

Property Tax Consultants Laws, Rules and Ethics

Ethics

Definitions:

Ethics (from the Ancient Greek "*ethikos*", meaning "arising from habit") is one of the major branches of philosophy, one that covers the analysis and employment of concepts such as right, wrong, good, evil, and responsibility. It is divided into three primary areas: *meta-ethics* (the study of what ethicality is), *normative ethics* (the study of what ethical truths there are and how they are known), and *applied ethics* (the study of the use of ethical knowledge).

Meta-ethics is the investigation into the nature of ethical concepts and propositions. It involves such questions as: are ethical claims truth-apt (i.e. capable of being true or false), or are they expressions of emotion, "implicit" imperatives, or something else? If they are truth-apt, are they ever true? If they are ever true, what is the nature of the facts that they express? And are they ever true absolutely or always only relative to some individual, society, or culture?

Ethical propositions and truth-aptitude

One of the fundamental debates in ethics is between cognitivists and non-cognitivists. Their debate is over the truth-aptitude of ethical propositions. Ethical propositions are those used to either positively or negatively morally evaluate something. Concepts of value, e.g. good and evil, or concepts of deontic modality, e.g. obligation ("should/ought") and prohibition ("should not/ought not"), or similar concepts of other kinds (e.g. fairness and unfairness), are typically components of ethical propositions. Here are some examples:

- "Sally is a good person."
- "People should not steal."
- "The Simpson verdict was unjust."
- "Honesty is a virtue."
- "One ought not to break the law."
- "He deserved what he got."

In contrast, a non-ethical proposition does *not* serve to morally evaluate something. Examples would (ostensibly) include:

- "Sally is my friend."
- "Someone took the stereo out of my car."
- "O.J. Simpson was acquitted at his trial."
- "Many people are honest."
- "I dislike it when people break the law."
- "He did things that were disapproved of."

(It is important to note that non-cognitivists may disagree with the categorization of the last two propositions as non-ethical, as one non-cognitivist position is that ethical propositions are nothing more than coded expressions of approval or disapproval.)

Normative ethics

Normative ethics bridges the gap between meta-ethics and applied ethics. It is the attempt to arrive at practical moral standards that tell us right from wrong, or good from bad, and how to live moral lives. This may involve articulating the good habits that we should acquire, the duties that we should follow, or the consequences of our behavior on ourselves and others. The consequences of our behavior on ourselves and others would be determined by the goods or bads created by our behavior and the intrinsic good (i.e., the good in itself) of some of our actions.

Three types of ethicists include:

1. Virtue ethicists. This approach emphasizes character, rather than rules or consequences. Morality comes as a result of intrinsic virtues.
2. Deontological ethicists. This approach holds that acts are inherently good or evil, regardless of the consequences of the acts. It is sometimes described as “duty-based” ethics because ethics bind you to duty. Which rules to follow is often a point of contention and criticism in deontological ethics.
3. Utilitarians or consequentialists. A consequence includes the intrinsic good, or good in itself, of an action. Consequentialism bases the morality of an action upon the consequences of the outcome.

Applied ethics

Applied ethics is a discipline of philosophy that attempts to apply 'theoretical' ethics, to real world dilemmas. Topics falling within the discipline include medical ethics, legal ethics, environmental ethics, computer ethics, corporate social responsibility, or business ethics. Many considerations of applied ethics also come into play in human rights discussions.

In applying ethics philosophy to solve actual dilemmas, it illuminates the potential for disagreement over what and how theories and principles should be applied. Strict, principle-based ethical approaches often result in solutions to specific problems that are not universally acceptable. Drawing on medical ethics for an example, a strict deontological approach would never permit the deception of a patient about their condition, whereas a utilitarian approach would involve consideration of the consequences of so doing, and might permit lying to a patient if the result of the deception was 'good'. The example demonstrates that a deontologist can derive a different solution to a dilemma than a utilitarian.

One modern approach which attempts to overcome the seemingly impossible divide between deontology and utilitarianism is case-based reasoning, also known as casuistry. Casuistry does not begin with theory; rather it starts with the immediate facts of a particular case. Instead of starting from theory and applying theory to a particular case, casuists start with the particular case itself and then ask what morally significant features (including both theory and practical considerations) ought to be considered for that particular case. In their observations of medical ethics committees, researchers note that a consensus on particularly problematic moral cases often emerges when participants focus on the facts of the case, rather than on ideology or theory. Thus, a Rabbi, a Catholic priest, and an agnostic might agree that, in this particular case, the best approach is to withhold extraordinary medical care, while disagreeing on the reasons that support their individual positions. By focusing on cases and not on theory, those engaged in moral debate increase the possibility of agreement.

Business Ethics

Business ethics is a form of applied ethics that examines ethical rules and principles within a commercial context; the various moral or ethical problems that can arise in a business setting; and any special duties or obligations that apply to persons who are engaged in commerce. Generally speaking, business ethics is a normative discipline, whereby particular ethical standards are advocated and then applied. It makes specific judgments about what is right or wrong, which is to say, it makes claims about what *ought* to be done or what *ought not* to be done. While there are some exceptions, business ethicists are usually less concerned with the foundations of ethics.

Code of Professional Responsibility

In the context of a code adopted by a profession or by a governmental or quasi-governmental organ to regulate that profession, an **ethical code** may be styled as a code of professional responsibility, which may dispense with difficult issues of what behavior is "ethical".

Some **codes of ethics** are often promulgated by the (quasi-)governmental agency responsible for licensing a profession. Violations of these codes may be subject to administrative (e.g., loss of license), civil or penal remedies. Other codes can be enforced by the promulgating organization alone; violations of these codes are usually limited to loss of membership in the organization. Other codes are merely advisory and there are no prescribed remedies for violations or even procedures for determining whether a violation even occurred.

A code of ethics is often a formal statement of the organization's values on certain ethical and social issues. Some set out general principles about an organization's beliefs on matters such as quality, employees or the environment. Others set out the procedures to be used in specific

ethical situations - such as conflicts of interest or the acceptance of gifts, and delineate the procedures to determine whether a violation of the code of ethics occurred and, if so, what remedies should be imposed. The effectiveness of such codes of ethics depends on the extent to which management supports them with sanctions and rewards. Violations of a private organization's code of ethics usually can subject the violator to the organization's remedies (in an employment context, this can mean termination of employment; in a membership context, this can mean expulsion). Of course, certain acts that constitute a violation of a code of ethics may also violate a law or regulation and can be punished by the appropriate governmental organ.

Ethical codes are distinct from moral codes that may apply to the culture, education, and religion of a whole society.

Law

Law is the set of rules or norms of conduct which forbid permit or mandate specified actions and relationships among people and organizations. The authority upon which Law is typically administered through a system of courts in which judges (sometimes with the aid of a jury or lay magistrate) hear disputes between parties, and apply a set of rules in order to provide an outcome that is just and fair. The substantive and procedural laws, and the manner in which laws are administered, are collectively known as a **legal system**, which typically has developed through tradition in each country.

Most countries rely upon the police to enforce the law. Police officers most often must be professionally trained in law enforcement before they are permitted to act under the color of law, to issue legal warnings and citations, execute search or other legal warrants and to make arrests.

Legal practitioners, most often, must be professionally trained in the law before they are permitted to advocate for a party in a court of law, draft legal documents, or give legal advice.

Business Law

Commercial law or **business law** is the body of law which governs business and commerce and is often considered to be a branch of civil law and deals both with issues of private law and public law. Commercial law regulates corporate contracts, hiring practices, and the manufacture and sales of consumer goods. Many countries have adopted civil codes which contain comprehensive statements of their commercial law. In the United States, commercial law is the province of both the Congress under its power to regulate interstate commerce, and the states under their police power. Efforts have been made to create a unified body of commercial law in the US: the most successful of these attempts has resulted in the general adoption of the Uniform Commercial Code.

Various regulatory schemes control how commerce is conducted, privacy laws, safety laws (i.e. OSHA in the United States) food and drug laws are some examples.

Texas Government and Agencies

The **Texas Comptroller of Public Accounts** is the chief fiscal officer for the State. The Texas Constitution gives the Comptroller the responsibility of estimating available revenue for the state and also supervises the state's fiscal concerns and manages them. The Comptroller collects taxes and fees owed to the state of Texas.

Other responsibilities of the Comptroller's office include:

- Collecting money due to the state, and watching over the way the dollars are spent to assure a pay-as-you-go no deficit spending budget.
- In accordance with Article III of the Texas Constitution, estimates revenue for Texas' biennale budget and projects the rate of economic growth and activity.
- Administers more than 30 state taxes and processes an estimated 3.8 million tax returns annually.
- Remits local sales taxes on behalf of more than a thousand city and county governments and collects the majority of taxes due the state.
- Administers state dollars. One of the agency's many responsibilities is to handle payroll for all state agencies. In addition, the agency pays every bill submitted to the state.
- Tracks almost 6500 state funds and accounts.
- Manages the state's Rainy Day Fund.
- Maintains audit and enforcement offices throughout Texas and an active Web site.
- Operates a dozen toll-free phone lines collectively handling an average of 475 calls every hour.
- Puts a price tag on most pieces of legislation.
- Prepares the annual property value study that helps determine the amount of state aid for local school districts.
- Reunites owners of unclaimed property with their assets while serving as the state's centralized clearinghouse.
- Serves as a resource for the state's annual Sales Tax Holiday.
- Operates the State Energy Conservation Office (SECO).

Texas Department of Licensing and Regulation

The **Texas Department of Licensing and Regulation (TDLR)** is the state's umbrella occupational regulatory agency, responsible for the regulation of 22 occupations and industries. The regulated industries are diverse, ranging from boxing to electricians, from elevators to auctioneers. TDLR is governed by a seven member commission whose members are appointed by the Governor. To prohibit even the appearance of conflicts of interest, no commissioner may have a financial interest in any of the regulated programs.

TDLR's Vision

The TDLR vision is to be the model state agency, setting the standard for innovation, customer service, cost effectiveness, staff efficiency and public trust.

TDLR's Mission

The mission of the Texas Department of Licensing and Regulation is to honor the public trust, ensure the public's safety and foster a fair and efficient regulatory environment.

TDLR's Philosophy

TDLR are stewards of the public trust they regulate in a firm, fair and consistent manner; ensure strategic and efficient use of public resources; provide the highest level of customer service; inform and educate consumers and licensees; grow leaders that embody a culture of change and innovation; and recognize the dignity and worth of our employees and the citizens of Texas.

Appraisal Review Board

An appraisal district board of directors appoints the Appraisal Review Board (ARB) members by selecting citizens from the community. The appraisal district board also hires the chief appraiser and sets the budget. The directors have no authority to set values or appraisal methods. The chief appraiser carries out the appraisal district's legal duties, hires the staff, appraises property and operates the appraisal office.

The ARB is the administrative review arm of the property tax system and a quasi-judicial entity responsible for resolving disputes between property owners and appraisal districts. The ARB is a separate body from the appraisal office and serves a different function. It hears and resolves protests over appraisal matters. This is a very broad and important responsibility, but the ARB must be sensitive to its legal and practical limits.

First, the ARB only has authority over protests submitted to it. The ARB has no role in the day-to-day operations of the appraisal office or in appraising property. Except where it is deciding a taxpayer protest, taxing unit challenge or a correction motion, the ARB has no authority to change a value or correct the appraisal records directly. In a challenge, it must order the chief appraiser to reappraise or correct the records related to the challenge. Only in resolving taxpayer protests can the ARB make changes or set a value on its own. Such a change only affects the property in question.

To serve on the ARB a citizen must have lived in the appraisal district for at least two years. No special qualifications are required but you may not serve on the board if you :

- Are a current appraisal district director
- A current employee or chief appraiser of the appraisal district

- A current board member, employee or officer of a taxing unit served by the appraisal district; or
- A current employee of the Comptroller of Public Accounts

Property Tax Consultants Advisory Council

The **Property Tax Consultants Advisory Council** is appointed by the presiding officer of the commission, with the commission's approval. The members serve until reappointed or replaced and are authorized by Occupations Code, Chapter 1152.

The council shall recommend to the commission standards of practice, conduct, and ethics for registrants to be adopted; setting fees; contents for the senior property tax consultant registration examination and standards of acceptable performance; and assist and advise the commission in recognizing continuing education programs and educational courses for registrants, and in establishing educational requirements for initial applicants. The Council is composed of six members, appointed by the presiding officer of the commission, with the commission's approval.

Each person appointed for membership on the council must:

- be a registered senior property tax consultant;
- be a member of a nonprofit, voluntary trade association:
 - whose membership consists primarily of persons who perform property tax consulting services in this state or who engage in property tax management in this state for other persons;
 - that has written experience and examination requirements for membership; and
 - that subscribes to a code of professional conduct or ethics;

- be a resident of this state for the five years preceding the date of the appointment; and
- have performed or supervised the performance of property tax consulting services as the person's primary occupation continuously for the five years preceding the date of the appointment.

A person is not eligible for appointment as a member of the council if the individual is:

- required to register with the secretary of state under Chapter 305, Government Code;
- required to register with the Board of Tax Professional Examiners under Chapter 1151; or
- exempt from the registration requirements imposed by this chapter, except as provided by Section 1152.102.

The presiding officer of the commission, with the commission's approval, shall appoint a member of the council to serve as presiding officer of the council for two years. Members of the council serve staggered three-year terms, with the terms of two members expiring on February 1 of each year. The council shall meet at least semiannually at the call of the presiding officer or at the call of a majority of its members. A council member is not entitled to receive compensation for serving as a member. A council member is entitled to reimbursement for reasonable expenses incurred in performing duties as a member, subject to applicable limitations in the General Appropriations Act.

Licensing

Licensing or Licensure refers to the granting of a license (in the US, whilst, elsewhere the term **registration** is used), usually to work in a particular profession. Many professions require a license from the government (generally the state government) in order to ensure that the public

will not be harmed by the incompetence of the practitioners. Doctors, nurses, lawyers, psychologists, and public accountants are some examples of professions that require licensure.

People become licensed through training and/or passing an exam. In many cases, an individual must complete certain steps, such as the completion of an educational degree in a particular area of study, before becoming eligible to attempt licensure. Individuals sometimes advertise their licensed status by appending an acronym to their name: Jane Doe, CPA.

Licensure may be perpetual or may need to be renewed periodically. It is very common for renewal to depend in part or whole upon evidence of continual learning--often termed in the US continuing education or earning continuing education units (CEU).

Licenses are generally offered within jurisdictions which are usually a state or territory. This creates interesting problems. Jurisdictions may have wildly varying requirements for attempting or achieving a license. For some licensees, it is hard or impossible to move their practice to a new jurisdiction and obtain licensure in the new jurisdiction. And there are questions of jurisdiction: If a doctor provides medical advice over the Internet to an individual in another jurisdiction, is she practicing licensed medicine in her jurisdiction or unlicensed medicine in the patient's jurisdiction?

Licensure is similar to professional certification, and sometimes synonymous, but generally, certification is not mandatory to be able to legally practice the profession.

Two Classes of Property Tax Consultants

The Texas Department of Licensing and Regulation places any person who performs or supervises others in the performance of property tax consulting services for compensation in one of two distinct classes: **Real Estate Property Tax Consultant** or **Senior Property Tax Consultant**.

Real Estate Property Tax Consultant

A Real Estate Property Tax Consultant must be at least 18 years of age, hold a high school diploma or equivalent credential, complete the **Application for Registration**, furnish evidence of 15 hours of continuing education, (4 of which must be legal), provide proof of employment by or business association with a Senior Property Tax Consultant and the registration fee.

You may also be eligible if you hold an active real estate broker license or an active real estate salesperson license under Chapter 1101; or an active real estate appraiser license or certificate under Chapter 1103.

Senior Property Tax Consultant

You must be at least 18 years of age, hold a high school diploma or equivalent credential, complete the Application for Registration, indicate proof of the required experience (letter or resume), furnish evidence of 15 hours of continuing education, (4 of which must be legal), and show proof of at least 25 credits, take the Department examination or hold a CMI (Certified Member of the Institute conferred by the Institute of Property Taxation or another designation recognized by the department) and pay the registration fee.

Rules of Conduct

The rules of conduct for Licensed Property Tax Consultants are part of the Texas Administrative Code, Chapter **66.100. Code of Ethics and Professional Responsibility**. (*Amended effective February 1, 2006, 31 TexReg 487*)

The rules are as follows:

- (a) A registrant shall not participate, whether individually, or in concert with others, in any plan, scheme, or arrangement attempting or having as its purpose the evasion of any provision of the Act or commission rule.
- (b) A registrant shall not directly or indirectly or in any manner whatsoever lend his/her registration or identification to any person, firm or corporation for the purpose of evading any provision of the Act or commission rule.
- (c) A registrant shall exercise reasonable care and diligence to prevent persons under his/her supervision from engaging in conduct which would violate any provision of the Act or commission rule.
- (d) A registrant shall not engage in any activity that constitutes dishonesty, fraud, or gross incompetence while performing property tax consulting services.
- (e) A registrant shall promptly report to the department any known violation of the Act or commission rule.
- (f) A registrant shall cooperate fully with the department in the investigation of an alleged violation of the Act or commission rule.

- (g) A registrant shall not offer or promise anything of value with the intent of inducing a person who is performing a public duty to perform or fail to perform any act related to such public duty.
- (h) A registrant shall not contract for or accept compensation or anything of value for services not performed.
- (i) A registrant shall not knowingly or intentionally engage in any false or misleading conduct or advertising with respect to client solicitation.
- (j) A registrant shall not knowingly furnish inaccurate, deceitful, or misleading information to a client or employer, a prospective client or employer, or a public agency or representative of a public agency.
- (k) A registrant shall not reveal information known to be confidential unless the release of such information is authorized by the source or required by law.
- (l) A registrant shall not state or imply that the registrant represents a person or firm that the registrant does not in fact represent.
- (m) A registrant shall not solicit or advertise property tax consulting services by claiming a specific result or stating a conclusion regarding such services without prior analysis of the facts and circumstances pertaining thereto.

Penalties and Enforcement

The Texas Commission of Licensing and Regulation may impose administrative sanctions or penalties and as provided by **Property Tax Consultants Occupation Code Subchapter F. Penalties and Enforcement § 1152.251 Disciplinary Power of Commission.**

After a hearing, the commission may deny a certificate of registration and may impose an administrative sanction or penalty and seek injunctive relief and a civil penalty against a registrant for:

- (1) a violation of this chapter or a rule applicable to the registrant adopted by the commission under this chapter;
- (2) gross incompetency in the performance of property tax consulting services;
- (3) dishonesty or fraud committed while performing property tax consulting services; or
- (4) a violation of the standards of ethics adopted by the commission.

§ 1152.252. Criminal Penalties

A person required to be registered under this chapter commits an offense if the person:

- is not registered under this chapter; and
- performs or offers to perform property tax consulting services for compensation.

A person commits an offense if the person:

- knows that a person required to be registered under this chapter is not registered; and

- represents that the person required to be registered is a property tax consultant, agent, counselor, advisor, or representative.

An offense under this section is a Class B misdemeanor.

Some Services offered by Registered Property Tax Consultants

- Appeals to Appraisal Review Boards
- Property tax assessment analysis
- Compliance Services
- Aid in seeking refunds for overpayments
- Homestead and Agriculture Exemptions

Ethical standards and rules of conduct are developed in order for professionals to carry out their work in a principled manner. For Property Tax consultants this includes:

- Promoting conduct consistent with Texas Occupations Code
- Subscribing to a code of integrity in activities of a Property Tax Consultant
- Being cognizant of Violations and embracing reporting requirements
- Accepting compensation for work performed and nothing more
- Maintaining integrity in advertising and representations
- Assuring accuracy of information

In so doing, professionals will earn and maintain the confidence and respect of colleagues, clients and the general public.

Definitions:

Confidential – private secret information. Confidentiality also refers to an ethical principle associated with several professions (e.g., medicine, law, religion, journalism...). In ethics, and (in some places) in law, some types of communication between a person and one of these professionals are "privileged" and may not be discussed or divulged to third parties. In those jurisdictions in which the law makes provision for such confidentiality, there are usually penalties for its violation.

Deception - is to intentionally distort the truth in order to mislead others.

Devious - not straightforward; shifty or crooked.

Diligence - consciousness or determination when doing something.

Dishonesty – lack of honesty, a disposition to lie, cheat or steal, fraud.

Evasion - an act or instance of violating the tax laws by failing or refusing to pay all or part of one's taxes.

Incompetence - the quality or condition of being incompetent; lack of ability. Not able to perform or without competence.

Misleading – to lead or guide wrongly, to lead astray. To be misleading, tend to deceive.

Relationship – connection or association, the condition of being related.

Representation - to stand in the place of; to supply the place, perform the duties, exercise the rights, or receive the share, of; to speak and act with authority in behalf of; to act the part of

(another); as, an heir represents his ancestor; an attorney represents his client in court; a member of Congress represents his district in Congress.

Responsibility - a duty, obligation or liability for which someone is responsible or accountable.

Scheme - a systematic plan of future action. A plot or secret, devious plan.

Solicitation - to persistently endeavor to obtain an object, or bring about an event. To persuade or incite one to commit some act.