue differently.

6.11 Summary

With regard to tax knowledge, there is little difference between lawyers, accountants and ex-HMRC agents. Considerable overlapping tacit and explicit knowledge can be found in firms of similar size, and competition for clients is based on more than pure knowledge (value, cost, resources, etc.). However, growing rivalry between firms leads to competition over tax intermediaries with particular experience, networks or specialisms that may provide firms with an advantage.

I don't think it really matters, especially these days when people move between organisations. So someone who used to be a barrister three years ago may now be working for a law firm or an accounting firm. But if he is the expert in his field, why wouldn't you go to him? It doesn't really matter where he is. So I think it doesn't really matter the nature of the profession the advisor is in. I think what matters is: 'Does the advisor know what he's talking about and do you trust and have faith and confidence in what he's telling you?'. I think that that's what it really boils down to. I think that's how people choose in practice (B9, Barrister, Tax Chambers, February 2016).

This chapter on knowledge has provided a foundation for the discussions of ethics in chapter 7 and identity in chapter 8, since the process of learning tacit and explicit knowledge, combined with peer observation, leads to the creation of professional identities (shared values, beliefs, etc.) which may prompt ethical or unethical behaviour. More specifically, by turning to Foucault's insights on 'discipline' and 'normalisation' towards the end of this chapter I was able to highlight the political work that goes into establishing a subject such as tax law, and the prestige and power tax knowledge can afford TPs.

Moreover, this chapter was able to show that the process of knowledge acquisition by the TPs serves a dual purpose: first, the TPs must acquire knowledge constantly as tax laws and practices are continually changing, thus requiring both the practical and theoretical expertise of the TPs required as to maintain their position of relevance or power in the

knowledge market. Secondly, TPs are not simply judged on the knowledge they know, but they must be able to manifest in themselves and conduct the very expertise they have gained in order to retain the trust and work of clients. As such, knowledge is acquired both for its own sake, and for its ability to enmesh one within a potentially lucrative professional community (i.e., knowledge in exchange for money in a given market).

The next chapter addresses the second research sub-question of this thesis: *How do tax professionals manage ethical dilemmas?*

CHAPTER 7: ETHICAL CONCERNS MANAGED BY TAX PROFESSIONALS

7.1 Introduction

Chapter 6 examined the importance of knowledge in tax practice. The findings suggest that knowledge management regarding tax legislation not only empowers practitioners, but also enables them to alter the tax system through the application of tax knowledge (see section 6.8 on legal interpretation).

Chapter 6 provided a basis for discussing the impact of using tax knowledge for the benefit of taxpayers, rather than in the public interest. This chapter looks at another aspect of tax practice, introducing the ethical dimension of tax as well as the conflictual position in which tax advisors may find themselves. In so doing, it addresses the second research sub-question:

*How do tax professionals manage **ethical dilemmas**?*

To answer this research question, the following objectives are addressed throughout the sections of this chapter. Section by section, I will present the data, demonstrating how tax professionals face ethical dilemmas depending on the environment in which they find themselves, seeking:

- To identify and conceptualise ‘tax dilemmas’ (section 7.2)
- To understand how ethical dilemmas are solved (section 7.3)
- To capture the societal environment in which UK tax advisors evolve (section 7.4)
- To consider the role of reputation in ethical dilemmas (section 7.4)
- To examine the regulations and controls to which tax experts are subject (section 7.5)
- To consider the role of codes of ethics in tax dilemmas (section 7.6)

- To comprehend the impact of competition and clients on tax experts' practice (section 7.7)
- To understand the organisational structure within which tax experts operate (including firm, competitive market, etc.) (section 7.8)
- To establish the role of personal ethics in solving ethical dilemmas (section 7.9).

Section 7.2 begins by defining the notion of ethical dilemmas in tax practice. Section 7.3 then goes on to interpret how tax dilemmas are solved using ethical decision making (DM) models. Sections 7.4 to 7.9 consider factors influencing tax advisors' DM process, section 7.10 discusses these findings in light of the DM literature, and section 7.11 summarises this chapter.

7.2 Conceptualisation of ethical dilemmas in tax practice

In seeking to investigate and analyse how tax intermediaries manage ethical dilemmas, it will be useful first to consider what the notions of ethics and ethical dilemmas cover. This section examines this issue by identifying the sorts of ethical dilemmas faced by TPs in their work. The nature of dilemmas is then discussed by examining the interview data and ethical DM literature.

Ethics

For the purposes of this chapter, ethics is understood as the set of values that guides the behaviour of an individual (Blondel, 1999). This usually extends to an assumption that individuals associate actions with ideas of what is right or wrong. In this space, ethics must be differentiated from morality, which can be conceptualised as a set of principles commonly accepted in a population, which serves as a reference for judging and framing behaviours

(Blondel, 1999).⁴⁵ Ricoeur (1996) sees in ethics the integration of what individuals deem to be good or bad, while morality is marked by norms, obligations and prohibitions characterised by both a requirement for universality and a constraining effect.

Difficulty remains in understanding what ethics means in the tax advisory environment. This requires making sense of what professional ethics is in theory and in practice. From a professional perspective, ethics may be defined as “the branch of moral science which treats of the duties which a member of the legal profession owes to the public, to the court, to his professional brethren, and to his client” (Black’s Law Dictionary, 1990). In simple terms, professional ethics signifies “acting with integrity and honesty according to widely recognised moral principles” (The Law Society, 2021). The Law Society (2021) stipulates that ethics is necessary to guide professionals to “respond in the right way to any moral dilemmas” that arise in practice. For the purposes of addressing the second research sub-question, legal interpretation and unacceptable tax planning (see section 6.8) are used as examples of ethical questions examined throughout this chapter.

Ethical dilemmas

According to the Oxford English Dictionary, a dilemma is a double proposition where a person or a group of persons is faced with “a situation in which a difficult choice has to be made between two or more alternatives, especially ones that are equally undesirable” (Oxford English Dictionary, 2010). The concept of a dilemma, adapted from the Greek word ‘lēmna’, codifies the idea of an individual presented with disjunctive choices on which to make a decision, both of which might result in an undesired situation. Ethical dilemmas often arise from conflicting circumstances where a choice made results in a specific outcome. Such scenarios might suppose that either decision is equally good and bad or that one is morally

⁴⁵ The definitions used in the thesis run counter to this usage. This is due to the fact that Foucault is using ethics as the ethical self-formation on which individuals base their decisions, whereas morality refers to a code of conduct, a context that surrounds the decision making process (see section 4.4.1). So as to keep a consistency between the definitions, it is important to use definitions that reflect Foucault’s view.

‘sounder’ in some way than another. In the Platonic tradition, the key feature of an ethical dilemma lies in the fact that the individual can accomplish only one action. Under such circumstances, decision makers may be condemned to fail in their moral duty. The outcome may result in a wrongdoing or a failure to comply with moral obligation.

An ethical dilemma is a situation in which the moral precepts or similar mandatory ethical obligations are in conflict, so that any possible solution to the dilemma is morally intolerable. Seen from another perspective, an ethical dilemma is a situation where the moral principles that guide behavior do not allow the obvious determination of what is correct or incorrect before two possible courses of action (Ruíz-Cano et al., 2015, p. 90).

In providing tax advice, TPs seem to face a number of dilemmas. The spectrum of advice required in representing clients was reported by the interviewees as being one of the most frequent reasons for ethical tension arising. This includes representing the client’s tax affairs while doing due diligence. Amongst the duties of tax intermediaries, tax planning consists of managing tax affairs to minimise taxpayers’ burden. This effectively means that advisors seek to make the tax paid to the state as low as legally possible. In the long term, this has consequences for the tax collected and the funds the state can allocate to public administration.

When your clients come to you for the best tax advice possible, and your best tax advice possible means that there’s not much money going back into the state. And so therefore when you look at the doctors and nurses not able to have money for their pay and teachers and lack of funding for this, lack of funding for that, then you do feel responsible, because you are not helping the government get the tax in that they want to get in. When you’re dealing with people who, you’re there saving them hundreds of millions of pounds, you are really denting the UK tax system. And at the end of the day, all you’re doing is making a very rich person a lot richer. That was a real big conflict there. But you get on with it, because it’s your job, it’s what you do, and you don’t necessarily think about it so much (C6, Tax Consultant, Sole Practitioner, March 2016).

This quotation might indicate that tax intermediaries take a passive stand and do not implement ethics in their day-to-day jobs. However, the key question is whether it is realistic

to apply ethics to the provision of tax services. Between theory and practice, is it advisable or even sensible for tax intermediaries to adopt ethical behaviour?⁴⁶ The above quotation also raises a second point. The tax consultant quoted presented tax services as sometimes conflicting with his personal ideas and feelings. Other interviewees also stated that, in order to comply with the job, tax intermediaries must separate themselves from the task in hand and ‘not think too much about it’.⁴⁷ In a context in which TPs play a dual role in trying to be both client advocates and an extended arm of HMRC (Klepper et al., 1991), they are left in a genuinely difficult position, being called to make judgements upon unclear legislation, squeezed between their clients and the tax authorities (Brody and Masselli, 1996; Fogarty and Jones, 2014; Frecknall-Hughes et al., 2017; Tan, 2011).

The second conflicting position suggested by the analysis is the accomplishment of due diligence on clients. As part of their duty, tax advisors are required to vet their clients (G2, Tax Editor, April 2016). This entails understanding their sources of income and wealth, as well as assessing the legality of their portfolios. However, in situations in which irregularities are discovered,⁴⁸ tax intermediaries are supposed to address these issues or report them to HMRC, but only with their client’s authorisation (CIOT, 2017). This requirement arguably puts tax advisors in a conflictual position, as it seems very difficult both to police and report on their clients objectively while continuing the business relationship. Tax professionals belonging to the ICAEW, for instance, have a duty to regard clients’ information as confidential, but at the same time must comply with the general duty of full and open disclosure to HMRC/government bodies. Tax professionals who are members of The Law Society have similar dilemmas: client fraud and money laundering

⁴⁶ These questions will be answered in sections 7.4 to 7.8.

⁴⁷ This argument is discussed further in section 7.9, and is extended in chapter 8.

⁴⁸ “The term ‘irregularity’ is intended to include all errors, whether the error is made by the client, the member, HMRC or any other party involved in a client’s tax affairs” (CIOT Professional Conduct in Relation to Taxation, 2015, p. 10).

must be reported to the National Crime Agency (NCA), but only outside privileged circumstances (e.g., legal advice privilege and litigation privilege).

I've seen a few things doing M&A-type transactions, where you go and do due diligence and that's where, you know, company – big company buying a very small business – that's where things ... And maybe through no fault of their own they've had money been lent to one person to the other person and that's caused potential money-laundering issues. Um, so it's not necessarily people intentionally going out to break the law, but they have done. Or they've caused issues because of ignorance sometimes. Um, I've had clients who [pause] we've advised them on lots of different tax things, do the returns, and it turns out they were doing lots of dodgy things in the background that no one knew about until the banks came looking for their money and it was all gone (A4, Tax Director, Big Four, December 2015).

In the following example, the company applied for a tax relief yet it was discovered that it had not complied with the law. When the tax advisor interviewed realised this, the legal firm s/he belonged to tried to rectify the situation post discovery without reporting it to HMRC.

We did a due diligence, um, enquiry to sort of look through various points, including something which is my area of looking at the employee share schemes. Um, I identified that there was nothing to, um, show from the documentation that was available, that these schemes, certain share schemes, uh, enterprise and management incentive schemes, uh, qualified for tax relief. It doesn't really matter the detail, but I identified that there ... that there, you know, there wasn't a, you know, that didn't exist, and that is a potential problem if you're heading towards an IPO (B5, Tax Solicitor, FTSE 100, January 2016).

From the above quotation, I would argue that tax advisors usually endeavour to address issues internally, since they rarely report their clients' wrongdoings to the tax authorities. Firms and advisors seem to prefer to maintain their business relationships as far as legally possible.

Examples of ethical dilemmas in tax services

To date, few studies in the ethical DM literature have conceptualised what ethics means in the tax area. For the purposes of this chapter, two studies seem relevant as they enhance analysis

of the interviews. First, Marshall et al.'s (1998, p. 1265) list of recurrent ethical issues faced by Australian TPs includes:

failure to make reasonable enquiries/conduct research, continuing to act for a client where there is incorrect information, and conflicts in distinguishing between tax planning and tax avoidance [which] emerge as the 'high frequency/high importance' issues.

Stainer et al. (1997) provide additional support to Marshall et al.'s (1998) observation in suggesting that the most common issue found in the practice of tax advice is the spectrum that exists between tax planning, tax avoidance and tax evasion. While a distinction can be drawn between avoidance of tax, which has always been regarded as legitimate, and evasion, which has not (Frecknall-Hughes, 2017), there is a spectrum of what is considered to be ethical when it comes to tax planning. Definitions are provided and generally agreed upon, notably those suggested by James (2012, p. 98) where "tax evasion is [seen as] the illegal manipulation of one's affairs with the intention of escaping tax. It is traditionally contrasted with legal avoidance of taxation". James (2012) interprets tax avoidance as the ability that one may have to organise his/her tax position in such a way as to moderate his/her tax liability. Despite these definitions, there remains difficulty in agreeing on interpretation between different viewpoints on the morality of tax avoidance, as discussed in chapter 6, meaning that some methods of tax avoidance provide a level of tax savings that, despite being legal, are viewed as unethical. In this context, Merks (2006, p. 280) provides an illustrative example of tax spectrum (see Figure 7.1).

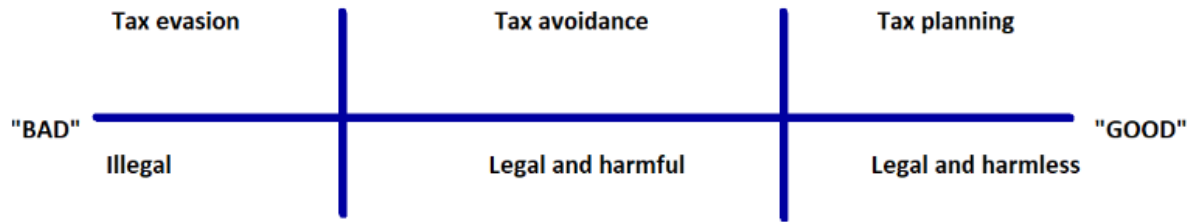


Figure 7.1: Tax evasion, tax avoidance and tax planning
 (Source: based on Merks, 2006, p. 280)

Analysis of the interviews reveals another ethical dilemma not yet identified by the above literature. Tax advisors act on behalf of their clients for set fees. As a result, tax intermediaries receive their instructions directly from taxpayers, who are ultimately the risk owners and decide on the extent to which they wish to use their tax advisor(s). In the context of tax litigation (see section 6.4), this means that tax accountants, solicitors and barristers can only take a case to court if their clients specifically ask them to do so. If a client refuses to argue against HMRC over a tax return and decides to pay the penalty, the tax advisor is not allowed to take the case further, even if the tax intermediary believes that HMRC is abusing their position and that the tax law should not be applied in the way the tax authority thinks. This suggests that TPs often settle cases even when they disagree with the decision. In this space, rather than challenging HMRC's position or the First Tier tribunal's judgment, tax intermediaries only do what their clients want, and not necessarily what is best for society. Tax advisors might disagree with a decision and consider that the judgment does not represent the 'right' application of the law, but unless their client agrees to argue with HMRC's position, the tax advisor cannot do anything about it. Nevertheless, if the advisors were to challenge HMRC's decision, this might potentially improve the whole tax system and benefit the greater good. This represents an ethical dilemma for TPs, as they know that if HMRC's position or the First Tier tribunal's judgment goes unchallenged and is not overturned, it will become the accepted way forward, setting an arguably 'wrong' precedent.

This might affect other taxpayers who do not have the means to hire a tax representative “sometimes you may lose a case where you still think you were completely right and the judge got it wrong. That’s probably the most annoying thing actually” (A11, Tax Accountant, Retired from Big Four, March 2016). This seemed to be felt equally by both accountants and lawyers interviewed.

I think the bad day is easy to spot, because there was one case which I won’t name, but there was one case where I thought the judge had reached a wrong conclusion. I didn’t agree with the judgement. I didn’t agree with the basis of the judgement. But the client didn’t want to appeal (B9, Barrister, Tax Chamber, February 2016).

There are times when I think cases are wrongly decided. You might sometimes ... There’s not enough at stake, but for the case to go forward or the client doesn’t want to, or sometimes just the costs involved in appealing further. You can have something where it’s obviously a terrible decision but people don’t want to appeal it because of the costs that you can be subject to, and you do also get that sometimes with HMRC assessments. So if HMRC assesses a client and says £30,000, it is not worth going to appeal for that, because even if you win and you did get some form of costs, you’re still then going to out of pocket probably by more than £30,000 at the end of it. So that can be quite frustrating (A11, Retired from Big Four, March 2016).

Litigating against HMRC and challenging its decisions seem to be greatly influenced by reputation (B6) and cost (A11), rather than by the public interest.

In summary, a number of ethical dilemmas has been identified relating to the provision of tax advice: 1) representing clients’ tax affairs (against society); 2) carrying out due diligence; 3) managing confidentiality and reporting to the NCA; 4) distinguishing between acceptable and unacceptable tax planning; and 5) tax litigation representation. It is equally important to understand the extent to which tax conflicts are resolved, partly resolved or remain unresolved in the provision of tax advice.

7.3 Resolving dilemmas

The commitment to behaving ethically is at the heart of what it means to be a solicitor. Ethics is based on the principles of serving the interests of consumers of legal services, acting in the interests of justice, acting with integrity and honesty according to widely recognised moral principles (The Law Society, 2021).

In practice, implementing ethics may be difficult, especially in a tax environment in which a number of factors may affect decisions. Indeed, as discussed in chapter 4, TPs confronted with ethical dilemmas undertake a cognitive DM process that considers a number of variables.

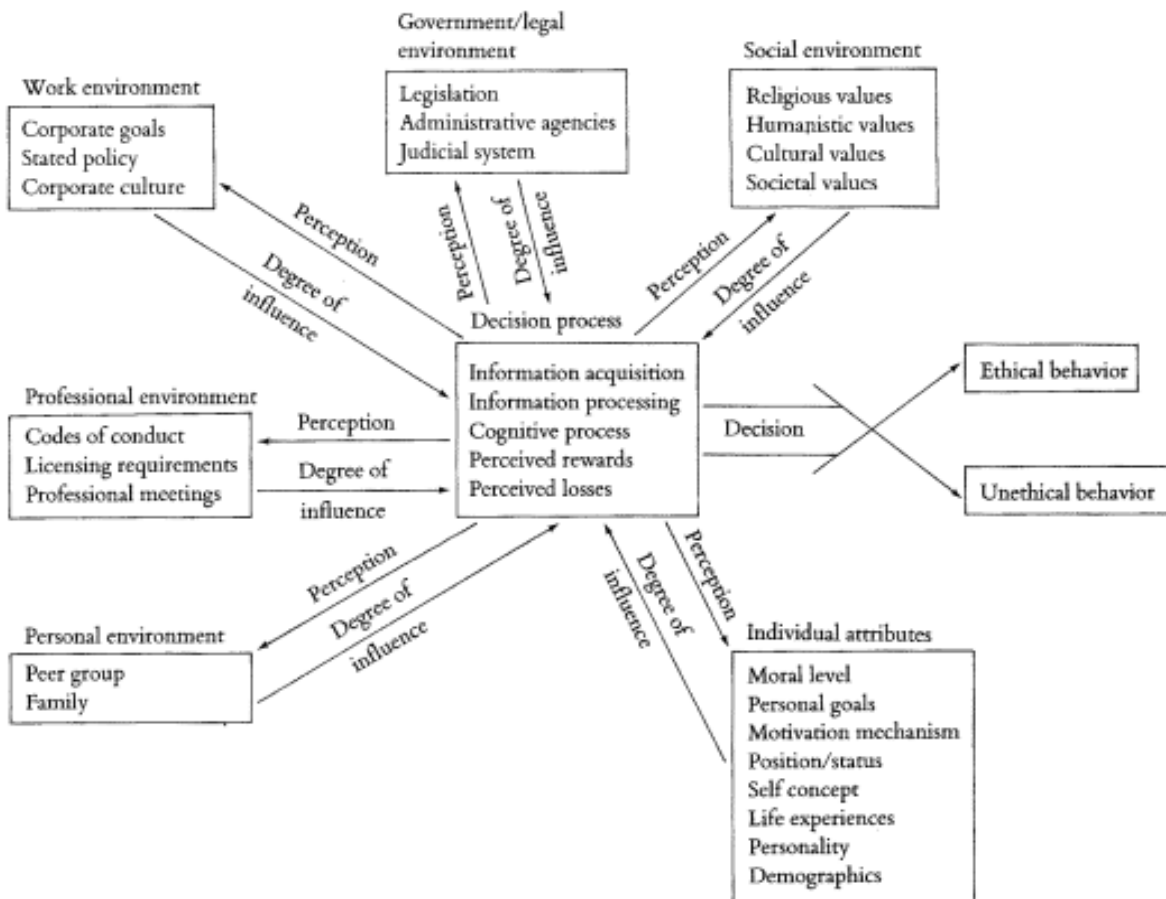


Figure 7.2: Model of ethical and unethical decision making
 (Source: Bommer et al., 1987, p. 266)

Bommer et al. (1987) propose a model which identifies six factors that affect decision makers positively or negatively (Figure 7.2). These include the social environment (religious, humanistic, cultural and social values), the government/legal environment (legislation,

administrative agencies, judicial systems), the professional environment (code of conduct, professional meetings, licensing), the work environment (corporate goals, stated policy, corporate culture) and the personal environment (peer group, family, and their influences). The impact of individual attributes on the DM process is also considered. Although this model has been frequently used in business ethics, and especially in management and marketing, it has not previously been used in the tax environment. Figure 7.3, adapted from Bommer et al.'s (1987) model, represents a mediating tool to help understand the underlying influences possibly leading to misconduct by tax advisors.

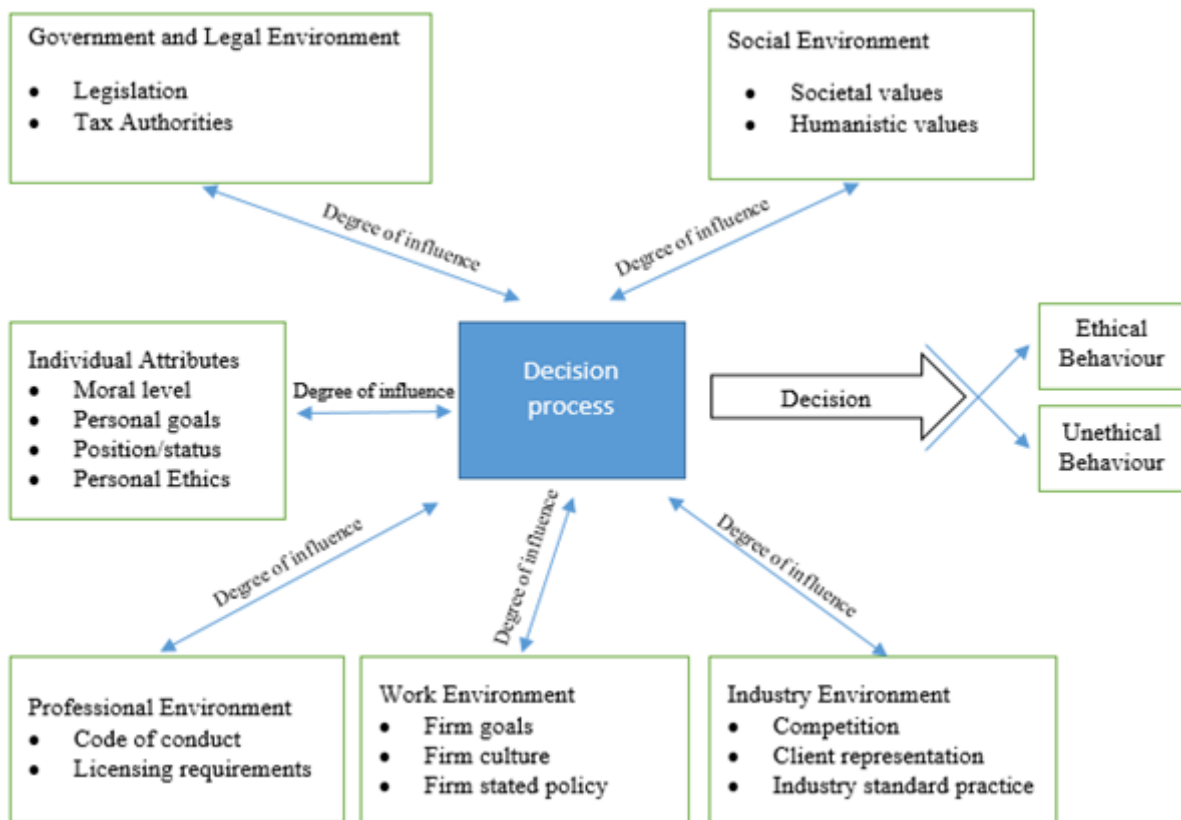


Figure 7.3: Model of ethical and unethical decision making in the UK tax environment
 (Source: Author's own model, based on Bommer et al., 1987, p. 266)

For the purposes of this analysis, the modified model (Figure 7.3) integrates a new variable, tax advisory service industry environment, which considers the impact of external factors

associated with the tax profession, such as client representation and competition (see section 7.7), since this constitutes a recurrent theme in the TP literature (see Cruz et al., 2000).

Explanation of the model

Frecknall-Hughes et al. (2017, p. 731) highlight that “tax practitioners thus have a duty not only to their clients, but also to the government, their firm, their profession, the wider public and of course, to themselves”. Hammer (1996) confirms this view, suggesting that the first duty of tax advisors is to represent their clients to the best of their ability in face of the tax authorities. Yet, in exercising this function, they act as intermediaries between taxpayers and the government, which unexpectedly creates a number of other responsibilities (Brody and Masselli, 1996; Duncan et al., 1989; Yetmar and Eastman, 2000). Ultimately, this could create a conflictual ethical situation when the interest of the taxpayer comes in conflict with the interest of the tax authorities.

In adapting Bommer et al.’s (1987) model to include the tax environment, Figure 7.3 identifies and describes six factors that affect tax advisors’ ethical behaviour when faced with an ethical dilemma. In so doing, it represents an attempt to fill a gap in the ethical DM and ethical TP literature by developing a model adapted to reconciling both. Figure 7.3 thus endeavours to provide an understanding of the underlying reasons for TPs’ perceived ‘misconduct’. In this process, this study goes beyond merely describing a narrow issue relating to a specific dilemma (for instance, avoidance), to provide a broader understanding of the factors affecting tax advisors’ DM process. This approach aims to enhance the study of ethical dilemmas in tax advisory services by providing a comprehensive picture of the environment influencing individual practitioners. Ultimately, its contribution lies in the fact that this adapted model (Figure 7.3) can be used to address any ethical dilemma, any decision maker and any organisational setting. By determining the contributing factors influencing tax

intermediaries' misconduct, government, tax authorities, professional bodies and firms are more likely to be able to predict potential conflicts and mediate this risk.

To date, only Frecknall-Hughes et al. (2017) have examined ethical influences on the work of TPs. In applying Rest's DIT to tax advisors and a "control group of non-specialists" (p. 735), they assess the responses provided when these individuals were faced with a range of ethical conflicts. Their study asked about the conceptual framework within which TPs make decisions, and how this affects the priority given to the various ethical considerations that might influence their DM processes, and whether the tax context itself has any impact on the type of ethical reasoning used, compared with more general social situations (Frecknall-Hughes et al., 2017). This chapter enhances this research by expanding on what is meant by the tax context and articulating it in terms of factors and environments.

Sections 7.4 to 7.9 of this chapter are structured as follows. Section 7.4 reviews the societal environment, section 7.5 analyses governmental and legal influences, section 7.6 interprets the professional environment, section 7.7 establishes profession practices, section 7.8 examines the effect of firm culture, and section 7.9 considers individual attributes.

7.4 The role of reputation in ethical dilemmas: the effect of societal environment

In the DM literature, the societal environment reflects values generally accepted as the moral norm (Bommer et al., 1987). This set of principles echoes cultural and humanistic beliefs shared across members of society. Analysis of the interview data reveals that societal values are increasingly taken into consideration in the elaboration of tax planning and tax compliance DM. In the UK and in most countries around the globe, societies were founded on a system of distributive justice, in which tax collection represented the keystone of the

social contract (see for instance Smith (1776) or Locke reviewed in Frecknall-Hughes (2015). In the UK, citizens contribute to funding national institutions in exchange for societal benefits. For example, nurses, teachers, the healthcare system and police are all funded by the taxpaying general public. As a result, paying tax is often considered to be a core duty of being a citizen:

‘What do we want the tax system to achieve?’ which then goes to, ‘What sort of government do we want? What sort of society do we want built?’ And then the tax will become a tool in which you achieve that society (B9, Barrister, Bar Chamber, February 2016).

In recent years, paying a ‘fair’ amount of tax to contribute to society has become a moral issue. The effect of avoidance in depriving society of necessary funds is nowadays associated with unethical behaviour (Brock and Russell, 2015). Participants in this study illustrated how this factor has been taken on board by tax firms and tax advisors as a new responsibility.

Our corporate responsibility team thinks about how we articulate the fact that tax is our contribution to society and investor relations on how we describe our tax position to our investors in a way that’s going to be helpful to them (E5, Head of Tax Group, FTSE 100, February 2016).

Now we’ve got a wider responsibility. It’s that we want to maximise the returns for our shareholders but we also want to recognise we’ve got a public interest responsibility and pay the tax that we have to do. Because that’s for the greater value of society. And tax advisors are becoming much, much more aware of that (F1, Tax Advice Officer, Council, January 2016).

Analysis of external documents, such as newspapers, reveals that it is also in the interests of taxpayers and tax advisors to be ‘in tune’ with societal values. High-profile taxpayers have been exposed in the press for allegedly not paying a fair amount of tax or being involved in tax relief schemes (Armitstead, 2013). This has resulted in negative media reports and significant reputational damage. In this context, societal and human values have become a risk that must be considered by tax advisors when facing ethical dilemmas: “these days, no firm would want their reputation damaged by that type of activity, and therefore a firm’s

brand is very important” (G1, Tax Editor, Law Journal, January 2016). Client expectations have also changed. They do not want to be exposed to unwelcome media coverage or be drawn into unnecessary conflict with HMRC (Doyle et al., 2009a). However, TPs must naturally meet their clients’ needs (F2, Tax Consultant, University, January 2016). Another respondent added:

I found over the last five years or so large corporates are very concerned about the reputation that they have in the press, and the choices they make in litigation are very much influenced by that. Some companies will say, ‘We don’t want to litigate that particular thing because it’s only worth £20 million’. I know it’s crazy: £20 million! But I’ve heard people say, ‘It’s only worth £20 million and we don’t want to be seen to be litigating against HMRC for that value of money. So we’ll let it drop’. So litigation choices are very much influenced by reputation (B6, Barrister, Tax Chamber, January 2016).

In examining ‘who makes the rules of professional ethics’, Bainbridge (2012) finds that reputational concerns are at the heart of corporate stakeholders’ preoccupations. He argues that reputation affects relationships with clients, peers and regulator(s), and therefore professionals have strong incentives to care about their reputation (Bainbridge, 2012). As such, reputation seems to play an important role in the decision making process of a tax professional while faced with an ethical dilemma. In this context, tax intermediaries seem to have developed a greater social awareness of what is and is not acceptable, not only for themselves but also for the company/individual they represent. Ultimately, assessing public opinion and importing it into professional standards has become a key component of the ethical tax DM model (as shown in the interview with A5) because reputation is a non-negligible risk factor, that can spiral out of control if not carefully considered. Businesses and individuals who market themselves as socially responsible will be unlikely to risk damaging their ‘hard’ earned reputation. This seems to confirm Christie et al.’s finding (2003) that the external environment positively influences questionable business practices. It also resonates

with findings by Mulligan (2008) and Doyle et al. (2009a, 2009b), which reveal its importance and effect on reputation in the tax advisory environment.

Having identified how tax advisors integrate societal values while faced with ethical dilemmas, the next section investigates how the governmental and legal environment influences the DM process, and presents the findings of this study in relation to the legislative and regulatory constraints framing the tax profession's ethical standards.

7.5 The regulations and controls to which tax experts are subject: governmental and legal environment

Bommer et al. (1987, p. 269) suggest that:

the legal dimension is an important determinant in many ethical decisions. Some individuals are not dissuaded from a course of action by its illegality or the threat of punishment, but they are the exception. Most individuals feel compelled to refrain from an action which is specifically prohibited by law.

When faced with an ethical dilemma, tax advisors often refer back to the legislation to verify their professional obligation under the law. This refers to the normative controls to which TPs are legally subject, regardless of their professional background. These norms can be defined as “the attempt to elicit and direct the required efforts of members by controlling the underlying experiences, thoughts, and feelings that guide their actions” (Kunda, 1992, p. 11). This illustrates the statutory framework put in place to promote good values or at least the values recognised and defended by the Government and Parliament. These controls aim to limit certain practices seen as harmful to the well-being of society. In practice, normative control reflects the legislative and regulatory requirements imposed upon tax advisors, either by the government and/or by the tax authorities.

For a long time, the UK government appears to have relied on the ability and willingness of firms and professional bodies to implement ethics and provide professional guidance on the conduct of tax intermediaries (since the *Finance Act 2004 (Disclosure of Tax Avoidance Schemes, or DOTAS)* and the *Finance Act 2013 (2013 UK General Anti-Abuse Rule (GAAR))*, which provide guidance and boundaries to tax intermediaries, were introduced relatively recently). Those documents add a new set of legal liabilities for tax advisors that would recommend avoidance packages and other schemes. However, this liberal approach must have supposed that the tax profession had assimilated some sort of moral standard on self-discipline. This approach has been revealed to be inappropriate in view of recent scandals. Public debates have indeed criticised the role played by the tax profession in assisting in tax avoidance, whether knowingly or not (Armitstead, 2013; Brock and Russell, 2015). Responding to this growing public dissatisfaction, HMRC was tasked by the Exchequer to bear down on avoidance and target taxpayers who were abusing the tax advisory service industry. In permitting tax authorities to play this influential role, the UK government introduced legislative devices in the form of DOTAS, a crackdown on promoters of tax avoidance schemes (POTAS), penalties for enablers of tax avoidance schemes and accelerated payment notice (APNs).⁴⁹ In doing so, it established a legislative framework to prevent tax avoidance, targeting both individual taxpayers artificially reducing their tax liability and the TPs advising them. In the case of the 2014 APNs, HMRC states that:

one of the most significant tools that we have to tackle avoidance by individuals and companies [is] removing their ability to defer payment of tax in on-going disputes involving marketed tax avoidance schemes (HMRC, 2018, p. 24).

⁴⁹ “An accelerated payment notice (APN) is a requirement to pay an amount on account of tax or National Insurance Contributions (NICs). HM Revenue and Customs (HMRC) issues accelerated payment notices (APNs) to taxpayers involved in avoidance schemes disclosed under the Disclosure of Tax Avoidance Schemes (DOTAS) rules, or counter – acted under the General Anti Abuse Rule (GAAR)” (HMRC, 2018, p. 23).

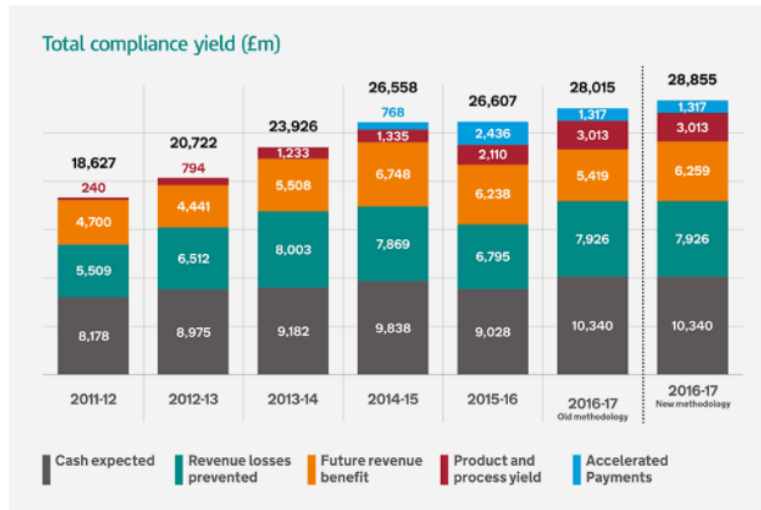


Figure 7.4: Total tax compliance yield, 2011–2017
(Source: HMRC, 2018, p. 23)

Since 2014, £4 billion of advance payments have been paid and 75,000 notices worth £7 billion have been issued (see Figure 7.4). The 2018 report further explains that as a result of APNs, the amount collected by HMRC has steadily increased over the last four years, from £517.7 billion in 2014–2015 to £574.9 billion in 2016–2017 (see HMRC, 2018, p. 21). This legislative device is undeniably a strategic tool to discipline and order the UK tax profession. The tactics used by the tax authority seem indeed to have persuaded TPs and/or taxpayers to stop using certain tax schemes. Ultimately, I would argue that this is a means through which the authority/government has introduced and implemented ethics in the UK tax system.

Before, you could go into some planning and HMRC might not agree. Who knows? It could take years and years to go through the courts. And in the meantime you’ve got the money. Well with APNs you don’t anymore. You pay the money upfront. Also with the DOTAS scheme, anything that’s particularly convoluted has got to be disclosed to HMRC upfront. So, a much more defined target. You know, just the fact that if people are doing something that’s convoluted, they’ve got this DOTAS number that would kind of put people off. And I think the third thing is that we now have a General Anti-Avoidance Rule, which has been in a couple of years. The chances are that anything that’s convoluted would come under the Anti-Avoidance Rule and just wouldn’t work from the start. So I think the appetite in the wider public going in for things like that has just really fallen away (A3, Tax Director, Big Four, November 2015).

The implementation of ethics in the tax profession is also manifested itself in risk ratings. Another tool used by HMRC to enhance the compliance of corporate taxpayers (and hence tax advisors) is business risk review grading, which is a key feature of how HMRC incentivises tax compliance by UK companies. Each year, a periodic review is undertaken of each business by customer relationship managers whose responsibility is to assess companies' risk profile (HMRC, 2017a). The rating attached to a business will have consequences for the frequency of reviews by the tax authority, and as a result, businesses naturally seek to have as low a rank as possible.

So compliance is obviously very high up the agenda. The company wants to ensure it adheres to the tax regulations. It wants to make sure it pays its tax on time, puts its returns in on time, etc. One main area for a company our size and a typical FTSE 100 or 250 company is we're subject to risk review by HMRC, and there are three gradings – you've got low-risk, medium-risk, high-risk. It's obviously in our interest to be a low-risk company, which means that you're not subject to as much intervention by HMRC as you would be if you were a high-risk. So that's really critical for the board that we try and keep that low-risk rating (E3, Tax Director, FTSE 100, January 2016).

In their examination of the US tax profession, McKerchar et al. (2008) argue for the efficiency of imposing penalties on advisors in order to enforce moral conduct. Their study suggests that as a result of regulation, TPs adopt less aggressive tax planning and enhance compliance. Bogenschneider (2015, p. 63), reading Foucault's work, argues that the reason why taxpayers and tax professionals adopt less aggressive positions is due to the disciplinary power imposed by a state institution, in this case the US (IRS).

In the enforcement practice against small businesses and low-income taxpayers, the 'Truth' is not relative, and there is no policy of restraint. The IRS will often use coercive, deceptive, or third-party queries to obtain whatever information it wants and will occasionally turn that information over to the United States Department of Justice for criminal prosecution. Indeed, the IRS may conduct its investigation against individuals and small businesses in secret and without regard to any Constitutional rights, particularly privacy rights, of the taxpayer.

Imitating the US initiative, penalties were also introduced into the UK in 2017 under the ‘tax enabler legislation’.⁵⁰ This is an attempt by the UK government to discipline the tax profession and inject some sort of moral standards by clarifying the boundaries of what are seen as unacceptable tax practices (see also Frecknall-Hughes et al., 2017). Naturally, this new legislation aims to combat tax avoidance schemes and deter TPs from enabling tax arrangements deemed to be abusive (HMRC, 2017a, p. 16).

The legislation will help ensure that enablers of abusive tax arrangements are held accountable for their actions, while providing safeguards for the vast majority of tax professionals who already adhere to professional standards, such as the Professional Conduct in Relation to Taxation (PCRT) and the Code of Practice on Taxation for Banks.

When faced with an ethical dilemma, tax advisors often refer back to the legislation to verify their professional obligation under the law. In this context, tax practitioners will therefore be incentivised to take into account risk ratings, but also the General Anti-Abuse Rule, POTAS, DOTAS, and APNs because of the financial liability that could occur if the tax position is questioned by HMRC. Although not always a synonym for sanction, the General Anti-Abuse Rule is, however, usually observed by the tax profession.

Having reviewed the legislative framework, the next section examines the role of professional bodies in influencing TPs’ ethical DM process.

7.6 The role of codes of ethics in tax dilemmas: professional guidance

Tax intermediaries are also subject to the influence of their professional environment. This might be described as the institutional context within which decision makers practise (Bommer et al., 1987). Effectively, this refers to the effect of professional bodies on TPs.

⁵⁰ See chapter 10 of the *Finance Act 2017*.

However, across the UK tax profession, joining a professional body is not a prerequisite (A7, Senior Tax Manager, Big Four, January 2016). In theory, anyone can set up a tax advisory practice, which indicates that some TPs may not be abiding by any ethical code of conduct nor be bound by any professional disciplinary board.

Tax is an unregulated profession, which basically means that if you wanted to suddenly set yourself up as a tax advisor without experience or qualification, you could (G1, Tax Editor, Tax Journal, January 2016).

There are many people who aren't regulated and are carrying out a whole range of tax services (G2, Tax Editor, Tax Journal, April 2016).

In practice, unless those tax advisors break the law (for instance, through tax evasion), their ethical behaviour may never be reviewed by the state or their peers, simply because they are outside the scope of any disciplinary control. This observation has attracted the attention of the OECD (2008) and academics (De Widt et al., 2016; Schöbel, 2010), since the tax profession is similarly unregulated in several other European countries. However, those who choose to belong to a professional body will be regulated under that body's code of conduct. Indeed, a key role of professional bodies is to create codes of conduct – sets of rules and precepts that one must follow as a professional (Greenwood et al., 2002). In principle, this will influence the ethical DM process of TPs: “if you have one of our members (ICAEW), then you know that they've agreed to the professional conduct regulations, they've agreed to be bound by the disciplinary board” (A7, Senior Tax Manager, Big Four, January 2016). Owing to the fragmentation and lack of regulatory monopoly of the tax profession (Frecknall-Hughes and Moizer, 2015; Thuronyi and Vanistendael, 1996), misconduct may be disciplined very differently, depending on the professional body to which the TP belongs (or not at all). Indeed, every professional body has its own ethical and disciplinary code, and although these codes govern professionals' conduct, they are implemented differently. No supra-professional

body is responsible for the overall supervision of standards, and inconsistencies may occur in their application. One participant (B6, Barrister, Tax Chambers, January 2016) outlined how the tax profession is professionally regulated, as follows. In terms of tax intermediaries, solicitors are subject to the code of conduct of the Solicitors Regulation Authority (SRA); barristers are subject to the conduct rules of the Bar Standards Board (BSB); ICAEW accountants adhere to the *Code of Ethics* (called the Code) based on the International Ethics Standards Board for Accountants (IESBA) and overseen by the International Federation of Accountants (IFAC); chartered tax advisors are expected to abide by the guidelines on Professional Rules and Practice and *Professional Conduct in Relation to Taxation* (PCRT); and The Society of Trust and Estate Practitioners (STEP) members are bound by the STEP *Code of Professional Conduct*.

There's not the cohesion that there would be between all solicitors or all chartered accountants. However, by and large there is a set of values that most people work to. Some unqualified people, it's less so. Many of them fully apply the same standards. But the professional standards of barristers, solicitors, accountants, CTAs, STEP are a bit different but they're broadly the same. There's the same sort of boundaries around honesty, acting within the law, being open, maintaining high standards. That bit is common (A8, Tax Editor, Big Four, March 2016).

These codes of conduct were reported by the interviewees as being governed by the same standards of professional behaviour and competence, objectivity, due care, integrity and confidentiality. However, I would argue that greater homogeneity across these codes of conduct would create more coherent standards, resulting in more consistent behaviour. Furthermore, in their current state, only the CIOT's PCRT offers direct regulation for tax purposes. The other previously mentioned ethical codes provide general guidance, but no illustrative examples in relation to taxation. Therefore, seven chartered bodies (ICAEW,

ICAS, ACCA, ICAI, CIOT, STEP and AAT)⁵¹ have signed up to the PCRT, which sets out fundamental principles relevant to professionals in their ethical conduct in the tax environment. However, no legal professional bodies currently adhere to this code. As a result, solicitors and barristers are not obliged to comply with the same behaviour as expected by the PCRT when providing services in the tax profession. As stated in chapter 2 (see also chapter 8), legal professionals have always distanced themselves from the rest of the tax profession, which may explain why their professional bodies have not signed up to the PCRT. As for the PCRT itself, the Guide was updated in November 2016 to reflect ethical principles and remind TPs of their responsibility to act in the public interest.

Tax advisers operate in a complex business and financial environment and a core purpose of the tax system is to fund public services and to ensure the good health of our economy and society. Tax advisers therefore have a responsibility to serve their clients' interests whilst upholding the profession's reputation and the need to take account of the wider public interest. (CIOT, 2017, p. 3).

This change might be perceived as an attempt to make tax practice and advice more uniform when it comes to ethical practices. It can be argued that this is an optimal solution, as tax legislation will be always flawed and TPs' bodies must be perceived as doing something about ethical dilemmas. This suggests that this guidance may be simply an artefact to argue that the tax profession is an ethical profession.

We are now also asking the regulatory bodies who police professional standards to maximise their role in setting and enforcing clear professional standards around the facilitation and promotion of avoidance to protect the reputation of the tax and accountancy profession and to act for the greater public good (HMRC, 2015, p. 3).

However, despite this obvious effort to provide some sort of guidance with regard to ethics, participants in this study highlighted the contradiction raised by the PCRT in stipulating that

⁵¹ See list of abbreviations, page xi.

members refrain from tax avoidance/planning but refusing to discipline members on that basis. Indeed, monthly published summaries of the ICAEW's Disciplinary Panel, which includes lay members from outside the profession, suggest that professional bodies do not consider tax avoidance or tax planning as unethical behaviour, nor even as being in breach of tax advisors' professional obligations.

You won't find any cases where members have been disciplined for involvement in tax planning or tax avoidance, as Counsel has been consulted and has opined that members can't reasonably be disciplined for doing something legal, but there are cases where members have been fined or excluded for tax misdemeanours such as not looking after a client's tax affairs in a professional manner or tax offences such as being involved in tax evasion or money laundering, both of which are criminal (C2, Tax Consultant, Sole Practitioner, December 2015).

Overall, the interviewees reported that, in practice, they do not use the PCRT *Code of Conduct* to solve tax ethical dilemmas since the PCRT is so general that it would be difficult to address an ethical issue on the basis of this guidance. Ultimately, the professional environment represented by professional bodies does not seem to exert an ethical influence. This resonates with the literature, which has found that although codes of conduct have the potential to influence positive behaviour (Schwartz, 2001; Weaver and Trevino, 1999), and unless they are followed up with visible processes and sanctions, the observed effect on ethical behaviour is almost non-existent (Deshpande, 2009; Rottig et al., 2011). Empirical studies argue that, more often than not, codes of conduct are simply artefacts that have no bearing on solving ethical dilemmas (O'Leary and Stewart, 2007; Paolillo and Vitell, 2002). However, Dodwell (2016) suggests that codes of conduct should be seen as the emergence of soft law, whereby tax advisors are incentivised to follow a certain pathway in order to comply with a certain moral code, as well as society's expectations: "soft law aims to encourage down, or away from, a particular path. The sanctions are typically adverse publicity, rather than a penalty or finding that arrangements achieve a different effect to that intended"

(Oxford English Dictionary, 2010). Baker (2014, p. 216), using a Foucauldian framework, proposes a different analysis. For him, code of practices and the ethical discourse of the profession can be explained by considering those techniques as:

The ethical discourse of the profession can be found more in the self-forming practices of the profession rather than its code of ethics. These self-forming practices commence early in the career of a prospective accountant and shape the accountant into an idealized “ethical being” in the Foucaultian sense; not an ethical being who complies with a code of ethics, but rather an ethical being who is self-regulated and self-formed into an ideal member of the profession, one who seeks to serve clients while at the same time giving the appearance of acting with integrity and conforming to professional ideals.

Having presented the professional environment of TPs, the next section examines the influence of the tax advisory service industry on TPs’ ethical DM process.

7.7 The impact of competition and clients on tax practice: the tax advisory service industry

This section examines the influence of clients and competition on tax advisors’ ethical behaviour. In so doing, it presents the contribution of this study to Bommer et al.’s (1987) ethical and unethical DM model by supplementing it with an additional factor affecting TPs. This new factor is based on research by Cruz et al. (2000) on TPs’ ethical judgements. Their findings reveal that public accounting practitioners adopt aggressive reporting positions in cases involving client pressure.

With regard to the tax literature, empirical research suggests that client pressure is only possible because the tax profession is a highly competitive sector. Tan (2011) argues that competition between firms (and especially between the Big Four) and client satisfaction have played a crucial role in the evolution of professional ethics. Although this branch of study has been under-exploited in the context of tax (Braithwaite, 2005; Rostain and Regan,

2014), the literature concerning how competition between firms affects ethics is more extensive. In a very competitive market such as the tax advisory service industry, clients have a wide choice, which allows them to influence the ethical behaviour of tax intermediaries by ‘threatening’ to go to a competitor. In reality, this implies that either TPs must go beyond what they feel comfortable doing, or else they may lose their jobs/clients.

When I worked in the US, I heard about a Big Four partner who was advising the private tax affairs of a family that ran a huge business, one that you will see every day in the high streets. And they wanted to do something. And this US partner said, ‘I don’t think the law allows you to do this’. And they went, ‘Okay’. And they went and found another advisor who said, ‘Okay, let’s do it’. [...] So this partner lost his biggest fee-paying client. They took all their work away. And because he wasn’t bringing in enough money, they sacked him. And that is a true ethics issue, which in reality ethics is painful for someone. And sometimes no good deed goes unpunished (E4, Senior Tax Manager, FTSE 100, February 2016).

Firms or individuals addressing tax ‘too ethically’ or ‘too unethically’ will lose clients to competitors; and because tax advisors’ performance is assessed against the revenues they generate, adopting ethical conduct which is not in line with wider industry practices may be damaging. Indeed, if firms or advisors embrace a different ethical stance from their peers, this may result in them being singled out as not adopting overall industry practices. In the case presented above, the tax partner was more ethical than his/her peers and therefore lost a key client. Because firms are competing against each other, it would seem that they cannot afford to have divergent ethical principles. They are forced to align with the most widespread practices across the tax advisory service industry so as not to lose their competitive attractiveness, and hence clients. Those firms are often forced to engage in activities that modify their culture to include at least some economically valuable attributes. As rightly pointed out by one participant in this study, the treatment of tax law is not just a question of ethics, but is also a question of experience and knowledge of where HMRC’s latitude lies

(see chapter 6). A number of tax practices is derived from tax advisory service industry standards, and TPs must be familiar with these to remain competitive.

Things in law are not all black and white. The trouble in tax is there are so many shades of grey. And part of the job is shading the grey into white or black, and different people have a different prism through which they will treat it. That treatment isn't just ethics, but also experience and what they've seen work or not work in other places (E4, Senior Tax Manager, FTSE 100, February 2016).

I would argue that the demands and expectations laid on these individual professionals is too great. Fogarty and Jones (2014) suggest that, as a TP, it is rarely very good to be *Between a rock and a hard place*. Being in the middle may be costly for those standing their ground, especially in such a high performing industry. Rivalry between firms is present at all levels of the market, especially in the high-end and middle markets (see chapter 6). As such, it is questionable how much power remains in the hands of tax advisors. Clients, who tend to have the last say on the matter, may push tax consultants to be more aggressive than they would naturally be (Brody and Masselli, 1996; Frecknall-Hughes et al., 2017; Tan, 2011), and tend to pressurise tax advisors to keep the tax burden as low as possible. This means that while tax advisors might not necessarily agree on the tax position that their client wants to adopt, they might be under the impression that they have no other choice but to 'agree'.⁵²

Ultimately this contextual observation of the tax advisory service industry environment reveals the impact of client satisfaction and competition on the ethical DM of TPs. So far, the tax advisory service industry environment appears to be the most significant factor in relation to ethical decisions. The next section examines the influence of firm environment on TPs' ethical DM process.

⁵² There is, of course, a literature that suggest otherwise. However, the data collected in this research pointed that some TPs might have felt under pressure to please their clients.

7.8 The organisational structure within which tax experts operate: the firm

Bommer et al. (1987) argue that firm culture, corporate goals and internal policy are factors that strongly affect ethical or unethical behaviour in the work environment. Firm culture obviously only applies to TPs working within a firm. Self-employed and sole practitioners are not subject to this external factor, and therefore rely on other variables to support their decisions, such as the tax advisory service industry environment (see section 7.7) and their own individual attributes (section 7.9). This branch of the DM literature suggests how organisational culture significantly influences professionals' ethical DM process (see, for instance, Sweeney et al., 2010). Research by Bobek and Radtke (2007) indicates that firm culture does indeed create an environment that either promotes ethical behaviour or leads to the development of aggressive tax assessments. This observation is reinforced by Shafer and Simmons (2011, p. 663), who state that:

The significant effects of the Ethical Norms/Incentives factor on behavioral intentions in the high intensity case indicates that if firm management establishes norms and expectations for ethical behavior and such behaviour leads to formal organizational rewards, the likelihood of overly aggressive actions maybe decreased.

One explanation put forward in the literature relates to the fact that, despite the developing ethical dimension of accounting and law (Helliar and Bebbington, 2004; Yuthas and Dillard, 1999), in day-to-day practice, practitioners often lack opportunities to develop their professional ethics, since they hardly have time to consider this topic (Doyle et al., 2009a). As a result, professionals seem to rely heavily on firm culture (Collste, 2012; Postema, 1980). Another potential explanation put forward by Collste (2012) is that loyalty to the firm and colleagues is a significant element in how professionals make ethical choices within a firm. In this context, the firm culture should be understood as the moral code that each firm

imposes on its tax advisors. This could be the behaviours, values, practices, systems of rewards, etc., recognised by the leadership. Firm culture symbolises a form of sub-morality, which only applies within a certain context or group and may therefore be unknown to outsiders, against which TPs' performance is assessed Knights (2007). As such, tax professionals adopt ethical values according to the practices generally accepted and encouraged by the firm, and naturally integrating those perceived professional behaviours represent a way to succeed within the firm. However, such sub-cultures create conflicting moral codes across the tax advisory service industry, with public bodies on the one hand and private taxpayers on the other. For example, public bodies' tax representatives are traditionally required to adopt a conservative approach, while private practitioners are more likely to be rewarded for adopting creative and innovative approaches (see chapter 6). This notion was expressed by a council tax advisor, as below.

The essence of the job is to make sure that the council gets its tax right. The council will meet all its legal obligations as regards tax, including submitting tax returns and paying tax on time; but at the same time, will seek to minimise its tax burden by exploiting all exemptions to which we are legally entitled. Interpreting that means we will take advantage of any legitimate, tenable loopholes, but we're not going to get into the very aggressive tax planning (F1, Tax Officer, Council, January 2016).

A similar approach is observed in UK universities, which are partly publicly funded. Universities are incentivised to adopt open and transparent tax strategies, and tax departments within universities are expected to share information on the types of structure they intend to endorse: "universities as a rule are risk-averse. We will not engage in artificial tax strategies" (F2, Tax Officer, University, January 2016). In cases where universities happen to save a lot of tax, this seems to create issues for their boards and committees as they do not want to be perceived as engaging in aggressive tax planning.

With regards to a change in the law, it legally applied to us. So after nine months of intense debate and checking the tax structure with a number of lawyers, we decided to claim a tax refund on innovation. So we got back £6 million. It was great and unexpected. But it's upset everybody here because a sudden £6 million tax refund is outside the normal scale of things and it's got to be accounted for and explained, all the way up to the Vice Chancellor, so that when he's questioned by a Public Select Committee in parliament or whatever, he is able to say, 'This is all legal. The whole sector has done it' (F2, Tax Officer, University, January 2016).

In contrast, private companies tend to have higher expectations of how much tax they intend to save or fees they intend to gain. In this respect, some private companies have competitive cultures based on setting tax targets. In some organisations, this mind-set may require tax advisors to “sail close to the wind and engage in aggressive behaviours” (B6, Barrister, Tax Chamber, January 2016). One former employee of a Big Four explained:

I was expected to have an income of something like £850,000 a year. I was expected to have billed about 1,200/1,300 hours chargeable to clients. I had a target for new business wins. I had a target for winning non-repeat business from clients, which I remember was very high (E4, Senior Tax Manager, FTSE 100, February 2016).

I would argue that high and challenging targets encourage a certain culture within the firm, so although aggressive tax scenarios are not necessarily promoted by the firm itself, they may be an unavoidable result of high expectations, particularly considering that promotions are reviewed against success or failure in achieving those targets (chapter 6).

I've got live targets for a VAT recovery and it's been suggested that I need to achieve a figure in my negotiations. If that's not the right number with the tax legislation then I can't, but I'm expected to fight for the best deal with it (E6, Head of Tax, Funds, February 2016).

Bobek et al. (2017) argue that how ethical dilemmas are solved may be explained by the environment in which TPs find themselves. They find that stronger ethical cultures are perceived by TPs in public organisations than in private industry. This study indirectly demonstrates the difference in tax cultures between public bodies and private practices. It

highlights how the market constraints to which accountancy and legal firms are subject ultimately affects how ethical dilemmas are solved by TPs. I would argue that this study also highlights the difficulty for TPs to adapt constantly to their ethical environment. Although TPs are able to move easily from firm to firm since tax knowledge is transferable (see chapter 6), the real obstacle facing them is knowing how to integrate into the firm's ethical culture with regard to tax.

The next section examines the influence of individual attributes on the DM process.

7.9 The role of personal ethics in solving ethical dilemmas

Individual attributes or personal ethics cover a wide range of factors, such as motivation, position/status, personal goals, morale, demographic variables, life experiences, self-concept and personality. Bommer et al. (1987, p. 273) suggest that:

Individual and moral development [is defined] in six stages of moral development, which [is grouped] into three general categories, two stages per category. The first general category is the pre-conventional (or pre-moral). Individuals in this category do not base judgement of right and wrong on society's standards, but on their own physical needs. Fear of punishment is the main reason rules are followed by people in this category.

For the purposes of this section, individual attributes are examined solely through the first category of 'fear of punishment', with reflections on the personal ethics literature. Personal ethics is a notion subjective since it refers to a set of intangible experiences and beliefs: "ethics is complicated because our morality is an odd mixture of received tradition and personal opinion" (Robinson and Tajfel, 1996, p. 5). Ethics is not a fixed frame since it is a social construct. As such, personal ethics varies greatly from one person to another. Therefore, what is considered acceptable or unacceptable also varies. What might be seen as a

disciplinary fault from one person's point of view might be grounds for promotion for another.

So I was recruiting in an earlier life for a VAT Manager and I was asking them some ethics questions, and they disclosed that they had at one time a big, big, big liability and they'd gone to the CFO to say, 'I've overturned some stones and found something'. And their CFO said, 'Well just put the stones back the way you found them', and that's what she did. And I didn't hire her because she'd had this ethical point where clearly there was tax due and she'd looked the other way (E4, Senior Tax Manager, FTSE 100, February 2016).

This illustration poses an ethical dilemma, as wrong-doing may result in sanctions outside the firm for not reporting it to the tax authorities, but at the same time may represent grounds for discipline and punishment within the firm. In the above example, the candidate might have jeopardised her career in the company if she had alerted the UK tax authority, which might have had strong repercussions on her future prospects since, in such a small industry, reputation is probably as important as the ability to do the job (see chapter 6). As a result, when faced with an ethical dilemma, tax advisors may 'accept' misconduct to preserve their employment, since not all practitioners have the freedom to resign and leave their firm if they find the ethical culture inappropriate.

I went to a tax planning practice for six months and there were several problems with that practice. It didn't suit me. I felt very uncomfortable with the types of things that we were asked to do by our clients. And from my perspective, I just felt that was sailing too close to the wind. So for me, it just wasn't the right thing to do and so I left them very quickly and I went to [a Big Four firm] (B6, Barrister, Tax Bar, January 2016).

In this illustration, the TP did not report her/his doubt to the tax authorities since the contract had a confidentiality clause, any breach of which would have resulted in disciplinary action against her/him by The Law Society. This finding seems to confirm Zhang et al.'s (2009) observation that professionals working in firms perceived as ethical are less concerned about blowing the whistle on wrong-doings. Fear of experiencing possible retaliation by the firm

appears to be an influential factor in individuals' decisions to adopt unethical conduct or not report misconduct. For those not working in a firm, the second form of constraint that influences tax advisors is professional liability, in the form of insurance cover for their practice. Fear of having their insurance revoked or raised is also a big determinant of the types of recommendation that tax intermediaries provides as F2 suggests.

They'll do it for the local corner shop and that sort of thing. Yes, they will advise appropriately here and there. They do require professional liability insurance, otherwise they're going to lose the shirt off their back very, very quickly. And the insurance industry is heavily regulated, so in them providing the professional liability insurance to the individual, they're going to have to assure themselves that it's all going to be OK (F2, Tax Consultant, University, January 2016).

The literature reveals that in reaction to this fear of punishment, TPs often set aside their personal views because they are first and foremost servicing their clients who are paying high fees, which in turn are often set as targets by their firm. It is therefore unsurprising that personal ethics in relation to tax are managed by individual professionals. Paradoxical situations include those where practitioners are involved in particular pieces of work that they personally think are too aggressive or morally reproachable, yet they still dispense their tax knowledge: “if you want my view on Google and Facebook, they have both done some very aggressive tax planning” (E6, Head of Tax, Funds, February 2016). In the following example, a consultant tried to arrange a legal structure for a company seeking to avoid legal liability for the death of some children while also trying to avoid paying tax.

There was, and still is, legislation that says if you sell a package, you are legally liable for that package. And at the time there were some children that died from carbon monoxide poisoning from faulty heaters in Corfu. That was a Thomas Cook holiday. And that's been in the press the last several years. And the A, B, C, the Cs that we're selling to consumers, they didn't want to be the principal. They didn't want to be made libellous and responsible for the situation. So they wanted B, which was one of the companies I represented, to stand up and be the principal. They wanted B to be the one that was on the foot for legal liability. And it also meant they were on the foot for the VAT as well. And the business was saying, ‘We have to

make this move otherwise all the Cs will find somebody else to buy from’. And I was saying, ‘Well, if we make a move, it could cost £2.5 million a year’. And they said, ‘We don’t want to do that’. And I tried to find a middle ground. (E4, Senior Tax Manager, FTSE 100, February 2016).

Yet this very same TP who had just illustrated how he had tried to save £2.5 million in tax (for questionable ethical reasons) finished the interview by stressing how everyone should pay their fair share of tax, since tax is crucial to the functioning of society: “and tax is the money that pays for the police force, the hospitals, the armed forces, the navy. So tax is the means by which the country runs itself” (E4, Senior Tax Manager, FTSE 100, February 2016). This suggests that TPs distance themselves from ethical concerns that might arise from the tax structure (see section 7.3). They devote their knowledge entirely to the legality of the planning, and seem to leave their clients to manage their own ethical standards. It seems crucial for them to maintain this distinction. This interpretation confirms O’Fallon and Butterfield’s finding (2005) that, in this context, TPs tend to dissociate themselves from the task in hand. Since there is usually no ‘black and white’, or right and wrong answer, decisions are frequently down to personal ethics.

7.10 Discussion in relation to Foucault and the self

Given that TPs face tensions in trying to fulfil their legal and moral duties while still seeking to gain and retain clients, this section explores this tension as it applies to the self as understood through Foucault’s account of the ‘ethics of the self’. As explained in chapter 4, in Foucault’s view, ethics can be clearly distinguished from morality. Ethics is defined as the consciousness and self-philosophy on which individuals base their decisions, whereas morality refers to a code of conduct, a context that surrounds this DM process. As such, while ethics is a movement from inner thinking to outside action, morality is an external element forced on individuals, who often assimilate it as their own. As such, morality as viewed by

Foucault, should be considered as a practice of ‘good’ rather than a virtue discovered by oneself. Watson (1999, pp. 847–848) illustrates this point by stating:

For example, murder, rape, and theft are morally repugnant universally. Hence, punishment for any of these offenses does not impinge upon religious or individual autonomy because there is no ethical freedom to choose whether or not to engage in the conduct that would constitute the offense. Rules of ethics, however, rest on a very different foundation. They may be either absolute, like law, or motivational (determined by the motivation of the actor), or consequential (judged by their foreseeable consequences).

Foucault, writing under the pseudonym ‘Maurice Florence’, described ethics as deeply embedded in the construction of the self-conscious.

The constitution of the subject as an object for him-self: the formation of procedures by which the subject led to observe himself, analyze himself, interpret himself, recognize himself as a domain of possible knowledge (Florence 1998, p. 461)..

As such, this notion is fundamentally subject to the particularity of interpretation. As a result, I would argue that ethics only reveals a truth in a particular time and space, and therefore cannot be conceptualised as a universal precept since it is, in essence, a cultural phenomenon. This means that the values defended vary from country to country, and even from region to region within the same territory. This reflects what Foucault (1997a, 1997b, 1997c) articulated as the regime of truth (or the truth game). Concepts are deemed true or false only within a domain of things for a time and space. Professional ethics, however, is much more difficult to articulate in practice. Not only can the ethical sphere be expressed in terms of a broad spectrum with no absolute borders, but different stakeholders may have different interpretations. Indeed, depending on their political agenda, objectives or perceptions, ethical standards vary greatly between individuals, societies and over time. According to Foucault (1977), moral standards are only an expression of a human civilisation in a historical context. As such, when looking at these moral practices, one should always bear in mind the distortion

between present moral principles and what was once accepted as being normality. Therefore, establishing boundaries with regard to applied ethics seems almost impossible. Although Foucault (1997a, 1997b, 1997c) recognised boundaries within the ethical spectrum, he stressed that these boundaries are an ever-changing framework, forcing the interpreter always to consider the subjectivity of the precept within a particular context (time and space). Foucault, publishing his work under the pseudonym ‘Maurice Florence’ observed that:

This objectivation and this subjectivation are not independent of each other. From their mutual development and their interconnection, what could be called the ‘games of truth’ come into being—that is, not the discovery of true things but the rules according to which what a subject can say about certain things depends on the question of true and false (Florence, 1998, p. 460).

The application of ethics and morality to tax legislation might be noted as a turning point in the tax advisory service industry. The black letter of the law once represented the Foucauldian notion of knowledge, where the ‘savoir’ is the sole expression of power relations expressed by the institution. This knowledge is at present being challenged by the regime of truth, in this case the fluctuating moral dimension of tax practice regarding what is acceptable and unacceptable. The concept of ethical behaviour seems almost antithetical to the enforcement of tax legislation – a comparison that should in principle not exist, a complete paradox that involves combining the black letter of the law with subjective principles at the mercy of any given beliefs or media headlines. The law is meant to be certain and predictable in order to create stability. This was thought to create order and discipline in society, as individuals knew what was expected of them. However, applying the abstract notion of ethics to the law will result in unpredictable outcomes. This view suggests that hard law within the UK tax system is being challenged by the soft law of the regime of truth in matters of ethics (Dodwell, 2016). I would even argue that the régime of truth has become a more powerful tool than tax knowledge itself. This becomes a game of power and knowledge, benefiting the controlling forces and disadvantaging individual taxpayers and practitioners. This notion

enhances the literature that addresses the key role of HMRC in the regime of truth within the UK tax system (Tuck, 2007). Ultimately, this develops into what Foucault (1965, 1977) called ‘normalisation’. He suggested that normalisation is a technique of power that operates in order to homogenise the conduct of individuals across society, in this case through ethics. TPs must subject themselves to this cognitive process of ethical behaviour in order to fit with the norm. This distinctive attribute of the tax profession reflects Foucault’s (1980) work, which criticises the modern morality in which individuals are far from being self-constituted since they are repetitively subjected to techniques of power and discursive practices (Hoskin, 2015). This process of normalisation differentiates between individuals who follow the norms and those who behave in an abnormal manner. It ultimately aims to control and subject individuals to a fixed norm – and to punish or reject those who deviate from it. However, Foucault’s use of normalisation works both ways: it may work positively to enhance self-regulation (Miller and Rose, 1990) and compliance (Likhovski, 2007), but may also generate negative behaviour. The underlying idea is that individuals feel obliged to adopt a different behaviour – that is, a behaviour expected by society – only because their actions are being scrutinised and made visible to an external reviewer. For instance, Lambert and Pezet (2012, p. 67) argue that “the subject, in an organisational context, carries out systematic practices of self-discipline and becomes a calculative self. [...] These management accountants become calculative selves by building the very measurement of their own performance”. As a result, individuals become self-forming subjects (Skinner, 2013) where the construction of the self is never independent of the context and knowledge in which it evolves.

Thus, ethical conduct is action performed by a subject in order to comply and engage with values that are morally approved of and expected by society. In this regard, Luxon and Landis (2005) demonstrate how the definition of an ethical subject (in the case of doctors and educators) is intrinsically based on practice rather than generic knowledge. Baker (2014, p.

216) examining the ethical discourse of the US public accounting profession from a Foucauldian perspective reveals that:

The ethical discourse of the profession can be found more in the self-forming practices of the profession rather than its code of ethics. These self-forming practices commence early in the career of a prospective accountant and shape the accountant into an idealized “ethical being” in the Foucaultian sense; not an ethical being who complies with a code of ethics, but rather an ethical being who is self-regulated and self-formed into an ideal member of the profession, one who seeks to serve clients while at the same time giving the appearance of acting with integrity and conforming to professional ideals.

Kelly et al. (2007), studying professional independence of the accounting profession, look at power manifestations and more precisely, discourse and discipline. In this case, they demonstrate that the accounting, management and the organisation itself are influenced by this ethical power receiver. Other studies oriented towards the constitution of the moral subject or the ethical receiver can be found in the accounting literature. Those studies using a Foucauldian framework look at ethics and/or ethical codes and their relevance in our modern society (see for instance, Cordoba, 2008 and Messner, 2009). Along the same line of discussion, Neu et al. (2015, p. 49) demonstrate how individuals have become ethical and disciplined subjects by integrating forms of anti-corruption practices. They state that:

while such arrangements do not necessarily prevent corrupt practices, they do encourage certain actions and reactions among organizational actors, suggesting that organizational actors are at one and the same time free and autonomous, yet subject to and constructed by anti-corruption practices. These practices are thus both disciplinary and productive, affecting individuals in specific ways, while also benefitting the organizations for whom they work.

This, according to Hoskin (2015), leads individuals to construct themselves through a disciplinary and ethical lens. Looking at accounting, financial and legal domain, Hoskin establishes how the manipulation of expertise and disciplinary discourses, has surpassed in some respect the traditional creation of the law. This serves to show how tax professionals

render tax services through a close consideration of their knowledge/power and the effect it has on the self-ethic and professional self.

7.11 Summary

This chapter has conceptualised how TPs manage ethical dilemmas by taking into consideration a range of factors, including societal, governmental and legal, professional and the tax advisory service industry environments. Individual attributes have also been considered. The chapter has illustrated the adaptability of TPs in managing ethical standards, especially in private firms. This chapter forms the keystone of this thesis, linking knowledge (chapter 6) and identity (chapter 8), as ethical issues raised by applications of the tax legislation impact on the perceived image of the tax profession. Indeed, as argued above, TPs choose how to use their specific ‘savoir’ as a result of an ensemble of ethical issues, moral circumstances and disciplinary structures. Ultimately, the choices they make affect society’s perspective on the tax profession as a whole, as well as the image that TPs have of themselves. In reviewing these problems, this chapter has therefore addressed the second research sub-question on how ethics is managed by the tax profession.

The answers received to this question shows how the internal moral work of the TP is hidden from public and client view, resulting in experiences of alienation and marginalisation of interior selves. What is not meant to be hidden from public and client view is how TPs have aligned themselves both in terms of their knowledge acquisition with the norms of their profession, and also with the very modes of speech that resonate with expectations from within the profession itself. TPs must perform outwardly their consonance with their professional world and norms.

The next chapter addresses the third research sub-question of this thesis: *What identities are associated with the tax profession?*

CHAPTER 8: TAX PROFESSIONALS’ IDENTITIES

8.1 Introduction

Chapter 7 conceptualised how TPs take a number of variables into consideration in solving ethical dilemmas. The findings suggest that tax intermediaries are not always in control of the ethical decision process, yet the ethical or unethical choices they make arguably affect perceptions of the tax profession and the identity of TPs. This chapter examines another aspect of tax practice by introducing the narratives used to describe TPs. In so doing, it addresses the third research question:

*What **identities** are associated with tax professionals?*

To answer this research question, the following objectives are addressed throughout the sections of this chapter. Section by section, I will present the data, demonstrating the different identities associated with the tax profession, seeking:

- To identify and conceptualise ‘professional identity’ in tax practice (section 8.2)
- To understand how professional identity is constructed (section 8.3)
- To estimate the influence of stereotypes and cultural beliefs in framing experts’ identity (section 8.4)
- To observe the role of mass media and societal influences in conveying TPs’ identity (section 8.5)
- To assess the impact of community in shaping TPs’ identity (section 8.6)
- To gain insights into how firms influence TPs’ identity (section 8.7)
- To determine the effect of interpersonal relationships (section 8.8)
- To understand the role of personal identity (section 8.9).

This chapter begins by defining the notion of PI in tax practice (section 8.2). It then goes on to discuss the different types of identity associated with tax practice by conceptualising how identity is constructed and reconstructed in the provision of tax services using a social ecological model (section 8.3). Sections 8.4 to 8.9 consider influences affecting tax advisors' identity. Section 8.10 discusses the findings in light of Foucault's approach to the self, and section 8.11 summarises this chapter.

8.2 What is professional identity in tax practice?

As set out in chapter 4, the nature of professions and their boundaries have changed. In the past, a professional would be recognised by criteria such as training, qualifications, and shared values or norms (Wilensky, 1964). Demonstrating this expert knowledge would grant autonomy on the job and monopoly over the field, following a vocation to defend the public interest (Carr-Saunders and Wilson, 1933; Carter, 2007). As a result, professionals were distinguishable by the public, and a certain prestige was associated with their work domains. Nowadays, the term 'professional' is used more loosely. It often refers to individuals occupying functions entailing a particular set of skills or education (Benveniste, 1987; Ibarra, 1999). This change in definition has indubitably had an effect on how professionals define themselves and how professional identities are constructed (Caza and Creary, 2016). In seeking to investigate and analyse the identities associated with TPs, it is useful first to clarify the notions of identity and PI. Woodward (1997, pp. 1–2) conceptualises identity as:

an idea of who we are and how we relate to others and to the world in which we live. Identity marks the ways in which we are the same as others who share that position, and the ways in which we are different from those who do not.

For the purposes of this chapter, identity is understood as the meanings associated with an individual that express the self: "identity focuses on the meanings comprising the self as an

object, gives structure and content to self-concept, and anchors the self to a social system” (Gecas, 1982, p. 4). In this context, identity is a socially-constructed notion that combines both social and personal identities. According to Gecas, these meanings are built through social interactions, including social roles and group affiliations (social identities), and personal attributes such as individual traits (personal identities). As such, the process supposes that individuals see themselves through the lens of external factors that ultimately affect self-definition. As this chapter develops, a number of other terms is also used, such as ‘self’ and ‘image’. Although very similar, these notions should not be confused with the concept of identity. “Image describes how group members believe outsiders define them” (Taylor and Scapens, 2016, p. 1077). In this sense, image indicates how individuals characterise themselves, as well as how they wish to be viewed by others (Ibarra, 1999).

Having defined identity, it is important to consider how this concept evolves in a professional environment. Ibarra suggests that PI is constructed around a shared expertise that leads to a “relatively stable and enduring constellation of attributes, beliefs, values, motives, and experiences in terms of which people define themselves in a professional role” (Ibarra, 1999, p. 764–765). However, recent empirical research refutes Schein’s (1978) hypothesis and explores the idea that PI is not a fixed concept but an ever-developing state. For instance, Ibarra (1999) suggests that PI emerges through a dynamic process of socialisation and reproduction of one’s peer behaviour and image. As a result, PI is a moving notion that evolves through time and context, and eventually prompts the appearance of new identities. Sanders et al. (2011, p. 118) describe how the formation of identity is based on one’s experience of membership of a social group:

Learning to ‘become’ a particular type of professional is less to do with formal schooling and much more a social process (an apprenticeship) where new members, over time, take on the language, behaviours, and knowledge systems of the community of practice through processes of observation and role-modelling.

Consequently, PI is seen as a process of learning and negotiation through which individuals adjust their self-conceptions in order to integrate a number of variables. This includes the rejection, acceptance or negotiation of values, beliefs and behaviour. “Professional identity is not a stable entity; it is an on-going process of interpretation and customisation which is shaped by contextual workplace factors” (Webb, 2015, p. 3). Since PI is described as an ever-changing state of construction and reconstruction, the next section offers a view on the social layers and factors that prompt its (re)formation.

8.3 Construction and reconstruction of professional identity

The PI construction literature explores how individuals see and form their identity through the prism of role and social environment in the context of work. It examines the process by which individuals actively alter their self-identity in order to conform with and adapt to their professional environment (Ashford and Taylor, 1990; Nicholson, 1984). In this respect, PI construction is often described as “an interpretive activity [which involves] reproducing and transforming self-identity” (Alvesson and Willmott, 2002, p. 627). As such, the literature suggests that workers voluntarily and actively engage in cognitive tactics that aim to integrate PI (Caza and Creary, 2016; Pratt, 2012). This ultimately affects the meaning of the self, since professionals are assumed to reconstruct their identity depending on the environment (Pratt et al., 2006). Ultimately, individuals seem to create ‘professional selves’, which Ibarra (1999, p. 765) defines as “temporary solutions people use to bridge the gap between their current capacities and self-conceptions and the representations they hold about what attitudes and behaviors are expected in the new role”. In essence, research on identity construction suggests the difficulty of understanding this concept, since professionals adapt their identity to organisational settings (Pratt et al., 2006), feedback (Ibarra, 1999), social context (Webb, 2015) and other factors. In the current complex economy, where individuals multi-task and

occupy multiple roles, it is increasingly difficult to address the construction of PI. Brouard et al. (2017) offer a solution to engaging with identity construction in considering the sources affecting the formation of professional accountants' identity. They discuss the roles played by various audiences in society, accounting associations, and accounting firms in shaping the identity of professional accountants (Brouard et al., 2017). In so doing, they propose an integrated framework that allows them to theorise how external factors affect the formation of professional accountants' identity (Figure 8.1).

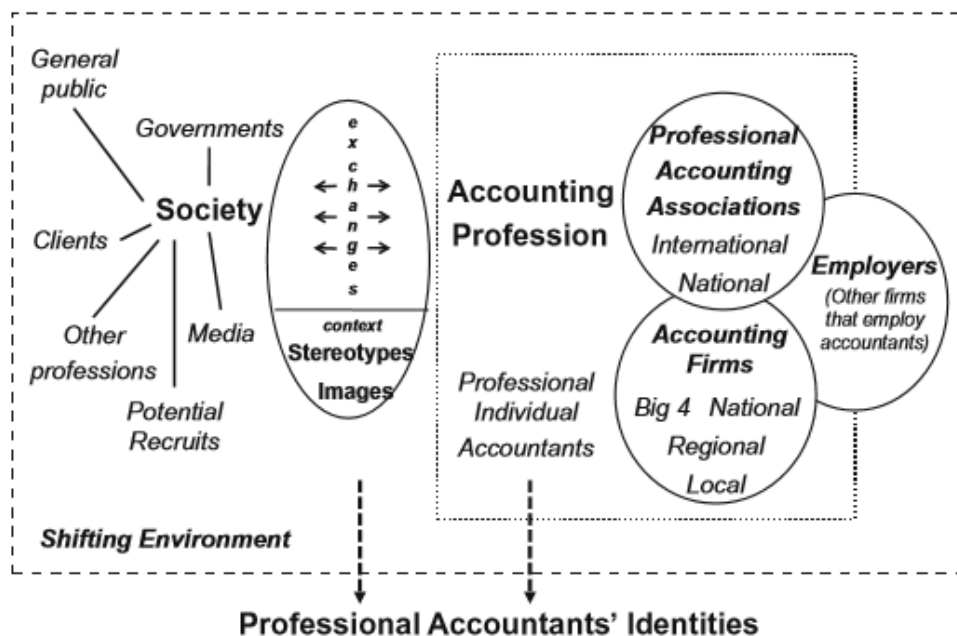


Figure 8.1: Integrated framework of professional accountants' identity construction
(Source: Brouard et al., 2017, p. 226)

Brouard et al. begin their analysis by focusing on interactions between society and the accounting profession, referring to images and stereotypes (p. 228). They then interpret their data in light of the shifting environments surrounding the accounting profession (p. 230). In doing so, they observe the roles of accounting associations, accounting firms and accounting professionals in altering PI construction. This integrated framework (Figure 8.1) explains the multifaceted formation of identity in a fluctuating environment, which ultimately aims to:

help professional accounting associations, accounting firms, potential students, accounting students, and accounting educators to have a better understanding of the formation of accounting professionals' identity and its inherent complexities (Brouard et al., 2017, p. 235).

This chapter seeks to enhance the PI construction literature, and more precisely, Brouard et al.'s (2017) research, by offering a different integrated framework that complements their study. Although Brouard et al. (2017) consider a number of factors affecting the construction of accountants' identity, their model does not take into account how immediate interactions (family, friends) and personal identity affect the development of PI. In order to establish a new identity construction model for TPs, it was necessary first to understand how individuals develop, since only by appreciating how individuals encompass and construct themselves is it possible to comprehend which factors and layers may affect the construction of their identity. This required reference to the psychology literature to refine the sources that influence human development. Drawing on educational psychology, Bronfenbrenner's (2005) bioecological model (Figure 8.2), explores how individuals, and more precisely children, develop through social layers over time. Bronfenbrenner theorises human development through ecological systems that interact with each other. The first element is the microsystem. This is the immediate surroundings in which the individual interacts with others. It includes human relationships and inter-personal interactions, such as the type of relationship with parents or siblings. The second is the mesosystem, which encompasses interactions between the microsystem and the exosystem. This includes relationships between parents and school teachers or administrators. Third, the exosystem contains pieces of microsystem that may indirectly affect the development of the individual, for example changes to the economy, politics, tax advisory service industry or mass media. Finally, the macrosystem is the outermost layer of the model, which covers societal and cultural beliefs which programme individuals to think in certain ways, such as stereotypes or gender norms. These may directly or indirectly influence the development of an individual.

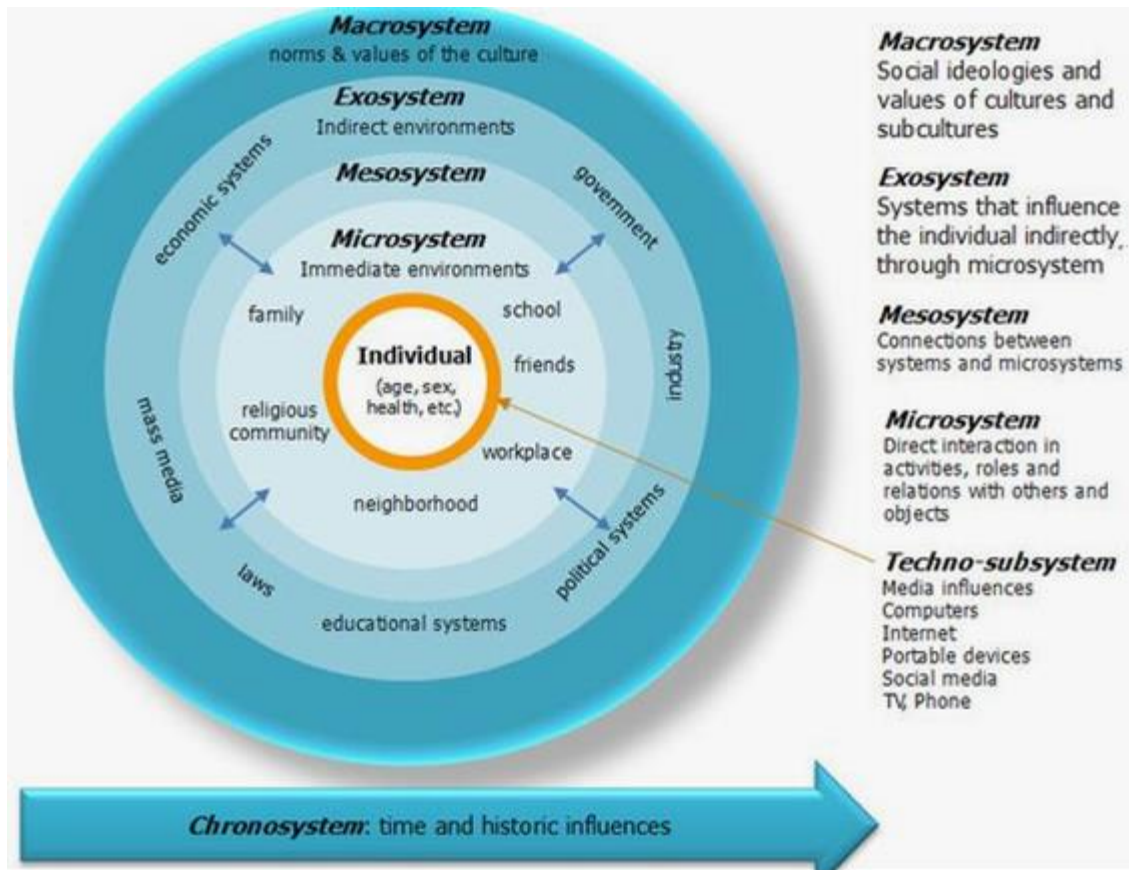


Figure 8.2: Bioecological model of human development
(Source: Bronfenbrenner, 2005, p. 50)

In seeking to investigate and analyse the identities associated with TPs, in this study, Bronfenbrenner’s (2005) layers influencing the development of the individual were combined with Brouard et al.’s (2017) integrated model by transposing Bronfenbrenner’s bioecological model of human development (Figure 8.2) into a professional environment, and focusing on the construction and reconstruction of PI as formulated by Brouard et al. (2017). This resulted in the model shown in Figure 8.3, which expands Brouard et al.’s (2017) model (Figure 8.1) to the study of TPs’ PI formation. This includes interpreting the identity of accountants, as well as lawyers and ex-HMRC agents.

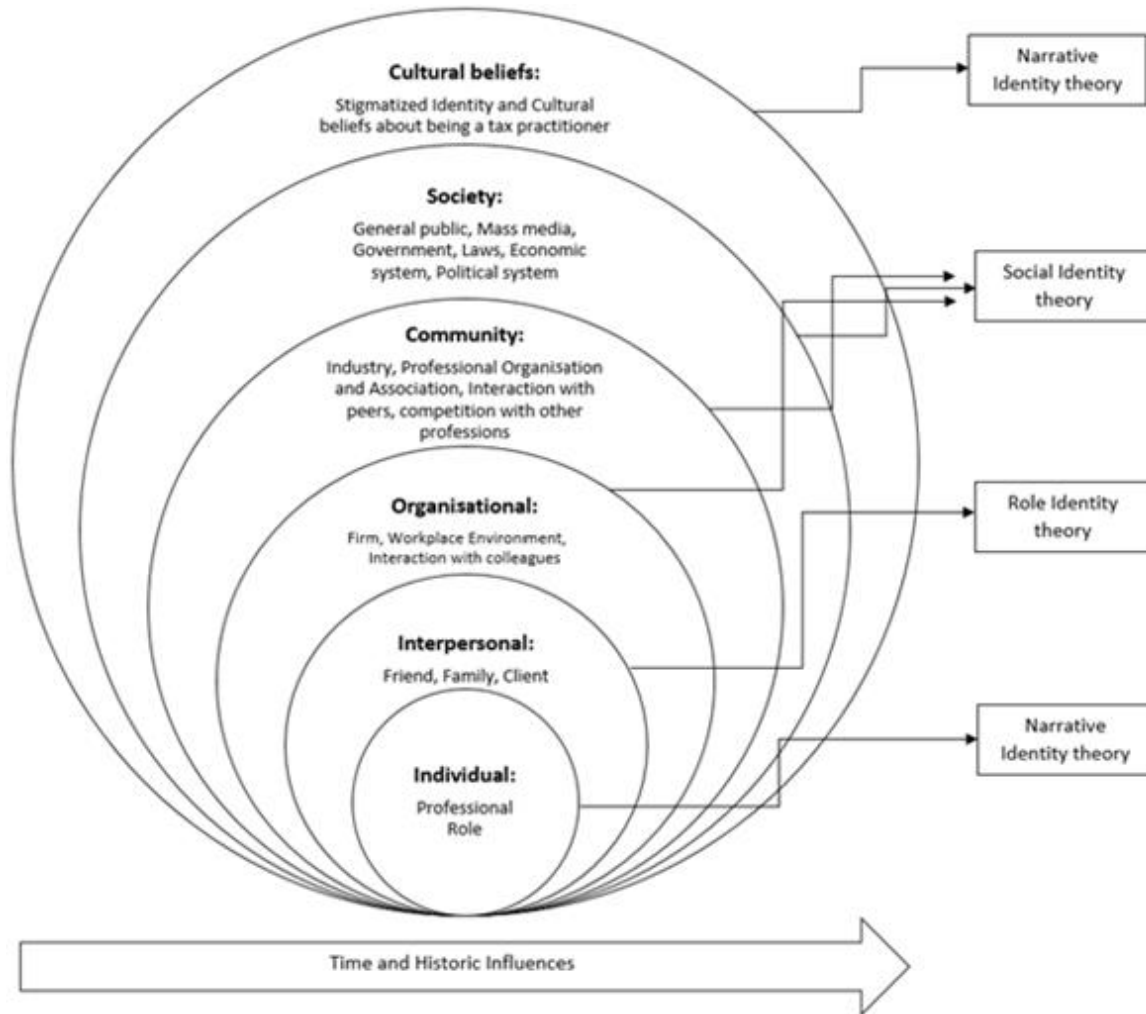


Figure 8.3: Model of the construction and reconstruction of professional identity
(Source: Author’s own model)

The second contribution of the new model shown in Figure 8.3 is to incorporate two new layers into Brouard et al.’s (2017) integrated framework by considering the influence of interpersonal interactions (such as friends, family and clients) and personal identity on the construction of PI. Thus, Figure 8.3 represents a mediating tool to understand the social layers influencing the construction and reconstruction of PI. In the remainder of this chapter, this multi-layered approach is adopted to identify factors influencing identity formation by examining the sorts of narratives that influence TPs’ identity through the medium of professional practice. The nature of these identities is discussed through examination of the interview data, together with the identity and sociology of professions’ literature. Section 8.4 considers the impact of cultural beliefs on PI formation, section 8.5 interprets the influence of

society, section 8.6 discusses the role of professional community, section 8.7 highlights the effects of the firm, section 8.8 debates the weight of inter-personal relationships and section 8.9 examines personal traits and attributes in the construction of PI.

8.4 The influence of stereotypes and cultural beliefs in framing experts' identity

Stigmata and stereotypes are considered by the literature as significantly affecting the construction of PI (Goffman, 1963). According to Slay and Smith (2011, p. 86), “a stigmatized cultural identity is one in which members of a group are assumed to be tainted or inferior, resulting in a blemished identity that prevents easy inclusion in society”. Since the self is constructed through his/her environment, and the learning of stereotypes for instance, Slay and Smith (2011) highlight that stigmatised professional identities result in lower prestige. A marginalised PI is often reduced to simplistic characteristics that prejudice the practice of an expertise (Prasad et al., 2007). Tajfel’s (1969) examination of the cognitive aspects of prejudice reveals the depersonalisation process that it inflicts. Prejudices ultimately constitute a form of dehumanisation of the targeted group. Drawing on Foucault’s conceptualisation of modern discipline and resistance, Carrasco et al. (2017, p. 543) argue that the only way to re-gain ownership of a group stigmatisation is by social cohesion.

Social cohesion provides the psychosocial space (of trust, solidarity and mutual aid) to subvert oppressive societal norms, enabling the reconstruction of identity. Among study participants, identity reconstruction happened through the production, repetition and performance of new de-stigmatised narratives that emerged and were solidified through collective interaction. Findings highlight that enabling the collective reconstruction of identity through social cohesion – rather than solely attempting to change individual beliefs – is a successful approach to addressing stigma.

In the case of the UK tax profession, the interview data collected for this study reveal this observation to be accurate. Tax advisors were often depicted through negative narratives, and words such as ‘boring’, ‘tedious’ and ‘too technical’ were often used during the interviews. The data seem almost to convey a ‘caricature’ with reference to tax intermediaries. This finding confirms Jeacle’s (2008) observation that the terms ‘dull and boring’ are often used by the public to describe accountants:

I mentioned tax in my wedding speech. I can’t remember how, though. I think because Amy, my wife said, ‘Don’t you dare mention tax!’. So I did. Because there’s a joke of, ‘It’s boring’, but I think that goes back to the days when tax people were supposed to be sort of left in a room, and I think there’s a perception that we’re not normal people, really (B8, Tax Solicitor, law firm, February 2016).

Dellaportas et al. (2015) discuss the importance of stereotypes in PI construction. They highlight how membership of a social group affects how individuals conceive their own identity. A stereotype is an illustration of what a group member should look like. As such, not only do professionals adapt themselves to this image, but they are also continually confronted by this stereotype while talking to social group outsiders. This on-going narrative appears to impact negatively on professionals because, as Miley and Read (2012) argue, it becomes a self-fulfilling prophecy: “you know, I was boring. I knew I was going to be a chartered accountant after university” (B4, Barrister, Tax Chamber, January 2016). On a larger scale, stigmata and stereotypes seem to impact on the profession as a whole by affecting the recruitment of new tax intermediaries. Indeed, many interviewees mentioned that they had not intended to become tax advisors, mainly owing to how it was represented:

‘Mum and Dad, I want to be a tax professional’. It’s not a particular sort of ... profession. It’s not helping the sick, it’s not racing cars around tracks, it’s not flying fighter planes through the sky. So the starting point is that everyone says, ‘God, tax has got to be deadly dull and boring and who on earth would ever want to do that?’ (E4, Senior Tax Manager, FTSE 100. February 2016).

The second image often associated with tax advisors reflects a misconception of what tax intermediaries really do. The stereotype assumes that TPs are dishonest business professionals: “there’s the image that I must be out to scam the government all the time and that my job is basically to save my clients money, which is also not true” (B7, Tax Solicitor, law firm, February 2016). Indeed, tax advisors are often questioned with regard to their professionalism and, ethical/unethical behaviour (see chapter 7). This seems to affect how the general public perceives this profession, as acknowledged by the following interviewees:

I guess people tend to think that people who do tax are either very boring or they actually spend their lives designing products so that people don’t have to pay tax. I think those are the two preconceptions (B9, Barrister, Tax Chamber, February 2016).

Well, I said to you if you wanted to go to a party and people would think you’re boring. Now you might go to a party and when you say you’re a tax advisor, people might say, ‘Well that’s disgraceful!’ (A5, Retired from Big Four, December 2015).

This concurs with observations in the literature, as Carnegie and Napier (2010) discuss how the image of accountants has deteriorated over the last few decades. Accountant identities are now often associated with, and depicted as, business entrepreneurs who would do anything for commercial purposes. This confirms the findings of this study on accountants becoming professionals with business mind-sets (chapter 6). When considering the stereotypes associated with TPs, very little difference is made between tax lawyers, tax accountants and HMRC agents. They all seem to be coloured by the tax dimension of their PI. The stereotypes and stigmata seem to be one of the most often associated identities of the tax profession.

Having discussed the stigmata and stereotypes associated with TPs, the next section examines the influence of society on TPs’ identity construction.

8.5 The role of mass media and societal influences in conveying TPs' identity

According to the literature on the sociology of professions, professions are granted autonomy in order to defend the public interest. For example, medicine contributes to maintaining public health, schools and universities guarantee education, and the army provides protection (Abbott, 1988; Larson, 1977). As a result of the social role they endorse, professionals are expected to conform to certain standards. Alvesson (2001) argues that this dimension shapes the image associated with a profession, which is ultimately assimilated by professionals. As Kelly (2013, p. 518) explains, using a Foucauldian approach, subjects are never self-constructed, but they integrate and assimilate their environment and change who they are accordingly.

Paradoxically, knowing our-selves is in actuality one of the acts by which we constitute ourselves: our attempt to know ourselves is not a neutral act that allows us to see what was already there, but for Foucault a ritual by which we change and produce our own subjectivity. This is why through socialisation and role modelling, representations of certain societal roles become integral to the PI construction (Picard et al., 2014). In this context, political discourse, mass media and public opinion influence how professionals construct their identity. According to Roberts (2005, p. 629):

Foucault describes the way in which, within a field of visibility, we make the constraints of power 'play spontaneously' upon the self. Whilst early identifications with the mirror image are foundational they are always ephemeral and we remain prone to seek for and find our existence in the image or gaze. For Foucault, part of the power of disciplinary space arises in the breaking of the dyad of seeing and being seen.

This is why societal interaction may indirectly influence the construction of identity as it relates to how professions see themselves, meet societal needs, and ultimately fulfil their role

within it. As a result, professionals' image and identity are affected by whether or not they comply with their social duty. In the case of the tax profession, professionals occupy a prominent role in society to support the tax system by helping to collect revenues (see chapter 6). As such, I would argue that the tax profession is a much-needed profession that contributes to the good functioning of society: "I think the tax profession does a fantastic job and without us, tax authorities couldn't function" (A10, Tax Technician, Big Four, March 2016). Reports by the mass media, on the other hand, reveal a completely different perception of the tax profession. This was reflected in the interviews, as participants reported that negative media reporting had affected the tax profession as a whole: "I think there's been a lot of negative press over the last so many years. I think there has been some public perception which ... some damage there. I think it's been a bit negative for the tax profession as a whole" (C4, Tax Consultant, Sole Practitioner, January 2016). The negative image associated with this profession is largely a result of an assumption that tax intermediaries participated in the recent financial crisis. The headlines have alleged various incidences of misbehaviour that have damaged TPs' image over time. This is extensively documented in the accounting literature (Briggs et al., 2007; Carnegie and Napier, 2010; Gendron and Spira, 2010), and was noted by participants, for example, as follows.

So the government – sorry, certain aspects of the government – are very, very keen on painting us very, very black. As the sort of people who, because of the work we do, 'We can't build a new ward on this hospital because we don't have the money because those nasty tax avoiders have pinched it', and this sort of thing. There are certain aspects of the government that promote that image and they want to paint us all as horrible, nasty people. Unfortunately, that makes good press. And then the media follow in that sort of line. It's difficult to get over that until you actually talk to individuals and say to them, 'Well, as I say, it's no different to making sure my tax code is right'. So the moment you start talking to people at that sort of level ... but you can only really do that at a personal level. You can't do it to the media. You can't generally do it to politicians. So in answer to your question, all in all, I'd say that we are, as a profession, portrayed very negatively (F2, Tax Consultant, University, January 2016).

This interviewee's point is reflected in a number of journal articles that portray a very negative image of the tax profession. Indeed, over the last few years, the image of the tax system has been eroded both by the misconduct of large international companies such as Google, Amazon and Starbucks (Barford and Holt, 2012) and by the behaviour of the tax profession in promoting avoidance schemes (Armitstead, 2013; OECD, 2008). Accused of failing to reform and adopt societal expectations by both the House of Commons Committee of Public Accounts (2013) and Moscovici, the European Commissioner for Economic and Financial Affairs, Taxation and Customs (European Commission, 2019), the 'go-betweens' or 'tax intermediaries' (OECD, 2008) have been exposed to critical media exposure. Pitsoe and Letseka (2013) using a Foucauldian framework argue that those types of discourses, and especially negative discourses, serve as a tool to advert unacceptable behaviours.

Truth, morality, and meaning are created through discourse. In every society the production of discourse is at once controlled, selected, organised and redistributed according to a certain number of procedures, whose role is 'to avert its powers and its dangers, to cope with chance events, to evade its ponderous, awesome materiality' (Pitsoe and Letseka, 2013, p. 24).

Nikidehaghani and Hui (2017), applying a Foucauldian perspective, argue that the negative report of certain issues only serve to force firms or individuals to become obedient subjects. They state that those discursive practices only aim to subject citizens to a process of transformation, to show:

how accounting practices associated with the disability support program were instrumental in identifying desired targets for austerity and the refusal of care. The findings review how accountability assisted the government to construct identities that facilitate the ability of the State to subject the disabled to continuous monitoring and observation. Further, the article reveals how techniques of accounting functioned as a 'technology of the self' and facilitated the process of transforming individuals into subjugated citizens (Nikidehaghani and Hui, 2017, p. 348).

This observation seems to be shared across the accounting academics since Roberts (2005, p. 620–621) argues that:

I have drawn upon Foucault to explore the operation of systems of accountability in and around organizations, and the use of accounting information within these. If accounting information creates a ‘field of visibility’, then disciplinary power ‘individualizes’ by creating a narcissistic preoccupation with how the self and its activities will be seen and judged in its terms; whether defensively or assertively, to be individualized involves becoming preoccupied with myself.

As revealed in chapter 2, research has also accused the Big Four of decreasing public service funding and resources by creating and maintaining the avoidance industry (Armitstead, 2013; Treanor, 2009). A growing culture of tax shaming, often politically orientated, seems to have developed rapidly (Barford and Holt, 2012). According to Syal et al. (2013), the financial crisis was caused by the long-standing avoidance industry, which weakened the UK’s budgetary resources. Drawing on the above, this thesis argues that the integrity and reputation of the tax profession have been undermined as a result of poor revenue collection and tax scandals, as has the tax PI. Therefore, society and mass media directly and indirectly affect the construction of tax PI by creating association of ideas.

The next section examines the impact of the community.

8.6 The impact of community in shaping TPs’ identity

In the model developed in this thesis (Figure 8.3), the community layer comprises the industry, professional organisations and associations, interactions with peers and competition with other professions. These factors were selected owing to their potential influence on TPs’ identity. As previously shown in Figure 8.1, Brouard et al. (2017) devote the second axis of their research to analysis of accounting associations. They argue that “professional accounting associations play an important role in shaping individual accountants’ identity,

especially in terms of roles and images they promulgate about what it is to be an accountant” (Brouard et al., 2017, p. 233). This section aims to enhance Brouard et al.’s findings (2017) by considering a particular aspect of the impact of the community: interactions with peers. Social identity theorists such as Ashforth and Mael (1989) and Hogg (2006) develop the idea that individual self-conception can only be constructed through the cognitive process of group membership. Individuals conceive of themselves as belonging to various social groups. Factors such as the distinctiveness of a group’s values, beliefs and practices, prestige, salience and competition with other (in-/out-)groups, and details relating to group formation (for example, similarity, proximity, common history) are all relevant to the process of conceptualising oneself as a member of the group (Ashforth and Mael, 1989; Callero, 2007). Individuals benefit from classifying themselves and others, as it helps them to make sense of their social environment (Ashforth and Mael, 1989; Vough, 2012). This is why Pitsoe and Letseka (2013, p. 25), using a Foucauldian framework, affirm that individuals create who they are by integrating the discourse of the group with which they identify themselves.

Discursive practices are practices that a subject embodies, lives, and experiences as s/he interacts with discourses. For example, the discourse of femininity inadvertently informs, influences, and shapes women’s identity to the point where women act out and behave according to what has been labelled as acceptable and true about females.

Ashforth et al. (2008, p. 327) argue that as “social identities are shared by members and distinguish between groups, conceptualizing oneself as a group member provides a sense of belonging”. In the tax community, the identity of TPs is quite ambiguous to the non-expert eye. Indeed, despite the differing backgrounds of tax intermediaries, the social group to which they belong is not obvious.

I think the differences between lawyers, accountants, and chartered tax advisors are quite slight actually. And certainly, if you had a room of tax partners from the firm in here, you’d be

very hard pressed to guess who was a lawyer, who was a chartered tax advisor and who was an accountant (A2, Tax Partner, Big Four, November 2015).

However, within the tax community, a distinction must be made between tax accountants and tax lawyers. Tax lawyers do not appear to think of themselves as part of the tax profession, and often describe their PI in terms of lawyers practising within a particular specialism of the law.

I see myself as a lawyer first and foremost. It just happens that my practice area is tax (B1, Tax Solicitor, law firm, November 2015).

I don't kind of regularly put myself as a member of the tax profession. I would just say I'm a tax advisor or tax lawyer, without really thinking of it as a profession. So I'm more of a lawyer than a tax advisor, probably. Again, I was thinking more just in terms of being a lawyer and you practise law in a particular area (B10, Tax Solicitor, law firm, March 2016).

This strong identity is probably prompted by the fact that the rules surrounding the legal profession, aiming to protect this discipline, are very strict. This was argued by the following interviewee:

My business title is actually [X], so it's made absolutely clear that I don't have a legal qualification. But I do explain to clients that I'm a chartered accountant and chartered tax advisor, so I have professional qualifications. I'm just not a lawyer ... you do need to be a lawyer to be a partner in a law firm, unless the law firm has decided to be an alternative business structure and admit non-lawyers to partnership, which technically my firm has not done. So although I'm allowed to use the term "partner", I have to make it clear that I'm not a lawyer, and I am also legally not a member of the limited liability partnership (B11, Tax Partner, law firm, April 2016).

Furthermore, analysis of the interview data suggests that lawyers have high self-esteem, and rarely compare themselves with non-lawyer TPs. Some of their comments might even be interpreted as arrogant: "tax lawyers are seen as very intelligent" (D2, Tax Judge, Tax Tribunal, January 2016). This correlates with the study's findings on the professional environment (chapter 7), in that the legal profession did not sign up to the PCRT.

I would say that apart from preparing tax returns, there's nothing that accountants do that lawyers can't do. Lawyers just, you know are brighter and [laughing] they do it better! (B2, Tax Solicitor, law firm, November 2015).

Furthermore, as described by Dezalay (1991) tax lawyers might be perceived as looking down on other types of TPs such as accountants.

So going to an accountant and it is one of the things that frustrates me. If the clients come to me, I can advise them on all of them at the same time and understand how they interact. If the client goes to an accountant, they will get six different people advising them on specific tax, some of them not really realising how they all interact, while someone like me would be able to perceive how [the clients] interact (B1, Tax Solicitor, law firm, November 2015).

The sociology of professions' literature suggests that relations with clients are an important component of the dynamics of professional competition for attractive jurisdictional spaces (Abbott, 1988). This may explain why lawyers refute any association with other professions. Tax accountants, on the other hand, often refer to themselves as TPs or tax advisors as they more easily recognise themselves to be part of a wider tax profession community. The sense of belonging to a social group (the tax profession) is much more noticeable within the accounting profession (A9, C6). This stands in contrast with the legal profession, where lawyers more often refute the idea of being anything but lawyers, despite undertaking functions identical to accounting tax advisors. Ultimately, although all tax advisors carry out essentially the same types of task (see chapter 6), lawyers tend to be accorded greater prestige and consideration than accountants and ex-HMRC agents (Frecknall-Hughes and McKerchar, 2013c). This seems to affect the construction of PI, to the point that two interviewees actually referred to themselves as lawyers even though they were not legally qualified.

I often say I'm a tax lawyer because most of what I do is law, really. I work for a firm of accountants. There's the John Cleese image as well, isn't there? You know, the boring ... You're probably too young for that! John Cleese is a sort of comedian and he used to do sketches about boring accountants, so ... The worst thing is when you go to a party, what do you do? The worst thing is to say, 'I work for HMRC'. That's the most boring thing of all ...

So I'd sooner say I'm a lawyer than an accountant. Sometimes I say I'm a tax advisor, because it actually describes the role better (A8, Tax Director, Big Four, March 2016).

We're lawyers at heart. Just because we work for an accountancy firm, we're fundamentally interpreting tax law (A9, Tax Technician, Big Four, March 2016).

Having examined how the community influences the construction of PI, the next section considers the impact of the firm.

8.7 Insights into firms' identity

The impact of workplace environments on the construction of PI is well documented in the accounting literature. Previous researchers describe law and accounting firms as a key element influencing the formation of PI. Through the socialisation process and observation of peers, individuals such as trainees (Anderson-Gough et al., 1998, 2001; Coffey, 1994; Grey, 1998), managers (Dirsmith and Covalleski, 1985; Kornberger et al., 2011), and partners (Covalleski et al., 1998; Dirsmith and Covalleski, 1985) assimilate a vision of what it means to be a professional. Reproducing the behaviour and image of one's peers ultimately shapes individual PI. The influence of firm culture on professional behaviour has been already examined (chapter 7). This section considers another aspect of firm influence that reflects on how professionals view themselves through the lens of the firm. The influence of the workplace environment is revealed in the data by the number of times the words 'firm', 'my firm' and 'the firm' were mentioned. During the 42 interviews, the term 'firm' was used more than 1,000 times, an average of 24 per interview. The literature highlights that all firms, whether local, national or international, affect the construction of PI. However, Cooper and Robson (2006) and Suddaby et al. (2007) argue that certain firms, such as the Big Four, have a particularly strong impact on individuals' PI. The data that I have collected through my interviews concur and exemplify Suddaby et al.'s view, since professionals working within

the Big Four continually referred to the name of their firm while describing their work, opinions and identity. Across ten interviews that took place with ten different tax professionals currently working in one of the Big Four, the name of their own firm was mentioned on average 18 times per interview. This gives an average of the firm's name being mentioned every three minutes. This observation is particularly interesting since one of those tax advisors claimed not to feel the influence of firm culture. I would argue that the effect of the workplace environment on TPs' identity construction is not evident immediately, and professionals may not even realise it exists, but it is definitely there.

I think [Big Four firm] has certain principles which I totally agree with, which is terribly handy, I guess! But do I think, when I go out of the building, I am [Big Four firm]'s through and through and [Big Four firm] has modelled me? No (A10, Tax Technician, Big Four, March 2016).

The second point relating to the identity construction of TPs within service firms is the absence of a strong professional identity. As practitioners, they had difficulty in defining their own PI. Indeed, the interviewees had trouble communicating who they were as professionals. Many found the questions on identity and image quite challenging. This observation concurs with Neary's (2011, 2014) recent findings on career practitioners: "for many the use of job title was a determinant in defining who they were professionally" (Neary, 2014, p. 14). In this study, most interviewees described themselves either by the grade they occupied within their firm or by their job title.

I am an Indirect Tax Partner at [Big Four] (A2, Tax Partner, Big Four, November 2015).

I'm a tax Partner at [law firm], (B11, Tax Partner, law firm, April 2016).

I was a Tax Partner at [Big Four] (A11, Retired from Big Four, March 2016).

I'm a Tax Partner at a law firm and I advise mostly corporates (B10, Tax Solicitor, law firm, March 2016).

I'm a Finance Director (G2, Tax Editor, Tax Publisher, April 2016).

This could be explained using Grey's study. Grey (1998, p. 569), using a Foucauldian framework, looks at large accounting firms' professional identity and reveals that:

Material from an extensive qualitative case study of a 'Big Six' firm is used to argue that being a professional in the firm is understood – by professionals themselves – as being more to do with ways of conducting oneself than with possession of technical knowledge or being certified to practise.

In this process, Grey argues that professional identity is a learnt process by which individuals assimilate how to behave, how to dress and how to function so as to give the appearance of being a professional. Perhaps this is why tax professionals working in large firm have difficulty in defining their identity since they are more focused on understanding what they ought to be perceived as. However, not all professional tax advisors work for a law or public accounting firm. Some interviewees worked in private companies or as sole practitioners, in which case they referred to themselves in various ways.

My title was Taxation Officer and the role was what I call the VAT and Taxation Advice Office (F1, Tax Officer, Council, January 2016).

I guess I'm a partner since this is my business (C1, Tax Consultant, Sole Practitioner, December 2015).

Um, at the moment I am, uh, a sole practitioner. So I ... I used to be a partner in one of the big international firms (C2, Tax Consultant, Sole Practitioner, December 2015).

I am self-employed. I just do VAT, and just property, construction and related matters (C3, Tax Consultant, Sole Practitioner, January 2016).

I am part of the tax team for the university ... tax consultant (F2, Tax Consultant, University, January 2016).

I am a Tax Consultant (C5, Tax Consultant, Sole Practitioner, February 2016).

I am owner and director of my own tax and accounting company (C4, Tax Consultant, Sole Practitioner, March 2016).

I have a small chartered accountancy practice (C6, Tax Consultant, Sole Practitioner, January 2016).

Having considered the influence of firms, the next section examines the impact of interpersonal relationships.

8.8 The effect of interpersonal relationships on TPs' identity construction

In the model devised for this thesis (Figure 8.3), inter-personal relationships represent interactions that TPs have outside the context of work. This section details the first contribution to Brouard et al.'s (2017) framework by considering how friends, family and clients perceive the image of professionals. These factors were selected owing to the influence they may have on TPs' identity. In a social context, tax advisors are often thought to work for HMRC. This observation was shared across all tax intermediaries interviewed, whether accountants, consultants or tax officers in the public sector. This reveals a lack of understanding by the general public of who members of the tax profession are:

I have had a few funny ones. But I've usually found ... I don't work for HMRC. That's the usual assumption that you work for HMRC (A6, Tax Director, Big Four, January 2016).

As soon as you tell somebody you're a tax consultant, they immediately associate you with HMRC (C5, Tax Consultant, Sole Practitioner, February 2016).

Well, the first thing they think is that you work for the Inland Revenue. And they say, 'Oh, I'd better hide my books or my lottery winnings under the bed', or whatever. The moment you say 'tax', everybody automatically straight away thinks you work for the government. Yeah, people get defensive. And then the expression that we use is you say, 'No, no, no. I'm gamekeeper-turned-poacher'. That's the easiest way. Because it is a little bit of a joke and it puts people at their ease and they go, 'Oh right, OK, so you save us tax?' Once you've got

over that hurdle, it's no different to any other profession (F2, Tax Consultant, University, January 2016).

The second misinterpretation associated with TPs lies in the content of their role and the extent of their responsibilities. Tax advisors advise on the law but are not usually trained to prepare accounts. Only trained accountants are able to do so: "I just don't think people understand what we do. Some people will say, 'Can you do my personal tax return?' and I say, 'I struggle to do my own!'" (A10, Tax Technician, Big Four, March 2016). These two misconceptions of who and what tax intermediaries do or are may be interpreted as resulting from a significant lack of public information and understanding regarding the tax profession. This raises questions about the extent to which the general public understand the newspaper headlines, since lay-people often have difficulty understanding the types of services that TPs render. Finally, the interviewees reported that among their friends, family and clients, tax advisors often have the status of experts. As argued in chapter 6, TPs acquire a set of specific knowledge that induces recognition of their expert status:

I'm normally commenting as an expert (B11, Tax Partner, law firm, April 2016).

If you get chatting to someone at a party, it's a bit like being a doctor. Instead of telling you about their aches and pains, they tell you about their tax problems (C5, Tax Consultant, Sole Practitioner, February 2016).

Some people think it sounds a bit dull. And that's true. But usually anyone who's had anything to do with tax or had to think about paying a bill from HM Revenue & Customs for their tax, they become more interested when it's their money that's involved, and they start asking me questions. It's like being a doctor if you go somewhere and people often say, 'Oh doctor, I wonder if you can tell me if this is normal?'. Being a tax lawyer, you only get asked a question if someone has a problem. Otherwise, they think it's all a bit boring (D2, Tax Judge, Tax Tribunal, January 2016).

To conclude this section, it seems fair to argue that tax professionals are perceived by lay-people as tax experts whether they are ex-HMRC agents, accountants, consultants or tax

officers. The professional separation between legal and the accounting communities appears to be raised only for the entertainment of those professional groups (and financial reason), as the general public does not seem to see the difference when it comes to tax advice. More recently in the field of accounting, Tuck (2010, p. 584), using a Foucauldian methodology, supports the idea that practices emerging from the public sector administration have prompted tax officials to adapt and shape themselves as knowledge experts, resulting in altering their professional identity. She explains indeed that:

tax official becomes a T-shaped tax official who has emerged from a bureaucratic inward facing technical civil servant to an outward facing new style tax official who still has to engage with the detailed technical tax knowledge as a knowledge expert (the vertical part of the T) but also has to relate to the new way of operating in a strategic and marketing organisation (the horizontal part of the T).

This section has considered inter-personal relationships. The next section examines the impact of personal identity.

8.9 The role of personal identity in building a professional self

Personal identity refers to individual traits and characteristics. This section considers the second contribution of this study to Brouard et al.'s (2017) framework by considering how TPs see themselves. For the purposes of this section, personal identity is conceptualised as a person's unique sense of self (Postmes and Jetten, 2006). According to social identity theory, individuals define who they are in relation to the social group to which they belong: an individual's self-concept derives from his knowledge of his membership of a social group (or groups) together with the value and emotional significance attached to that membership (Tajfel, 1978). As such, social and individual identity may co-exist, and both structure the formation of PI (Ashforth et al., 2008). Yet analysis of the data from the TP interviews

reveals that the influence of their professional membership does not define them in a private setting. Most of these professionals stated that they actually avoid mentioning their professional activity outside their work environment.

How do I see myself? I think probably a mid-forties professional, father of two, husband, enjoys the outdoors, and I think there's a lot more to life than work. So definitely my current position does not define me ... No. I'm a professional person who works in finance, is the group I naturally associate with. But my friends are mainly professionals, professional graduates, but not necessarily in finance, certainly not tax. I try my best not to talk about work when I'm out at the pub. Although my daughter's ... the group of dads that have been my daughter's class, a lot are tax professionals, which is a bit unusual. We never talk about work. No. I mean, if something's happening in the tax world we might have a ten-minute conversation about what's going on and then move on to other things. My wife's a teacher and if she meets other teachers there's a bit of talk about teaching for three-quarters of the conversation, so ... (E6, Head of Tax, FTSE 100, February 2016).

This was confirmed by a number of other interviewees, stating that in social environments they rarely mention their profession.

I don't talk about what I do unless somebody really asks (E3, Tax Director, FTSE 100, January 2016)

Although I'm actually very proud to be a tax advisor, it's not something I talk about a great deal with people that I'm not actually ... In a social situation I tend not to tell people (C5, Tax Consultant, Sole Practitioner, February 2016).

I honestly don't know how other people see the tax profession. Um, you know, it's not something you like to admit to at dinner parties too often because either you're incredibly boring or, um, you have to end up having this tedious conversation about somebody's deductions (B5, Tax Solicitor, FTSE 100, January 2016).

As mentioned in chapter 7, the fact that tax advisors do not really 'wear' their profession might be explained by the fact that they conceptualise their service as a role. As a result, they often detach themselves from the task at hand (O'Fallon and Butterfield, 2005): "if I am honest with you, these are only roles. They don't really mean a great deal to me" (B1, Tax

Solicitor, law firm, November 2015). This resonates with Goffman's (1956) conceptualisation of the idea that life is a dramaturgy and that every day is a never-ending play in which individuals are actors of their own lives. Goffman (1956, p. 99) differentiates between what he calls 'front stage' and 'back stage'. On the front stage, "people perform and deliver the lines that the role is expected to play". In this context, everyday life constitutes a front stage as it underlines the idea of an audience. Sometimes, and especially in private areas, individuals retreat to the back stage, where they become their real selves. They no longer need to put on an act, and therefore revert to their inner essence. Yet according to Goffman, such occasions are rare. Although the TP interviewees had difficulty in seeing themselves through the lens of social theory and belonging to a specific group, when they were asked directly to describe their roles as tax intermediaries, they defined themselves quite easily. They referred to their role as problem solver, filter or facilitator (F2). The following interviewees expanded on this point.

I suppose in a nutshell, the question of what I feel my job as being, I think of just being a solutioner. People come to me with problems, and then I provide them with solutions (B1, Tax Solicitor, law firm, November 2015).

Um. Generally I stand between the taxpayer and HMRC, and act as a liaison person. Because I can talk to the taxpayer in the taxpayer's own language and I can talk to HMRC in HMRC's language. I understand how their systems work. I understand what you need to do to make them agree certain things. So I can sell to the client the fact that they've got to do x, y, z, and if they do that then HMRC will accept a certain position. And part of the time it's very straightforward: 'You have to do this because that's what the law says'. Part of the time it's negotiation: 'If my client does this, will you accept that?'. Um, because tax law is not black and white (C2, Tax Consultant, Sole Practitioner, December 2015).

Tps appeared to find it difficult to define themselves through the professional group to which they belonged, yet answered with great ease on the roles they occupied. I would argue that in today's society, individuals, and more precisely professionals, describe themselves more

often than not by the role they undertake, rather than the social group to which they are attached.

8.10 Discussion: Foucault’s approach to identity

It is crucial to develop these insights from the empirical research above through the theoretical framework I have used throughout this thesis to be able to unpack the sort of practices, discourses and selves that are formed in providing and delivering a tax service. In the *Technologies of the Self* (1988a) Foucault provides what could be seen as the positive elaboration of power/knowledge. He is interested to understand how a subject constructs a unique relationship with his/her own subjectivity and own self. Differently put, Foucault looks at how power/knowledge “exercised of oneself in the activity of thought” (Foucault, 1978, p. 9) alters one’s behaviour. In this process, Foucault argued that power on a large scale (which he referred to as ‘biopower’) is maintained through ‘technologies’. Using public discourses and models, these technologies aim to condition the self towards an ideal so as to allow social control and ordering of the population through institutions such as religion, education and politics. In the particular case of the tax profession, those institutions (which could be described as the entities that lead tax professionals to act according to a certain standards) will take the form of the state (with the use of political discourses), HMRC, professional associations, the firm or simply the client. For Foucault, the self is not a matter of character or inner thought, but instead it is a way for the subject to present oneself to the world.

It was a mode of being for the subject, along with a certain way of acting, a way visible to others. A person's *ethos* was evident in his clothing, appearance, gait, in the calm with which he responded to every event, and so on. (Foucault, 1997c, p. 286).

Roberts (2005, p. 636) explores how identity is the result of a power process within the subject in order to integrate and produce an imaginary self.

I have sought to augment or supplement the discursive focus of existing accounts of processes of subjection, by exploring the neglected dimension of the ‘imaginary’ and its ‘self’-defining power within disciplinary processes. The key point of the preceding analysis is the suggestion that we are vulnerable to processes of subjection because they offer confirmation of our existence.

Hodgson (2002, p. 806), argues that “Foucault’s work on power/knowledge, discipline and the self reflects the importance of *professional conduct* in the construction and maintenance of a professional identity”. Pitsoe and Letseka, (2013, p. 25), using a Foucauldian framework, affirm that individuals create who they are by integrating the discourse of the group with which they identify themselves.

Discursive practices are practices that a subject embodies, lives, and experiences as s/he interacts with discourses. For example, the discourse of femininity inadvertently informs, influences, and shapes women’s identity to the point where women act out and behave according to what has been labelled as acceptable and true about females.

This is why, drawing on Foucault’s conceptualisation of self, Carrasco et al., (2017, p. 543) argue that construction and/or re-construction of stigmata and group identity can only be exercised through social cohesion.

Among study participants, identity reconstruction happened through the production, repetition and performance of new de-stigmatised narratives that emerged and were solidified through collective interaction.

For Foucault, knowledge and discourse shape and order the world, and identity and identities reveal themselves through a discursive procedure of repetition and sameness (Hodgson, 2002). Grey (1998, p. 569), using a qualitative case study of large accounting firms, shows that:

Material from an extensive qualitative case study of a ‘Big Six’ firm is used to argue that being a professional in the firm is understood – by professionals themselves – as being more to do with ways of conducting oneself than with possession of technical knowledge or being certified to practise.

In this process, Grey argues that professional identity is a learnt process by which individuals assimilate how to behave, how to dress and how to function as to give the appearance of being a professional. However, by presenting his argument Grey indirectly reveals the fact that each work environment will have different expectations of what it means to be a professional and therefore individuals will need to adapt and evolve so as to maintain their status of being a professional. Following this line of discussion, Nikidehaghani and Hui (2017, p. 348), applying a Foucauldian perspective, study:

how accounting practices associated with the disability support program were instrumental in identifying desired targets for austerity and the refusal of care. The findings review how accountability assisted the government to construct identities that facilitate the ability of the State to subject the disabled to continuous monitoring and observation. Further, the article reveals how techniques of accounting functioned as a ‘technology of the self’ and facilitated the process of transforming individuals into subjugated citizens.

More recently in the field of accounting, Tuck (2010), using a Foucauldian methodology, notes that practices emerging from the public sector administration has prompted tax officials to adapt and shape themselves as knowledge experts, resulting in altering their professional identity. Thus doing, Tuck resonates with Hoskin and Macve’s (1986) study where they found that tax professionals, by endorsing a role of ‘truth’ tellers, ought to be knowledgeable and discipline themselves as to be perceived as experts.

Drawing on the above, I would argue that increased visibility has raised discourse around public dissatisfaction, which has ultimately affected TPs and prompted them to discipline themselves and rethink their professional identity. Raising awareness of and exposing tax profession practices through media reports and negative discourses seems to

have affected the governance of the tax profession and, more importantly, transformed TPs' identities. Since Foucault considered self to be an ever-changing concept that characterises itself through discourse and shifting communication, it is unsurprising that public scandals have had an effect on practitioners' identities. Through the lens of discursive practices and technologies of the self, the tax profession has been strongly incentivised to react and adapt to its new environment to ensure its sustainability, or at least to give a 'visible' impression of adopting ethical behaviour in order to rehabilitate and reconstruct its image, reputation and identity as moral profession. Ultimately, this resonates with the concept of governmentality, whereby Foucault argued that compliance with norms by individuals is simply the expression of discourses unconsciously assimilated. As a result, construction of the self and professional identity are never independent of the knowledge context in which they evolve since, for Foucault, knowledge and discourse form and order the world by defining the object and domain. Thus doing, individuals self-discipline in order to comply with the norms and create a visible self that would be 'accepted' by the rest of society. In this process, TP identities reveal themselves through a discursive procedure of repetition and sameness (Hodgson, 2002), which aims to preclude the tax profession from straying too far away from the norm.

8.11 Summary

The findings explored in this thesis have illustrated how TPs have blurred the boundaries between various professional expertises by offering similar tax services. This chapter has connected the findings on knowledge (chapter 6) with those on ethics (chapter 7). The learning process for tacit and explicit knowledge, combined with observation of peers, induces the creation of PIs (shared values, beliefs, etc.), which may prompt ethical/unethical behaviour. Moreover, by developing the empirical insights of this research through Foucault's theory of the self and its self-formation and governance, my research is able to

show how the self and professional identities are crucial to TPs being able to function and deliver their services.

More prosaically, the theoretical insights from Foucault and Foucauldians researching professionals and professionalism seem to merge when it comes to the point of ‘discipline’ or high levels of conformity. In this process, the Foucauldian insights highlight how individuals take on the work to normalise themselves into acceptable subjects and professionals. This chapter helps to explain how TPs face a difficult time trying to balance a vision of themselves ‘acting judiciously’ while having to meet new norms of entrepreneurship and clientelism. This ever-changing environment is producing new and different types of subjects and TPs.

CHAPTER 9: CONCLUSION

9.1 Introduction

This chapter summarises the key findings of this thesis. In this context, it addresses the overarching question:

In what ways do TPs render professional services?

This thesis has explored the role and influence of the tax profession in the UK tax environment. It has illustrated the impact of TPs on tax knowledge, which ultimately resonates with the ethics and identity of the whole tax profession. To help answer the overarching research question, three research sub-questions have been addressed:

- Sub-question 1 (chapter 6): What is the role of **knowledge** in shaping the tax profession?
- Sub-question 2 (chapter 7): How do TPs manage **ethical dilemmas**?
- Sub-question 3 (chapter 8): What **identities** are associated with TPs?

In providing conclusions on this research, this chapter is organised as follows. Section 9.2 summarises the findings and highlights the original contributions of this doctoral research, and section 9.3 acknowledges the limitations of the study and identifies opportunities for further research.

9.2 Summary of findings

Three empirical chapters (chapter 6 on knowledge, chapter 7 on ethics and chapter 8 on identities) have presented the findings relating to the research questions by combining interview narratives with academic studies on professional accounting, accountants and other

relevant literature. The next sub-sections revisit these findings with reference to the research sub-questions outlined in chapter 1.

9.2.1 Discussion: knowledge management in tax servicing

Chapter 6 implicitly addressed the question of the role of knowledge in shaping the tax profession by presenting a narrative of the findings set against the knowledge management literature.

It has been found that the tax profession offers an expert and technical service that sustains the foundation for an authoritative discipline which shapes the contour of a ‘tax profession’. The findings suggest that tax as a discipline has gained a monopoly by demonstrating the extent of its expertise (Tuck, 2007). The elements gathered in the research process indicate that tax knowledge has become a specialist knowledge, navigation through which usually requires the assistance of a professional third party. TPs provide both technical and specialist services that may be difficult for lay-people to match. The findings reveal that tax services demand a significant amount of technical training and practice, as the ever-changing environment requires constant learning (Richardson and Sawyer, 2001). The existence of expert knowledge is confirmed by the time necessary to keep up with basic tax knowledge. Tax practice appears, in effect, to be characterised by the complexity of the tax legislation, which becomes more elaborate, lengthy and specialised year on year (Freedman, 2017; O’Donnell et al., 2005). Section 6.4 contributed to this argument by demonstrating the various types of tax knowledge, covering a wide range of specialisms such as VAT, capital gains tax, income tax, PAYE and corporation tax over the three phases of tax compliance, advice/planning and litigation, and servicing a variety of customers from multinationals down to single individuals (Thuronyi and Vanistendael, 1996).

Conclusion

With regard to explicit knowledge acquisition, examination of the data reveals that the UK tax profession does not merely rely on state institutions (such as universities) to support the education of its professionals. This differs from the legal and accounting professions, where the subjects can be learnt and examined in three-year academic programmes. The potential to learn in a more linear path through a three-year tax academic programme is admittedly not common and only some universities do offer undergraduate tax degrees (e.g., Bournemouth). The findings highlight that taxation is more often a subject offered as an optional module to law and accounting students (Miller and Brewer, 2003; Tuck, 2007). Although, there is a wider provision of masters' degrees in tax, such as at Oxford, and an MSc by Research in Taxation at Birmingham (where this PhD was undertaken), tax degrees across the UK tax system remain the exception rather than the norms. Despite taxation being recognised as a complex specialism that requires training, learning and continuous development, much of this knowledge seems to be learnt on the job rather than being developed through formal education. This suggests that taxation is not a speciality that requires pre-existing knowledge of the law or accounting. Professionals only need to demonstrate an ability to learn and develop on the job through intensive graduate training. In this context, it has been found that, although accounting firms may devote an entire training contract to specialising in tax (contrary to lawyers who only spend six months), in terms of professional training, lawyers and accountants have somewhat similar experiences. They learn on the job and/or shadow more senior colleagues. Once on the job, TPs are mandated to comply with CPD obligations. These require lawyers, chartered tax advisors and chartered accountants to undertake further training throughout each year, with the number of required hours differing between professional bodies. CPD takes various forms, and how it is achieved varies considerably from one person to another. However, very little difference has been found between lawyers and accountants: TPs go to the same conferences, read the same

websites and attend the same types of seminars. The data suggest the existence of a tight network across the tax profession to facilitate expanding its competence and sharing its knowledge. This may be justified by the fact that, in practice, the tax services professionals deliver and the roles they play as tax advisors are identical, regardless of their background. Overall, it has been found that, although the education of lawyers and accountants appears to differ in terms of the types of undergraduate programme they undertake and the sorts of tax examinations they pass, this distinction diminishes in view of how they are professionally trained (i.e., on the job), and this disparity disappears almost entirely with regard to CPD.

In addition to formal knowledge, TPs are expected to develop tacit knowledge, which refers to non-academic knowledge – the ‘know-how’ aspect of tax practice. In this regard, it appears that business skills and dealing with clients are key requirements for consideration for promotion (Kornberger et al., 2011; Malsch and Gendron, 2013). The findings suggest that with the increased commoditisation of knowledge, reputation and personal relationships have become essential tools for developing further business relationships. Clients used to go to certain firms or individuals because they knew that a particular TP would be able to create tax structures that others could not. Nowadays, as knowledge has become increasingly commoditised (e.g., available on the Internet or/and quickly replicated by other firms), clients no longer come for pure knowledge. Clients now choose firms because they know the tax advisors, because they interact well with them or because they have been referred by a trusted third party, such as a friend or colleague. The data highlight that this type of business approach was less common in the past. In this context, tacit knowledge implies being good at dealing with clients, bringing in new contracts and running projects, which is why Gendron and Spira (2010) describe partners as aggressive pursuers of new business opportunities. In essence, the findings suggest that in the tax profession, power lies in tacit knowledge more than formal knowledge.

Conclusion

With regard to knowledge dissemination, tax intermediaries share, store, implement and create knowledge as follows. Within the tax profession, the diffusion of tax knowledge is supported by a sophisticated network system which participates in the creation, expansion and continuation of knowledge. For example, the study reveals the existence of strong technical support across the profession. It has been found that tax advisors often need to reach out to other TPs to verify the validity of their recommendations. Fear of submitting an incorrect return or making a mistake was a recurrent theme in the interviewees' narratives. Regularly repeated terms such as 'right amount', at the 'right time' and the 'right tax' reveal the importance of 'getting it right'. The analysis shows that large firms provide technical support for internal staff. In this case, TPs refer work internally to another department of the firm known as a technical helpdesk, which suggests possible ways to address tax issues. In medium-sized and small firms, technical support and knowledge sharing are undertaken externally, either through a professional service such as Tolley's, or for free through group networks and tax specialists. On such occasions, firms and tax intermediaries meet up or contact each other to enquire about specific points of law. Similar observations were made with regard to how tax knowledge is stored. The findings highlight that knowledge memory is a crucial component of the organisation, since knowledge requires access to information. This view supposes that organisations develop infrastructures that facilitate the retrieval of data (McQueen, 1998). In large organisations, firms have invested in internal databases and policy teams to retain the knowledge developed and acquired. In recent years, storage of knowledge has been eased by the development of IT systems that play an important role in retaining organisational memory. However, smaller firms do not have the necessary resources to invest in these types of systems. Therefore, they rely almost exclusively on external publications to store acquired knowledge, keep up with developments in jurisprudence and legislation, and expand their knowledge.

Regarding the application of knowledge, Alavi and Leidner (1999) maintain that the key to gaining competitive advantage in a market lies not in the knowledge itself, but in its successful application. In the context of the UK tax system, the profession's implementation of the tax legislation is being challenged by the tax authority. TPs' role is to advise on compliance positions that both reduce their clients' tax liability and remain within HMRC's latitude (Robertson and Swan, 1998). O'Donnell et al. (2005, p. 145) suggest that if "their clients' situation clearly matches criteria specified by regulatory requirements, the appropriate compliance position is obvious and the decision is relatively simple". However, Klepper and Nagin (1989) establish that tax law is frequently unclear, and therefore often requires interpretation by taxpayers and their tax advisors. Difficulties arise especially when a client's situation does not match the facts of the tax legislation. Under such circumstances, TPs are often left to fill in the gaps and rely on their previous experience to make appropriate recommendations (Shields et al., 1995). In this context, the data suggest that in the UK environment, providing tax knowledge under unclear conditions raises a number of concerns. Analysis of the £34 billion tax gap in 2016 indicates that legal interpretations constituted the second biggest cause of lost income, at £6 billion (Figure 6.8). On the face of it, this suggests that the tax profession is placed in a difficult position, as it would appear from the public debate that these experts are now expected both to reduce the amount of tax avoidance and advise taxpayers on the law, without providing interpretations that may harm the public interest. In essence, the expectation is that tax advisors should apply their knowledge of tax law while satisfying both the client and the rest of society simultaneously. Yet this conflicts with natural business behaviour and TPs' professional obligation to advise taxpayers accurately on the law.

In today's competitive business environment, knowledge has become a means of maintaining one's position in the market. However, Alavi and Leidner (1999) show that it is

not so much existing knowledge that gives a firm competitive advantage, but its ability to develop and create new knowledge. The tax profession has become a key actor in producing tax knowledge, yet, as argued by Hasseldine et al. (2009), only tax authorities should in principle be tax sellers. In creating new knowledge, the tax profession is challenging HMRC's position, which ultimately creates tension between the profession and the UK government. In this context, some commentators have suggested that the tax profession has used its knowledge to create loopholes in order to gain competitive advantage in the market and reduce tax payments (Gracia and Oats, 2012; Hasseldine et al., 2012).

In summary, the data reveal the existence of an abstract yet distinctive TP group which is bound by its specialist knowledge of this discipline. This research thus extends Mulligan and Oats's (2016) findings. It also contributes empirically to the literature on tax knowledge management by looking at the acquisition and dissemination of tax knowledge exclusively amongst knowledge brokers. In so doing, it enhances research by Hasseldine et al. (2009), whose main focus was on observing how knowledge is shared between knowledge brokers (such as accounting firms) and knowledge sellers (HMRC).

9.2.2 Discussion: ethical decision making in tax servicing

Chapter 7 implicitly addressed the question of how TPs manage ethical dilemmas by comparing the interview findings with the ethical DM literature.

It has been found that ethical dilemmas in tax practice arise from gaps in the law, as well as its interpretation. Ethical dilemmas resulting from the application of tax legislation are not a new phenomenon. They seem always to have been part of tax work, owing to the nature of the law. Arguably, the law will always be fluid to some extent and TPs will always find ways of identifying gaps in 'grey' areas (Burns and Kiecker, 1995; Cruz et al., 2000). It is therefore unsurprising to find extensive literature addressing the ethical dilemmas faced by

TPs (Yetmar and Eastman, 2000). Yet it seems that these issues have only recently been made visible to a larger proportion of society (Armitstead, 2013). Through media reports and political discourse, the concept of tax morale has emerged (Torgler et al., 2007). This change in ethical consideration may be explained by an evolution in society's mind-set, as well as the government's efforts to reduce the national debt and maximise revenues.

The tax profession is a crucial determinant of the UK tax system, acting as an intermediary between taxpayers and HMRC, and influencing taxpayers' compliance and ethical behaviour (Devos, 2012; Tomasic and Pentony, 1991). However, recent scandals have presented a significant reputational risk for the tax profession as a whole, and also for individual firms and tax advisors. As a result of attacks on their reputation through adverse media reports (House of Commons Committee of Public Accounts, 2013), the legitimacy and integrity of the tax profession have been questioned, and it has been accused of undermining the UK tax system. Indeed, the tax profession continues to face criticism for its role in assisting, whether knowingly or otherwise, in tax avoidance and tax planning. Analysis of the data suggests that moral standards across tax practices are led not by a sense of ethics, but by commercialisation and reputational risks (Mulligan, 2008). However, since reputational risks are deeply connected with public expectations and the evolution of moral principles across society, and because the tax advisory service industry is a service profession, in meeting their clients' needs, tax advisors are most likely to take into consideration what is morally acceptable or questionable. This suggests that, indirectly, the moral dimension and societal norms are crucially important factors for tax advisors.

However, with the advent of DOTAS, POTAS, tax enablers' legislation and APNs, the UK government has been establishing a legislative framework to prevent tax avoidance. In this process, both taxpayers seeking to reduce their tax liabilities and the TPs advising them are being targeted. Data collected from the interviews, together with HMRC's (2017b)

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report on the tax gap, suggest that the tactics used by the tax authority have positively affected the ethical behaviour of TPs, since the analysis suggests that the tax profession has moved away from tax avoidance schemes. Shafer and Simmons (2011) argue that the tax profession's participation in non-compliance is a question of ethics, yet the situation is far more complicated. The tax profession and tax advisors have been placed in a difficult position. In private advisory firms, the role of TPs is to advise their clients so as to comply with the law and potentially reduce their tax liability. However, in a commercial environment, TPs are measured on the revenues they gain, and firms' survival is dependent on clients' fees. Therefore, placing the public interest above clients' needs might be seen as ethical behaviour, but might be a suicidal approach in a competitive market. Indeed, all firms and advisors across the profession are competing for clients, so if one firm or individual has higher ethical standards than a competitor, it will find it difficult to remain economically appealing. This means that tax advisors are placed in a position where they may need to relax their personal ethical standards in order to gain new clients (Tan, 2011). Servicing clients may at times be in conflict with managing the public interest, and tax advisors must resolve this ethical dilemma (O'Fallon and Butterfield, 2005).

The above analysis also suggests that TPs are judged against societal values and professional codes of conduct when submitting to external reviews (for instance, by HMRC). However, these standards do not always filter down into day-to-day practice. In reality, TPs are usually assessed on and aligned with the ethical standards applied by their firms. The difficulty of resolving ethical dilemmas will inevitably emerge, especially since TPs are subject to control by two or more entities with divergent interests.

Analysis suggests that ethical behaviour will tend to comply with the factors on which the TP most depends. These may be either the tax advisory service industry or the firm environment. Indeed, although professional bodies have created codes of ethical conduct, tax

advisory service industry standard practices and firm culture appear to be predominant as, in practice, fear of punishment pushes professionals to align with their employers (or in the case of sole practitioners, with their clients). Ultimately, this study reveals that misconduct by some tax advisors and non-reporting of misbehaviour may be explained by fear of retaliation and repercussions, which are strong factors influencing TPs' DM process. Thus, tax advisors not only have to take the societal environment into consideration, respect the law, comply with their code of ethics, and adapt to widespread tax advisory service industry practices and the ethical culture of their firms, but must also know how to adapt their conduct to the expectations of the environment. Since ethical standards and values are not uniquely defined, conflict will arise between the tax advisory service industry practices, firms' expectations and personal ethical principles.

In summary, because ethics is a social construct, when faced with an ethical dilemma, TPs assess the situation, and judge environmental constraints and potential sanctions or repercussions. They then make appropriate ethical decisions that seem optimal according to the circumstances.

This study contributes theoretically to the decision literature by modifying Bommer et al.'s (1987) ethical and unethical DM model to adapt it to a professional setting. In addition, it enhances the empirical literature on TPs' ethics by developing a map of the underlying influences affecting TPs' decisions. In so doing, the tax context mentioned by Frecknall-Hughes et al. (2017) is articulated in terms of specific factors and environments.

9.2.3 Discussion: professional identity in the provision of tax services

Chapter 8 addressed the question of the identities that are associated with TPs by presenting a narrative of the interview findings in terms of the PI literature. It has been found that a number of social layers affects the development of TPs' identity(ies). For example, stigmata

and stereotypes are considered by the literature as considerably affecting the construction of PI (Goffman, 1963). In the case of the UK tax profession, this observation has been revealed to be valid. Tax advisors are often depicted through negative narratives. Words such as ‘boring’, ‘tedious’ and ‘too technical’ were often used by the interviewees, and tax intermediaries were referred to almost as caricatures. This confirms Jeacle’s (2008) finding that terms such as ‘dull and boring’ are often used by the public to describe accountants. In terms of the stereotypes associated with TPs, very little difference is seen between tax lawyers, tax accountants and HMRC agents. They seem all to be coloured by the tax dimension of their PI. In the case of the tax profession, although tax intermediaries occupy a prominent role in society through their support of the tax system by helping to collect revenues (see chapter 6), reports by the mass media reveal a completely different perception of the tax profession. The findings suggest that negative media reports have affected the tax profession’s identity as a whole, which has been pictured negatively largely because of tax intermediaries’ alleged participation in the recent financial crisis. The press has alleged a number of instances of misbehaviour that have resulted in a deterioration of TPs’ image over time (Briggs et al., 2007; Carnegie and Napier, 2010; Gendron and Spira, 2010). The above observations suggest that the integrity and reputation of the tax profession and professionals have been undermined as a result of poor revenue collection and tax scandals. TPs’ identity construction is also influenced by the community. In the tax community, TPs’ identity is quite ambiguous to the non-expert eye. Indeed, despite the differing backgrounds of tax intermediaries, the social group to which they belong is not obvious. Yet a distinction needs to be made between tax accountants and tax lawyers, as the findings suggest that tax lawyers do not think of themselves as part of the tax profession. They often describe their PI as that of lawyers practising within a particular specialism of the law. This strong identity is probably prompted by the fact that the rules surrounding the legal profession, which aim to protect this

discipline, are very strict. The sociology of professions' literature suggests that relationships with clients are an important component of the dynamics of professional competition for attractive jurisdictional spaces (Abbott, 1988). This may explain why lawyers refute the image associated with other professions. Ultimately, although all tax advisors carry out essentially the same types of task (see chapter 6), lawyers tend to be accorded greater prestige and consideration than accountants and ex-HMRC agents (Frecknall-Hughes and McKerchar, 2013a and 2013c). This seems to affect the construction of PI, to the point that some participants identified themselves as lawyers even though they were not legally qualified. The impact of the workplace environment on the construction of PI is well documented in the accounting literature. Previous researchers describe law and accounting firms as key elements influencing the formation of PI. In this study, it has been found that in large accounting firms (Big Four), practitioners are infused with their firm's identity, whereas in smaller firms, participants find it difficult to define their own PI. Indeed, the interviewees had trouble communicating who they were as professionals. Many found the questions on identity and image quite challenging (Neary, 2011, 2014). Inter-personal relationships affect the development of human identity. In the model developed in this study (Figure 8.3), inter-personal relationships refer to TPs' interactions outside the context of work. The first contribution to Brouard et al.'s (2017) framework is that the newly-developed model considers how friends, family and clients perceive the professional image. These factors were selected owing to their potential influence on TPs' identity. It has been found that in a social context, tax advisors are often misinterpreted as working for HMRC. This reveals the general public's lack of understanding of who members of the tax profession are. The second misinterpretation associated with TPs lies in the content of their role and the extent of their responsibilities. Tax advisors advise on the law but are not usually trained to prepare accounts; only trained accountants are able to do so. These two misconceptions of who tax

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intermediaries are and what they do may be explained by a significant lack of public information and understanding with regard to the tax profession. This raises questions about the extent to which the general public understands newspaper headlines, since lay-people often have difficulty understanding the types of service TPs that render. Finally, personal identity, which refers to individual traits and characteristics, affects the construction of PI. The second contribution of this study to Brouard et al.'s (2017) framework is to consider how TPs see themselves. Although the identity literature reveals that social and individual identity may co-exist, and that both structure the formation of PI (Ashforth et al., 2008), analysis of the data on tax intermediaries reveals that the influence of their professional membership does not define them in private settings. In fact, most of the professionals interviewed stated that they avoided mentioning their professional activity outside their work environment. The fact that tax advisors do not tend to 'wear' their profession openly may be explained by the fact that they conceptualise their services as a role. As a result, they often detach themselves from the task at hand (O'Fallon and Butterfield, 2005), which resonates with Goffman's findings (1956).

In conclusion, the data reveal the layers that affect the construction and reconstruction of PI, highlighting the importance of them cultural beliefs, societal influence, community impact, firm identity, inter-personal relationships and personal identity. It has been found that, in the context of tax, the existence of a tax PI is very subtle, especially among tax specialists in the law profession. In summary, this study contributes theoretically to the PI construction literature, and more specifically to Brouard et al.'s (2017) research, by offering a new integrated framework that complements their model (see Figure 8.3). Indeed, although Brouard et al. (2017) consider a number of factors affecting the construction of accountants' identity, their model does not take into account how immediate interactions (family, friends) and personal identity affect the development of PI. To address this omission,

Bronfenbrenner's (2005) bioecological model of human development has been adapted to a professional environment. This study also empirically enhances Brouard et al.'s (2017) research on TPs' PI formation. This includes interpreting the identity not only of accountants, but also of lawyers and ex-HMRC agents.

9.3 Contribution of this thesis

Three empirical chapters (chapter 6 on knowledge, chapter 7 on ethics and chapter 8 on identities) and the above section have presented the findings relating to the research questions by combining interview narratives with academic studies on professional accounting, accountants and other relevant literature. The next sub-sections revisit the empirical and theoretical contribution of this thesis.

9.3.1 Empirical contribution

The overarching research question in this study is:

In what ways do TPs render professional services?

This thesis empirically contributes to extending our comprehension of UK tax practice across both the legal and accounting professions (see Frecknall-Hughes and Kirchler, 2015). Using a qualitative method, the study conducted 44 semi-structured interviews between 2015 and 2016 with a wide variety of tax professionals including tax lawyers, tax accountants, ex-HMRC senior tax professionals and tax consultants.

This study empirically reveals the crucial role played by the UK tax profession in supporting the tax system. In this process, it has been found that the UK tax environment is characterised by the complexity of the ever-changing nature of tax legislation. Although taxation is recognised as a complex specialism that requires training, learning and continuous

development, this expert knowledge is observed as being learnt primarily on the job and not through formal education. As a result, both the accounting and legal profession have had to adapt so as to render professional services. The data suggest indeed the existence of sophisticated network system across the tax profession that participates in the acquisition, creation, retention, diffusion and implementation of TPs' competence and knowledge. Ultimately by rendering professional service, tax professionals have created borders around an invisible and distinctive discipline through expertise in tax knowledge.

Second, the findings reveal the importance of ethics in tax practice. The thesis shows that tax practitioners have adapted their professional ethics to the environment in which they find themselves. The findings suggest that, across the tax profession, ethical standards are not clearly defined, giving rise to conflicts between profession practices, firms' expectations and personal principles. by exposing factors influencing tax professionals' ethical decision making, and by exemplifying the social interaction impacting on tax professionals' identity construction.

Finally, the findings acknowledge the importance of social identity, professional roles and discourse in the construction of professional identity. Hence, the study highlights that social layers have a disciplinary effect on the tax profession. Acting both as advocates of clients and representatives of the state, this research illustrates the different facets inherent in tax practitioners' roles.

9.3.2 Theoretical contribution

This thesis contributes to extending the theoretical use of Foucault's work by showing how the notion of knowledge/power can be used in order 'artificially' to conceptualise and create the boundaries of an expert community based on its shared knowledge of the tax discipline. In so doing, it examines how expert knowledge and discursive practices shape the boundaries

of a community, namely the tax profession. This study also demonstrates that the knowledge struggle based on how the tax law should be applied, that currently exists between the state/HMRC and this community of tax experts, serves as a self-formation factor pushing tax professionals not only to make themselves known but also to organise themselves through tight networks in order to resist or enhance the implementation of tax knowledge. It is argued that normalising the creation and implementation of tax knowledge has had an impact on the ethics and identities of TPs. This thesis describes how tax knowledge and its utilisation are nowadays formed and normalised through surveillance by the general public. This thesis argues therefore that the Foucauldian notion of knowledge/power can be used to reveal and conceptualise an unidentifiable group of experts, making the invisible visible.⁵³

Secondly, this thesis contributes to extending the theoretical use of Foucault's work by showing how the notion of social stigmatisation through the use of discursive practices and statements is at the origin of why tax professionals have had to integrate ethical considerations in response to the discursive formation made of their professionalism. Indeed, the profession's implementation of tax knowledge has rapidly been associated in the minds of the general public with the deployment of professional and ethical conduct. In this regard, it is argued that constant surveillance incentivises tax intermediaries to adopt normalised behaviour that aligns with the 'expected way' of implementing tax knowledge, and to shy away from abnormal behaviour such as tax avoidance. Ultimately, this study explains how tax professionals' ethics and identity become a by-product of the normalisation and surveillance of tax knowledge implementation. In doing so, this thesis demonstrates how professionals adapt themselves to be seen as 'ethical and disciplined subjects' complying with the spirit of the law as to prove themselves as professionals and change the discursive practices that are at play against them. Using Foucault's/Florence's (1998) work, this thesis

⁵³ This, despite the fact that it was initially difficult to detect exactly who is practising within the UK tax profession as no specific requirements exist as to who can render tax services.

conceptualised how TPs construct their professional self upon the performance, articulation, and appropriation of institutional norms. In this process, it examines how the profession's implementation of tax knowledge has rapidly been associated in the minds of the general public with the deployment of ethical conduct and professional identity. This aspect of Foucault's work has received limited attention in the accounting and taxation literature.

In so doing, this thesis enhanced Hoskin's research (2015) by linking knowledge, ethics and identity through discursive practices.

Power/ knowledge and the discursive practices in tax practice

According to Foucault (1980), experts hold a particular discursive power since they manipulate and construct knowledge within a specific domain. However, it is through the study of Foucault's later work (1978) on knowledge that the analysis reveals his effort to describe and understand the relationships that occur between the diverse fields of knowledge through discourse. Yazdannik et al. (2017, p. 4), using Foucault's concept of discourse, thus questioned:

how some discourses have shaped and created meaning systems that have gained the status and currency of 'truth', and dominate how we define and organize both ourselves and our social world while other alternative discourses are marginalized and subjugated.

Graves et al. (1996), using Foucault's theory, demonstrate how discourse can be used to exert an influence over certain aspects of power, or on the other hand, can be understood as a way to influence concepts/ norms (Norreklit, 2003) or extend scientific knowledge itself (Grant et al., 2001). In the context of the tax profession, the data have revealed that this community must exhibit a degree of expertise in order to be regarded as authorities and ultimately deemed trusted by the general public and acquire autonomy (Yagatich, 2018). These discursive regimes serve their own purpose since they communicate the idea that the truth can only be produced by a corpus of experts, thus excluding the possibility that a subject or a

practice might be acquired using other methods. Allen (2000) believed that knowledge requires the aptitude to pass assertions off among others as correct and true, and it is through the use of discursive practices and scientific discourse that power is integrally linked with knowledge. This is why Mihret and Grant (2017) formulate the idea that modern corporation and profession protect themselves via auditing to justify and validate their own activities and expertise (thus reaffirming their unique stand on knowledge). As a consequence of this unique knowledge, a transfer of power takes place between client and advisor, acknowledging indirectly the legitimacy of the expert over the field of tax (Miller and Rose, 1990). Bogenschneider (2015) argues, however, that tax knowledge is often misunderstood and misrepresented as ‘truth’ and institutional knowledge, when instead it should be presented as undetermined and abstract. This is why Skinner and Franz (2018) believe that individuals in a context of compliance find it increasingly difficult to interpret and apply knowledge, thus explaining why individuals seek advice to achieve compliance. Hewett (2004) argues that disciplines have therefore established techniques of power, referred to by Foucault as governmentality, which aim to control their own subjects. However, in the case of the tax profession, it is not individuals who have been the subject of normalisation but the knowledge itself (or at least at first). Through normalisation and codification of knowledge, individuals such as tax intermediaries have acquired knowledge of tax norms. These norms are in practice drawn from the same source, are updated and developed in the same sphere, and compete on the same level to construct the discipline and enhance the field of knowledge. In other words, it was only because tax knowledge had become so normalised and codified that a need for tax experts emerged. The law and accounting professions offered this expertise, which started as a commodity but resulted in creating its own discipline. This thesis argued that, although TPs may come from different backgrounds, with different education and training, the data reveal that through normalisation of the field of knowledge, tax lawyers,

tax accountants and ex-HMRC agents all exemplify and consolidate the same community of scientific discipline.

Ethical subjects in tax practice

The second empirical chapter has look at the ethics of the self and investigated *how do TPs manage ethical dilemmas?* This chapter looked at how the tax professionals have had to integrate ethical considerations in response to the discursive formation made of their professionalism. In doing so, I looked how the negative account made of individuals/companies has impacted on the institution. In this process, I used Foucault's/Florence's (1998) work to conceptualise how individuals construct their professional self upon the performance, articulation, and appropriation of institutional norms. Moreover, this thesis has also considered at the same time how the context in which these professionals work has evolved (here in the UK economy) and affected their sense of self ethics. This postulate aimed to enhance Hoskin's study (2015) where he found that individuals are far from being self-constituted since they are repetitively subjected to techniques of power and discursive practices.

Using Foucault's work, I also considered how social stigmatisation through the use of discursive practices and statements is at the origin of why tax professionals have had to adapt themselves to be seen as complying with the spirit of the law. Yet the concept of spirit of the law and ethical behaviour seem almost antithetical to the enforcement of tax legislation – a comparison that should in principle not exist, as it is a complete paradox that involves combining the black letter of the law with subjective principles at the mercy of any given beliefs or media headlines. This view suggests that hard law within the UK tax system is being challenged by the soft law of the regime of truth in matters of ethics. I would even argue that Foucauldian discursive practices have become a more powerful tool than tax

knowledge itself. TPs must subject themselves to these cognitive processes of ethical behaviour in order to fit with the norm, and appear to be ethical. This distinctive attribute of the tax industry reflects Foucault's (1980) work, which criticises modern morality in which individuals are far from being self-constituted since they are repetitively subjected to techniques of power and discursive practices (e.g., negative media reports). The underlying idea is that individuals feel obliged to adopt a different behaviour – that is, a behaviour expected by society – only because their actions are being scrutinised and made visible to an external reviewer. For instance, Lambert and Pezet (2012, p. 67) argue that “the subject, in an organisational context, carries out systematic practices of self-discipline and becomes a calculative self. [...] These management accountants become calculative selves by building the very measurement of their own performance”. As a result, individuals become self-forming subjects (Skinner, 2013) where the construction of the self is never independent of the context and knowledge in which it evolves. Thus, ethical conduct is action performed by a subject in order to comply and engage with values that are morally approved of and expected by society. In this regard, Luxon and Landis (2005) demonstrate how the definition of an ethical subject (in the case of doctors and educators) is intrinsically based on practice rather than generic knowledge. Baker (2014, p. 216), examining the ethical discourse of the US public accounting profession from a Foucauldian perspective, reveals that:

The ethical discourse of the profession can be found more in the self-forming practices of the profession rather than its code of ethics. These self-forming practices commence early in the career of a prospective accountant and shape the accountant into an idealized “ethical being” in the Foucaultian sense; not an ethical being who complies with a code of ethics, but rather an ethical being who is self-regulated and self-formed into an ideal member of the profession, one who seeks to serve clients while at the same time giving the appearance of acting with integrity and conforming to professional ideals.

Along the same line of discussion, Neu et al. (2015) demonstrate how individuals have become ‘ethical and disciplined subjects’ by integrating forms of anti-corruption practices.

This, according to Hoskin (2015), leads an individual to construct him-/herself through a disciplinary and ethical lens. Looking at the accounting, financial and legal domains, Hoskin establishes how the manipulation of expertise and disciplinary discourses, has surpassed in some respect the traditional creation of the law. This reveals how tax professionals render tax service through a close consideration of their knowledge/power and the effect it has on the self-ethic and professional self.

This thesis therefore argues that tax professionals have had to present a façade of being obedient and submissive to the law, in order to prove themselves as professionals and change the discursive practices that are at play against them. This postulate aims to enhance Hoskin's study (2015), where he found that individual ethics is constantly subjected to techniques of power and discursive practices. This normalisation of tax knowledge prompts tax advisors to believe that tax law should be implemented in a 'certain way' so as ethically to render tax service. As a result, TPs are led to think that by providing advice on tax avoidance, they behave amorally.

Professional identity as a by-product of technologies of the self

This leads to my third empirical chapter, where I used Foucault's work to show how there is a shifting moment where accountants and lawyers are starting to identify themselves as tax professionals. Looking at *what identities are associated with TPs*, this thesis endeavoured to understand how the discursive practices have generated the production of the self as a tax professional. Indeed, owing to this power struggle over how knowledge should be applied, as seen in the first empirical chapter, I discussed how a community came to light. This negative exposure prompted tax professionals to start thinking of a way that would reflect how they identify and present themselves as professionals. In this process, I used

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much of Foucault's work to conceptualise how individuals construct their professional selves upon the performance, articulation, and appropriation of institutional norms, ultimately affecting their sense of identity. This thesis discussed professional selves and interrogated discursive formations in the construction of professional identity in the field of tax.

Discursive practices, and especially the dominant discourse, enhance how reality is formed and understood in the public sphere. Discourses are therefore concerned with the creation of a social reality that shapes ideas, people and things in order to produce an institutionalised statement of truth. These 'truth games' are methods through which humans integrate the truth or at least what is perceived as good or bad in society. In so doing, beings exercise technologies of the self to create a version of the self that acts accordingly depending on the environment – for example, how, by regulating their thoughts and conduct, individuals have an effect on how they conceive who they are and how others perceive them. In other words, it is by assimilating discourses that individuals normalise who they are. As such, the self is conceptualised as being a by-product of those technologies. Foucault argued that construction of the self is never independent of the knowledge context in which it evolves since, for Foucault, knowledge and discursive practices form and order the world by defining the object and domain. In this process, TP selves or identities reveal themselves through a discursive procedure of repetition and sameness (Hodgson, 2002) which aims to preclude the tax industry from straying too far away from the norm. Pitsoe and Letseka (2013, p. 25) affirm that individuals create who they are by integrating the discourse of the group with which they identify themselves.

Discursive practices are practices that a subject embodies, lives, and experiences as s/he interacts with discourses. For example, the discourse of femininity inadvertently informs, influences, and shapes women's identity to the point where women act out and behave according to what has been labelled as acceptable and true about females.

This is why Carrasco et al. (2017) argue that construction and/or re-construction of stigmata and group identity can only be exercised through social cohesion. Grey (1998) argues that professional identity is a process by which individuals assimilate how to behave, how to dress and how to function, so as to give the appearance of being a professional. However, by presenting his argument, Grey indirectly reveals the fact that each work environment will have different expectations of what it means to be a professional and therefore individuals will need to adapt and evolve so as to maintain their status of professionals.

Drawing on the above, I would argue that the surge in visibility has raised discourse around public dissatisfaction, which has ultimately affected and prompted tax professionals to discipline themselves and rethink their professional identity. Through the means of discursive practices and technologies of the self, the tax profession has been strongly incentivised to react and adapt to its new environment to ensure its sustainability, or at least to give a ‘visible’ impression of adopting ethical behaviour in order to rehabilitate and reconstruct its image, reputation and identity as moral profession. As a result, construction of the self and professional identity is never independent of the knowledge context in which it evolves since individuals self-discipline in order to comply with the norms and create a visible self that would be ‘accepted’ by the rest of society.

The next section identifies some limitations of this study and makes suggestions for further research.

9.4 Limitations and suggestions for further research

Despite efforts to provide insightful and comprehensive evidence to address the research questions, this thesis nevertheless has some limitations. However, these limitations may, if carefully considered, offer opportunities to further this project.

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First, a primary limitation of this study lies in the methodology adopted, since the sample population was restricted to TPs in the profession whose main purpose was to provide tax advice. This meant that tax intermediaries such as non-professional tax advisors, HMRC agents currently employed by the tax authorities and business/finance advisors, were not considered. As explained in chapter 5, this was justified by the fact that only tax intermediaries who identified themselves as full-time TPs were considered.

Second, tax intermediaries who were not part of an accounting or legal professional body or were tax inspectors were not interviewed. This was because the TPs who were approached were contacted with the help of professional bodies, mainly the CIOT. Consequently, all the interviewees were to some extent infused with the rules, identity and ethics of their profession. Therefore, it might be interesting to establish whether tax intermediaries who do not belong to a professional body have different views on ethics and identity.

Finally, this research was conducted during a period of scandals for Big Four and Magic Circle firms. As explained in chapters 1 and 2, this triggered interest in this study, but also constituted a weakness. Indeed, some interviews were impossible because potential participants were fearful of the impact of this study on their firms. Furthermore, once the participants had agreed to participate, the answers they provided were sometimes a little too ‘well-rehearsed’, especially on ethical questions.

TABLE OF STATUTES

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APPENDICES

Appendix A: Questionnaire version 1

Tax professional characteristics

- What do you actually do in your work as a tax expert?
- Could you outline a typical 'job description' of a tax adviser?
- What are the main duties, as oppose to a pure lawyer/accountant?
- What has been your training? And which qualification is yours?
- Why did you choose to become a tax expert?
- From which source do you base your work/expertise?
- How do you supplement knowledge? Do you feel you borrow existing knowledge (example; from the legal, accounting profession) or do you feel you create knowledge?
- Do you feel you bring any innovation/creation in your interpretation of the tax legislation?
- What kind of expertise do you feel you bring to the client as oppose to other tax advisers? (technical/general business/communication skills)?

Inter-profession position?

- Do you feel there is a competition with other professions? How do you perceive lawyers/accountants?
- How do you think you fit in your current profession as a tax expert?
- What do you think other tax practitioners do differently from you?
- Do you think you have a different approach to this work from them?
- Who are the key actors in your profession?
- Do you work across services?
- Who are the people you are interacting with the most?

Tax professional perception

- What does it mean for you to be part of the tax profession?
- What was your perception of this profession before entering into it?
- How do you perceive yourself as a TP?
- Do you consider having a particular status/prestige within your profession as a tax expert?
- Do you think you have a particular identity as a tax expert that differentiates you from others?

Challenges this profession is facing

- What are the challenges you face doing this work?
- What is the impact of external factors on your work? (Globalisation, commercialisation, client, organisation)
- What is the impact on taxpayers of the type of advice you provide?
- Do you feel the image promoted in the media of the tax profession is a fair reconstitution of the reality?
- Do you think there are any conflicts between targets settings versus more holistic practices of professionals?
- How do you see your role in this process? (Autonomous professionals or more as agents of the firm?)
- Do you feel your work responds to a code of conduct or is it difficult in reality to implement ethics?

Challenges this profession is facing

For the purpose of my future interviews, do you see other tax advisors that I should consider?

Are there any questions I haven't asked you that you think I should have asked you?

Appendix B: Questionnaire version 2

Issue / topic	Possible question	Possible follow-up questions [Prompt]	Probes
Professional characteristics	1. What is your current role?	What do you actually do in your work? Could you describe to me your job?	Anything else? Can you give me examples?
	2. What are your main duties?	Generally what is the size of the company you advise? How do your clients come to you? Who are the people you interact with the most?	Can you give me examples? How the client is charged? Per hour, per project? Do you have a billable target? How does it work? Do you work across services?
	3. How did you arrive to your present role?	Which university did you go to? Do you have any tax qualification? How much experience do you have in this field? Why did you choose to become a tax adviser?	What is it about tax that you enjoy? Are you attached to any professional body? Do you follow a particular code of conduct?
Knowledge	4. From which source do you base your work? e.g., Lexis Nexis, internet, tax legislation journal?	Tax legislation keeps changing: how do you keep up? How does it impact on your work? How do you verify your advice is correct? Do you feel there is room for innovation when applying tax legislation?	Training? External, internal, yourself? Maybe you could me give examples? Other tax adviser? Contact in HMRC? How do you know where to set the limit?

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		What kind of expertise do you feel you bring to the client?	Technical/ business/ communication skills
Inter-profession competition?	5. In the UK who can provide advice on tax?	Do you feel there is a competition with other professions? Why do you think there is this competition? How do you consider other tax advisers?	Tell me more... Anything else? Competitors? Colleagues?
	6. What are the main differences between all those tax advisors?	What do you think makes (lawyer, accountant) stand out?	Training? Different approach? Added services? Personal relationship? If so how do you build it?
Tax profession	7. Do you feel there is a tax profession in the UK?	Why? Did you have a particular image of the tax 'profession' before entering into it? How do you feel other people see you (when you say you are a tax advisers)? Which do you think played the strongest role [in contributing to the development of this image]?	Has it changed? Do you feel you have a particular status? Prestige? Do you feel the image promoted is a fair reconstitution? And why?
	8. What would be the hardest aspect of your work?	What challenges are you facing as a profession? Does external factors impact on your work? (Clients, globalisation?) Do you feel there is a conflict between personal practice and any code of conduct? Have you come across tax avoidance? When, how?	In what way? Tell me more... How do you manage clients vs Hmrc expectations? How your performance is assessed? Revenue made? Do you feel the tax profession should be more regulated? In what way?
Anything else? Is there anything else I should ask you?			

Appendix C: List of interviewees and their characteristics

Number	Code	Current position	Organisation	Date	Length of interview	Tax qualification	Previous experience	Age	Gender	Years of experience	Specialty
Interview 1	B1	tax solicitor / partner	Law firm	03/11/15	00:46:00	Solicitor	Magic circle Law firm	40-45	M	> 20	Real estate tax
Interview 2	B2	tax solicitor / partner	Law firm	09/11/15	01:33:00	Solicitor	Magic circle Law firm	35-40	M	< 15	All tax
Interview 3	B3	barrister	Tax chamber	20/11/15	01:56:00	Bar	Magic circle Law firm	40-45	M	> 20	Inheritance tax
Interview 4	A1	head of tax / partner	BIG4	20/11/15	01:19:00	CTA / ACA	Same BIG4	50-55	M	> 30	Tax policy
Interview 5	A2	tax partner	BIG4	20/11/15	01:06:00	CTA / Solicitor	HRMC / Law firm	40-45	M	> 20	Indirect taxation
Interview 6	A3	tax director	BIG4	20/11/15	01:08:00	CTA / ACA	Same BIG4	50-60	F	> 30 > 35	Private client
Interview 7	A4	tax director	BIG4	17/12/15	01:38:00	CTA / ACA	Same BIG4	30-35	M	> 10	International business
Interview 8	C1	tax consultant	tp	18/12/15	01:37:00	Inspector / HRMC / Fellow CTA	BIG4 / HMRC	50-55	M	> 30	Business tax
Interview 9	A5	retired less than 6 months ago	Previously BIG4	21/12/15	02:09:00	Fellow CTA / ACA	Same BIG4	60-65	M	> 40	Tax policy / International tax
Interview 10	C2	tax consultant	tp	23/12/15	02:07:00	FCA / CTA	BIG4 / Accountancy firm	55-60	M	> 36	National insurance tax / Social security tax
Interview 11	C3	tax consultant	tp	04/01/16	02:17:00	Inspector / HRMC	BIG4 / HRMC / Law firm	55-60	M	> 36	VAT
Interview 12	B4	barrister	Tax chamber	05/01/16	02:30:00	ACA / CTA / FCA / barrister / Solicitor	BIG4 / Law Firm	45-50	M	> 25	Inheritance / Benefits

Interview 13	B5	tax solicitor / partner	FTSE 100	05/01/16	01:11:00	CTA / Solicitor / seat	Law firm / Private Company	50-55	F	>30	private client / Employee benefits
Interview 14	E1	senior vat consultant	Tax insurance/ Private Company	11/01/16	01:13:00	ATT	BIG4	50-55	M	>30	Direct tax enquiries
Interview 15	E2	senior tax consultant	Tax insurance / Private Company	11/01/16	01:06:00	CTA / FCA	HMRC	50-55	M	>30	VAT dispute work litigation
Interview 16	D1	advocate general	HRMC	11/01/16	01:24:00	Solicitor / seat	Law firm	55-60	M	35-40	All tax
Interview 17	F1	tax advice officer	Council	15/01/16	02:35:00	Inspector / HRMC	Council	45-55	M	> 25 > 30	VAT
Interview 18	C4	tax consultant	tp	18/01/16	01:05:00	CTA / ACA	BIG4 / Small accountancy firm	35-40	F	> 15	All tax / Law incomes tax
Interview 19	A6	tax director	BIG4	18/01/16	01:00:00	CTA / ATT	Private Company / BIG4	40-45	M	> 20	Global employment tax
Interview 20	A7	senior tax manager	BIG4	18/01/16	01:10:00	CTA / ATT	Same BIG4	40-45	F	> 20	Tax policy
Interview 21	F2	tax consultant	University	20/01/16	01:32:00	Inspector / HRMC	HRMC / BIG4 / Accounting / Consulting firm	50-55	M	> 30	VAT
Interview 22	B6	barrister	Tax chamber	22/01/16	01:14:00	Solicitor / bar / seat	Law firm	35-40	F	> 15	EU Law / Commercial tax litigation
Interview 23	G1	tax editor	Tax publisher	22/01/16	00:39:00	CTA / ATT	Tax lecturer / Tax publisher / Private Company	50-55	M	> 30	Tax learning
Interview 24	E3	tax director	Private Company / FTSE 100	22/01/16	01:03:00	ACA	Private company	50-55	M	>25-30	All tax
Interview 25	D2	tax judge	Tax Tribunal	29/01/16	00:42:00	Solicitor / judge / seat	HRMC / Law Firm	50-55	M	> 30	All tax

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Interview 26	C5	tax consultant	tp r	01/02/16	01:29:00	FCA / CTA	BIG4 / Small accountancy firm	45-50	F	> 25	All tax
Interview 27	E4	senior tax manager	Private Company / FTSE 100	01/02/16	00:58:00	CTA / ATT	HRMC / BIG4 / Private Company	40-45	M	> 20	indirect tax - Travel and technology
Interview 28	E5	head of tax group	Private Company / FTSE 100	05/02/16	00:54:00	Inspector / HRMC / ACA / CTA	HRMC / BIG4 / Private Company	56-61	M	> 36	International tax
Interview 29	B7	tax solicitor / partner	Law firm	05/02/16	00:57:00	Solicitor / seat	Law firm	50-55	M	> 30	Corporate tax
Interview 30	D3	tax SRM/ Inspector	HRMC	05/02/16	00:42:00	Inspector / HRMC	Civil service / HRMC	40-45	F	< 20	University / Tax administration
Interview 31	B8	tax solicitor / partner	Law firm	19/02/16	01:33:00	Solicitor / seat	Law firm / BIG4	33-38	M	> 10	Corporate / property / Investment tax
Interview 32	B9	barrister	Tax chamber	19/02/16	01:13:00	ACA / CTA / bar / seat	Law firm	45-50	M	> 25	International VAT tax
Interview 33	E6	head of tax	Private Company / FTSE 100	29/02/16	01:08:00	-	HRMC / BIG4 / Private Company	40-45	M	> 20	Tax corporate / real estate
Interview 34	E7	tax manager	Private Company / FTSE 100	29/02/16	01:02:00	CTA / Solicitor / seat / inspector HRMC	HRMC / BIG4 / Private Company	50-55	F	> 30	National insurance tax
Interview 35	A8	tax director	BIG4	04/03/16	00:54:00	ACA / bar / seat / CTA	Same BIG4	50-55	M	> 30	corporate tax
Interview 36	A9	tax technician	BIG4	04/03/16	00:25:00	-	Same BIG4	40-45	F		tax policy
Interview 37	A10	tax technician	BIG4	04/03/16	00:34:00	CTA + ACA / ACA	Same BIG4	40-45	M/F		tax policy
Interview 38	C6	tax consultant	tp	14/03/16	01:29:00	CTA / ATT / CII / CFP	BIG4 / Private Company	40-45	M	> 20	All tax
Interview 39	A11	retired less than 6 months ago	Previously BIG4	14/03/16 and 18/03/16	00:55:00	CTA / ACA	Same BIG4	40-45	M	> 20	Indirect tax

Interview 40	B10	tax solicitor / partner	Law firm	31/03/16	00:46:00	Solicitor / seat	Same law firm	35-40	M	> 15	Pension / Employment tax
Interview 41	G2	tax editor	Tax publisher	18/04/16	00:28:00	CTA / ACA	Private Company / Law firm / Trustee / Accountancy firm	35-40	M	> 15	All tax
Interview 42	B11	tax partner	Law firm	18/04/16	00:38:00	FCA/ CTA / ACA	HRMC / BIG4 / Private Company	50-55	F	> 30	Corporate / risk management

Appendix D: Coding to theory

(Source: Author's own data)

First-order concepts Focused Coding/ Category Development	Second-order concepts Axial/ Thematic coding	Third-order concepts Aggregate Theoretical Dimension Based on Foucault's Theory
narrative-Identity Role Identity Social Identity Collective Identity Distinct Identity Capabilities/ Competency Individual Reputation Business Reputation Self-Conceptualization of the Profession	Identity	Identity / Discourse
Sense of Pride Socialization Work Place Interaction Prestige Recognition Salaries/ Fees Reward/ Compensation Legitimacy High Calling/ Values in common	High/ Elite Status	
Ethic Conduct/ Behaviour Duties/ Obligations Client Protection/ Representation	Role / Responsibilities	Morality/ Ethics

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Public Interest		
Trust		
HMRC/ Client Relationship		
Discretion/ Secrecy		
Standard of Advisory Function		
Private Practice/ Firm	Autonomy	Ethics/Morality
Work Autonomy		
Professional Network		
Selective process		
Licensing/ Testing		
Representatives Association/ Institute		
Tradition of Service		
Peer Review		
Training/ Continuing Education	Knowledge	Knowledge and Power
Common Language		
Technical Expertise in the Law		
Abstract Skills		
Tax Planning/ Innovation		
Tacit Knowledge		
Related Discipline		
Cooperation/ Information Exchange		
Market and Business Acumen		
Domain/ Boundaries/ Jurisdiction	Control	Discipline and Punish
Organisation/ Internal Formal Power		
Performance		

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Statutory Regulation		Discipline and Punish	
Self-Regulation			
Liability/ Contract			
Subordination			
Social Order			Ethics/Morality
Power	Monopoly	Discipline and Punish	
Internal Competition			
External Competition			
Market Control			
Inter-Discipline Relation			
Influencing Policy Formation			
Claim of Domination			
Conflict/ External Forces			Knowledge and Power

Appendix E: Application for ethical review

Application for Ethical Review ERN_15-0896

Gemma Williams (Research Support Group)
En réponse au message de Marie Calderoni, 21/09/2015
A : Marie Calderoni; Penelope Tuck

Actions
mardi 22 septembre 2015 12:09

Dear Professor Tuck

**Re: "The characteristics of the Tax Profession"
Application for Ethical Review ERN_15-0896**

Thank you for your application for ethical review for the above project, which was reviewed by the Humanities and Social Sciences Ethical Review Committee.

On behalf of the Committee, I can confirm the conditions of approval for the study have been met and this study now has full ethical approval.

I would like to remind you that any substantive changes to the nature of the study as described in the Application for Ethical Review, and/or any adverse events occurring during the study should be promptly brought to the Committee's attention by the Principal Investigator and may necessitate further ethical review.

Please also ensure that the relevant requirements within the University's Code of Practice for Research and the information and guidance provided on the University's ethics webpages (available at <https://intranet.birmingham.ac.uk/finance/accounting/Research-Support-Group/Research-Ethics/Links-and-Resources.aspx>) are adhered to and referred to in any future applications for ethical review. It is now a requirement on the revised application form (<https://intranet.birmingham.ac.uk/finance/accounting/Research-Support-Group/Research-Ethics/Ethical-Review-Forms.aspx>) to confirm that this guidance has been consulted and is understood, and that it has been taken into account when completing your application for ethical review.

Please be aware that whilst Health and Safety (H&S) issues may be considered during the ethical review process, you are still required to follow the University's guidance on H&S and to ensure that H&S risk assessments have been carried out as appropriate. For further information about this, please contact your School H&S representative or the University's H&S Unit at healthandsafety@contacts.bham.ac.uk.

Thank you,

Gemma Williams
Deputy Research Ethics Officer
Research Support Group
The Dome (C block)
Aston Webb
Edgbaston, Birmingham
B15 2TT
Tel: [REDACTED]
Email: [REDACTED]
Web: www.birmingham.ac.uk/researchsupportgroup
