

## TAX ANALYSTS EXCLUSIVE

## Conversations: Mark Mendola

*Interviewed by Jeremiah Coder — jcoder@tax.org*



Mark Mendola is vice chair and U.S. tax leader of PricewaterhouseCoopers LLP (PwC U.S.). A member of the firm's U.S. leadership and global tax leadership teams, he is also responsible for PwC's network of tax practices in North and South America. Now based in New York, Mendola has spent most of his

career focusing on a wide range of multinational companies across industries, with particular focus on automotive, industrial, and retail and consumer products. Previously, he was managing partner of PwC U.S. tax. Before that, he served as senior tax leader of PwC Canada's tax practice and was based in Toronto. Mendola, a CPA, received his BA from Oakland University and his MBA from the University of Notre Dame.

Mendola recently spoke with Tax Analysts contributing editor Jeremiah Coder on tax uncertainty, accounting firm services, and future tax policy.

**Tax Analysts:** How is the uncertain tax environment affecting your clients?

**Mark Mendola:** The uncertainty makes everything our clients do a little more challenging. The legislative uncertainty makes it harder to plan for anything more than the short term. There also has been activity on the administrative front and in the courts adding to the uncertainty, some of which may have broad ramifications on a current basis because it affects the confidence our clients have in preparing financial statements and filing tax returns.

**TA:** The IRS has rolled out a variety of alternative dispute resolution tools over the past several years. Are they helping your clients?

**Mendola:** Definitely. For example, a number of our clients are in the compliance assurance process program — the IRS's real-time audit program — and several others have been invited into CAP maintenance after establishing a positive relationship with the IRS through participation in CAP. CAP helps clients achieve the certainty they desire

for financial statement purposes. And as clients transition into CAP maintenance, they benefit from significantly reduced resource demands.

Numerous other clients have taken advantage of prefilling agreements and private letter rulings to avoid protracted and costly audits.

Advance pricing agreements have been around for a while, but they're immensely useful in getting to agreement and certainty on transfer pricing issues. Our clients have also used fast-track appeals and post-appeals mediation to resolve issues and avoid litigation.

Industry issue resolutions have also helped our clients achieve certainty on industrywide issues and avoid repetitive and time-consuming audits.

These and other tools are helping our clients achieve certainty, accelerate resolution of issues, and avoid the need for costly litigation.

**TA:** You spent several years focused on the automotive industry. What do you think Congress needs to understand about our nation's manufacturing sector when it comes to tax policies?

**Mendola:** Given my family roots in Pittsburgh and Detroit, I am naturally biased toward the manufacturing and automotive sector. A strong, robust manufacturing sector is a critical component to this country's economic success. U.S.-based manufacturers make long-term strategic decisions on where to invest capital across the globe to effectively compete in the global economy. Investment of capital brings new manufacturing facilities and jobs. Manufacturers consider many factors, including the location of the supply of talent and customer base, economic incentives, and yes, tax implications, in determining where to invest. For U.S.-based manufacturers to effectively compete, they need to operate in a competitive tax environment that provides incentives for investment and use of capital, both globally and in the U.S. Clearly, it is time for tax reform to make this happen.

**TA:** The IRS has said it intends to put more resources into increasing audit coverage for middle-market companies, including flow-through entities. What challenges will that create for your clients' tax departments?

**Mendola:** The tax departments of many of our middle-market clients are leanly staffed, and IRS audits put a significant strain on resources. It is important for those clients to manage their audits strategically and efficiently — to develop a collaborative relationship with their IRS auditors, limit the scope of the audits, agree on the terms for responding to [information] document requests [IDRs], and proactively manage the IDR response process.

For middle-market companies that are passthrough entities, these audits can also present

specific challenges as a result of the intricate TEFRA [1982 Tax Equity and Fiscal Responsibility Act] audit rules.

**TA:** With corporate tax departments shrinking, have the services offered by accounting firms to their corporate clients changed in response?

**Mendola:** Yes. In recognition that tax departments are being asked to do more with less in an increasingly complex and demanding environment, accounting firms have responded by adding a focus on tax operations, in addition to traditional tax technical services, to their portfolio of service offerings.

PwC tax's operational focus includes advising our clients on specific aspects of the tax function, including people, process, and technology. Our clients may seek assistance in all three areas, but opportunities to help clients create efficiency through technology have grown exponentially. Better leveraging of [enterprise resource planning] systems, automation, recycling of data, and integration of tax systems are just a few examples. To get there, accounting firms — including PwC — are engaging in third-party alliances to facilitate the creation and improvement of enabling technology.

Accounting firms like mine are also taking this opportunity to revisit some of their own operations and technology to more efficiently deliver traditional tax reporting and consulting services.

**TA:** How is the shrinking of tax departments affecting hiring at public accounting firms such as yours?

**Mendola:** Tax professionals are in high demand today, despite the fact that some corporations are shrinking their tax departments. Given the fluid environment and cost constraints within many tax departments, we expect the need for talented tax professionals within public accounting to continue to grow, particularly as companies outsource or co-source work to firms like PwC.

Our clients operate in a business environment that is becoming more complex and globally focused every day. As a result, our clients require U.S. and global strategic advice on both tax compliance and planning to help them achieve their business objectives, and we have the talent to respond to those needs. We have opportunities for qualified candidates at both the entry and experienced levels.

**TA:** The IRS has recently pushed for greater transparency through corporate governance initiatives and taxpayer disclosures. How are these efforts changing the tax practice?

**Mendola:** There is no question that tax risk is front and center in C-suite and audit committee discussions to a degree it has not been in the past. For example, income taxes are often the most material items of potential adjustment on financial

statements. Tax positions are increasingly transparent due to compliance with SEC and the PCAOB [Public Company Accounting Oversight Board] financial reporting requirements and tax reporting requirements, such as the uncertain tax position schedule.

As a result, the role of the tax director has taken on increasing importance. The tax director must strike a balance between transparency in financial statements and tax reporting on the one hand, and the preservation of confidential tax positions on the other hand. The dilemma can be very challenging for tax directors.

**TA:** How will expanded government oversight of tax return preparation affect traditional Circular 230 practitioners in accounting firms?

**Mendola:** Our perspective is that PwC's long-standing practices and controls around income tax return preparation have been aligned with the recommendations contained in the IRS's 2009 return preparer review, which, as your readers know, is the IRS study that served as the catalyst for the current oversight regime. For example, in our firm, signers of tax returns are generally at the manager level or above and are credentialed as CPAs, attorneys, or enrolled agents.

So the new oversight regime has relatively little substantive impact on our practice. However, this regulatory oversight does impose additional costs and administrative burdens, such as the \$64 [preparer tax identification number] requirement.

Notwithstanding these additional costs and administrative burdens, we fully support the government's efforts to improve the overall quality of tax return preparation through improved oversight.

**TA:** Are there tax system administration initiatives you would like to see the IRS pursue or devote more resources to?

**Mendola:** I would say there are three that come to mind. First, improved risk assessment and focusing of resources on truly high-risk areas. Second, enhanced ability to use data collected from taxpayers effectively. Third, more published guidance to reduce uncertainty for both agents and taxpayers.

**TA:** Given the serious need to address fundamental tax reform, what is the best way to motivate Congress and the [Obama] administration to tackle it head-on?

**Mendola:** There appears to be bipartisan agreement that the tax code should be reformed and that doing so would have a positive effect on economic growth. My hope is that Congress and the administration will focus on the benefit of corporate reform to the economy as a whole and put aside efforts to gain an advantage, so that they can reach agreement on difficult issues. Groups have come

together to support the base broadening that is the most controversial part of tax reform. They acknowledge that the base broadening may be painful, but they are willing to take the pain for the greater good. If we see more of that, perhaps it will encourage Congress and the administration to move ahead.

**TA:** Where will the tax system be in five years? Where do you think it should be?

**Mendola:** As the IRS continues to keep pace with technological advances, such as its requirement for most large corporations to use e-filing, I would expect the federal tax system to be more efficient than it is now. But that will also require that the IRS continue to have an adequately staffed and properly trained workforce.

The elephant in the room is tax reform. The Internal Revenue Code is extraordinarily complex and growing more complex with every Congress. Complexity causes uncertainty, and uncertainty leads to noncompliance by taxpayers, as well as the inability of the IRS to administer the tax laws. This adds to a tax gap that this country can no longer afford. As we know, tax reform will come about only if Congress and the administration work together for a common goal.

**TA:** What do you consider the biggest development in tax practice over the past 10 years?

**Mendola:** I believe it is the significantly increased level of transparency of corporate taxpayers' tax positions, in both the financial reporting and tax reporting contexts.

In terms of financial reporting, companies now have real-time discussions of their tax positions with their auditing firms and share privileged tax advice. The PCAOB drills down on the underlying

evidence that supports the judgments, estimates, and assertions of management. Legislators are considering whether to extend country-by-country reporting from extractive industries to all industries.

In terms of tax reporting, we have an unprecedented level of documentation and disclosure requirements, both in the U.S. and abroad. The UTP schedule now provides the IRS a potential roadmap to a company's most sensitive tax positions. The IRS and other tax authorities around the world now share information on a real-time basis through forums such as the Joint International Tax Shelter Information Centre, which heightens the need for companies to be consistent on a global basis and manage their relationships with these tax authorities.

**TA:** What would you be doing now if you hadn't chosen a career in tax?

**Mendola:** That is a difficult question, as I was always interested in finance, accounting, and tax in my high school and college years. I have been with PwC since 1986, and I can't imagine not working in the profession. However, I do sometimes think if I could learn to putt, I could make the PGA Tour!

**TA:** If you could be IRS commissioner for a day, what one action would you take in tax system administration?

**Mendola:** While I honestly believe there is nothing that can be accomplished in a single day at the IRS, if I had just one day I would work on a mission statement that focuses on the fact that the IRS is the only face of the federal government many people ever see. So it is crucial that their actions inspire confidence in the public they serve. That means it's the IRS's responsibility to get it right — even when that yields a result that doesn't favor Treasury. ■