

On Tax—David Ware of Bausch + Lomb

Len Teti: Welcome to On Tax—A Cravath Podcast. I'm Len Teti, a partner in the Tax Department of Cravath, Swaine & Moore, a premier U.S. law firm based in New York City.

On each episode of On Tax, I talk to professionals in the Cravath network about their life and work in the world of tax. We focus on the human side of tax law, highlighting the people, connections and stories that make the space such a fascinating and dynamic area of practice. I hope you enjoy this episode.

Today, we're joined by David Ware. David is the Vice President of Tax at Bausch + Lomb. David, welcome to the podcast. Thanks for joining us.

David Ware: Thank you very much, Len. Happy to be here.

Len: It's great to see you, David. You and I met when I was a summer associate. You were already a pretty senior associate at Cravath, which I'm sure we'll get to as we cover this.

And you helped sort of shape my early years at Cravath. So, I'd be eager to hear your perspective on that. But tell us: How do we have to chart your course into the tax law? Where do we start?

David: It goes back a long way. I was interested in accounting from a fairly early age. My dad was an accountant, so it runs in the family. As I got into college, accounting was something I had my eye on. Took one of my first accounting classes, introduction to accounting, and had a very dynamic professor.

And then, I had my first tax class in accounting. This is in the master's program—Professor Streuling, who was just, again, very dynamic, really brought tax to life, and really got me energized as to, "This is my career; this is what I want to do."

So, I got through the master's of accounting program, took the CPA exam, and then was working for the local accounting firm doing mostly tax compliance. But what got my interest was more of the planning part of it—the structuring, business structure, business planning.

And I thought to myself, "If I'm going to do this, I kind of want to go all in." And so, I set my sights on law school and picked a couple of law schools that had good tax programs and got into that. Went to the University of Illinois, which was a fantastic program for me. Met the tax professors, was a research assistant and a teaching assistant for tax. So, it was kind of all in on tax early on.

Len: Let's stop here one second, because one of the things I have observed with our podcast is, some people come to the tax law from the legal side through law school, kind of by accident without expecting tax. That's my path. Other people come to tax law with some background in finance or financial concepts, or commercial concepts and they sort of gravitate towards tax. And then, other people come to it the way you did, which is through financial accounting, studying accounting in school, starting as a CPA.

David: I got the CPA certification taken care of, and then didn't really use accounting at all for the next 20 years of my career. At Cravath, accounting wasn't a big deal. Even as I got into going in-house, I was always kind of on the planning side of things, on the strategy, on the M&A side of things.

So, didn't really hit accounting until I got to this position where—as the head of tax of a publicly traded company—tax accounting is the biggest part of the job, the most important part of the job, really. And so, as I've been here for the last year and a half, really had to reengage in the old accounting knowledge that I had and kind of relearn it, so to speak.

So, as I look back on my career, coming into tax with an accounting background is very helpful, especially if you want to get into public head-of-tax type job or a public-tax-provision type job, it's absolutely critical. But I also want to stress that you don't have to come into this through accounting; it is just the ability to be curious about things, to pick up a diverse knowledge base.

Because as I look back, when I started at Cravath, I really had no idea what a tax lawyer did. And so, it was kind of learn as I go. And I probably didn't appreciate all that a tax lawyer or a tax associate at Cravath was supposed to do until I got in-house, and I saw it from the other side.

And that's when I looked back and I was like, "Oh, I probably could have done this a little bit better had I started with this concept of what a tax lawyer should be doing." And that is, learning the business of your client: What do they do? What's important to them? What keeps them up at night? What's their burning issues? Again, sometimes what you're doing as a tax lawyer doesn't lend itself to that. If you're just negotiating a credit agreement, maybe it doesn't matter.

But if you really want to build a key relationship with a client—it's knowing what they do, knowing what's important to them, and to be curious about what it is that they're doing. Because the best advisors I have—they know before I have to talk to them kind of what's important to me.

Len: I want to come back to some of these themes a little bit later, and I might even come back and ask you what keeps you up at night since you just raised that as a question. So, let's go back. So, now, you've chosen the University of Illinois for law school. And you know you're going to be taking tax classes; you're sort of setting yourself on that path. So, in law school was studying tax what you had expected?

David: I found the tax classes there to be—I wouldn't say easy, but I definitely had an advantage over most of the other students, given that I'd been through the master's of accounting program.

And, again, tax law versus tax accounting: Tax accounting I think was much more practical. You actually work through scenarios, and you have to figure out how to book for tax, which really gave me a leg up as I was very, very familiar with the concepts, and tax law seemed to be more concerned about concepts and principles.

Len: So, at what point did you think that you wanted to apply in New York? What were the options that you were considering in terms of big city jobs, other opportunities, and at what point did you get turned on to firms like Cravath and applying?

David: I was thinking one of two things. Did I want to do transactional law, tax law, or did I want to go more into the policy/tax controversy type area? And so, my second summer, I spent at Miller & Chevalier in Washington, D.C., doing mostly that—controversy/policy type work. I had actually turned down Cravath for that second-year summer.

Len: Really?

David: Yeah.

Len: I don't think I've heard this story before.

David: Because going to D.C. at that time seemed like the better option for me. Because I was kind of looking at the policy side of things and the controversy side of things.

But I got a federal clerkship on the Court of Appeals for the Eighth Circuit up in Minneapolis. So, because of that, I had a third summer that I could try another law firm. And so, I called Cravath back, and Lew Steinberg was the partner that I had been working with at the time for the second summer.

He'd been recruiting me. So, I said: "Hey, I have a third summer. I'd love to come up to Cravath and try that." And he was, to his credit, was very gracious and said, "Yeah, come on in." And so, I got to go back to Cravath and try that out, and really enjoyed it.

During my clerkship, I was looking at D.C. versus New York, Cravath. And really what sold me is, when I interviewed with associates in Washington, D.C., I said, "Well, what do you do on a deal?" And it always seemed to be, "Well, I research questions; I write memos, and I assist in that regard."

When I asked associates at Cravath, “What do you do on a deal? And what’s your role?” They were like, “What do you mean? We do the deal.” Hundred percent, they were the ones running the deal. They were negotiating the deal.

And so, to me that was, number one, scary. But, number two, very challenging, which I really liked. I wanted to be thrown in and be challenged in that regard. And so, that helped to cement my decision to come to Cravath.

Len: So, I’m struck by this sense you got, even as a summer associate. And by asking others about what they did, which is a great question to ask people. “What are you working on today?” Or, “What kind of role are you serving?” But I’m struck by the way you perceived that Cravath would invest in you, give you an opportunity to, at a very sort of junior position, do tasks that other places don’t allow junior lawyers to do. It is still the way we train and teach our associates, but it is very unusual.

What do you remember about the first—I don’t know—first couple of times you were on the phone as a first- or second-year associate, either with a client or a partner from another firm? Do you remember how you felt?

David: Oh, absolutely. You very quickly had to become the expert in something. And that often meant going to one of the senior associates at the time—which by senior associates, I mean, in Cravath standards, was like a third year. I don’t want to set this up as like this is just totally random and not controlled at all.

As you remember, you kind of start, you cut your teeth with credit agreements and basic agreements, and then you kind of work your way up to syndicated loans, and then M&A deals. And so, you kind of grow into the role.

But I do remember distinctly, I was working with Will Dixon, who I count as one of my mentors. He was probably a fifth- or sixth-year at the time when I started. I really looked up to him, not only literally.

Len: As we all do.

David: Yeah, as we all do. But he seemed to really know how this worked and how to really succeed in the tax world. He was smarter than I ever thought I would be in tax. He still is.

But I remember, I was sitting at my desk, and we had a call. It was me and Will. And he walks into my office, and as the phone is ringing, as we’re getting on this call, he says: “This one’s yours. You’re leading it.” And I kind of freaked out.

And I remember stumbling through it for a few minutes, just kind of trying to explain our position, and then Will jumps in and kind of saves me from myself. And then, I remember hanging up, and I remember being demoralized, just apologizing: “Sorry, I know I didn’t do that as well as I should have.”

And I remember Will looks at me, and he points and he says: “Don’t ever beat yourself up over this job. You’re going to be fine. You’re going to do better. You’re going to learn it, but don’t take it personally.”

I remember that to this day. And I tried to impart that to associates there at Cravath and other places that: “Look, we’re all human. We’re all going to grow. We’re all going to learn. We’re all going to start off not knowing things. But don’t take it personally. Don’t beat yourself up over it. You just learn to get better every day.” So, it was terrifying, though, many times.

Len: It’s a neat story. I can remember Steve Gordon doing that to me, sort of saying, as the phone was ringing, “This is going to be yours.” So, that must be a trick that he taught Will.

So, I remember when you left, it was not long after I started in ’05. So, you must have left in ’06 or ’07. What happened? Tell me the story.

David: Yeah, as I look back on it, I always had an idea that I was going to go back out West. I’m from Utah. So, I thought eventually we’d kind of migrate back to Utah. So, I was looking around and, eventually, jumped over to another law firm who had west U.S. connections.

Probably one of the biggest mistakes I made was—I had this idea if I went to Steve Gordon and said, “Hey, I’m looking at going somewhere else,” that he would fire me on the spot. I don’t know where I got this concept from, but for some reason that’s what I thought. Looking back on it, that is the most misguided thought that I could have had. The idea that they would somehow fire me because I was looking somewhere else was totally misguided. And, as I look at it, they could have actually helped me a lot as I was trying to make the decision of where to go.

But I guess advice to somebody who’s thinking of doing something different: Don’t be afraid to go talk to Len and say, “Hey, this is what I’m thinking; this is where I think I’m going.” And get Len’s perspective on those thoughts, see if they’re valid or not.

Len: Well, it’s really great advice, and I say it to some of the folks I work with all the time: First of all, as Steve said, nobody’s drafted into Cravath to do this. This is kind of a volunteer army. And number two, it’s OK if you want to do something else. This isn’t for everybody. And we would really like the opportunity to understand what people’s goals are and how we can help meet them.

I think your point is really one about not having the fear of having the conversation about what your goals are. Whether those goals can be met here or elsewhere is sort of a separate question.

David: Exactly. No, totally agree. Eventually, because where I went was outside counsel to Tyco, I met the Tyco tax team, and I think in 2009 was drafted to go in-house at Tyco, which was a fantastic job.

I got a lot of M&A experience. I got to do a spin-off. I got to do a corporate jurisdiction move from Switzerland to Ireland. There was just endless opportunities to grow and to do fantastic work at Tyco. At the end of the day, it worked out great.

Len: And then after Tyco, what was your decision? How did you think about moving on?

David: So, 2016, Tyco merged with Johnson Controls. And so, I stayed on for a couple years after that, just for the integration. And I had met over time some folks at KPMG’s national tax office. And so, I reached out to them, get back into the more consulting aspect of tax.

And so, I said: “I’ll kind of hone my technical skills again at KPMG, and I’ll meet a lot of people. I’ll make a lot of connections—not only with clients but with other professionals.” So, I jumped over there, kind of in the back of my mind knowing that if I ever had a good opportunity again to go in-house, I would probably look at it. Because I think the in-house skillset more suits what I do better and what I enjoy more.

And so, at KPMG, I was in the M&A tax services. So, again, working on deals not necessarily like Cravath does where you’re negotiating the provisions of an agreement, but sometimes helping out on the structuring of the deal, doing the diligence, tax due diligence, which most law firms don’t do, and then more heavy on the integration, for example.

And, I think, it was two years later, I got a call that Novartis was looking for a U.S. M&A person to come in and lead up tax M&A and tax strategy for their U.S. business. So, I was like, “Yeah.”

Len: Tell me about that leap.

David: It was a great experience. It fit right within my wheelhouse. It was a Swiss-based company with U.S. operations. Tyco, when I went there, was a Swiss-based company with U.S. operations. At Tyco, I did—I don’t know how many—50 M&A deals. So, this is perfectly made for me. So, was there for 10 months when the CFO of Bausch Health called me. The CFO of Bausch Health, Sam Eldessouky, was also the Chief Accounting Officer at Tyco when I was there.

Len: I see.

David: And they were undergoing a spin-off where Bausch Health is spinning off Bausch + Lomb, and Sam was going to be the CFO of Bausch + Lomb. He needed a head of tax. So, he called me up and said, “Hey, would you like to be head of tax at Bausch + Lomb? Are you interested?”

It was funny, because when I was talking to him about this job, I was upfront. I was very transparent. I said, “Sam, I haven’t done any tax provision work in my career.” And he said he appreciated that. But he said, “I’m looking for somebody, a head of tax, who comes from more of a strategy, transactional background.” He thought it would be easier for somebody to pick up the tax provision side than to have somebody come in, try to pick up the strategy/planning side.

I was thrilled because it’s not often that somebody from a pure transactional background gets the opportunity to be head of tax at a publicly traded company. But it did mean for the last year and a half, I’ve had to really quickly learn the tax provision and how it all works. Because that is the number one most important thing of this job, is getting that right.

Len: So, how is it going? I mean, you’re building out your own team. You’re leading the team. You’re reporting to the CFO. You’re making sure that all of the tasks get done: provisions, tax returns—I mean, all of it—planning.

David: It’s great. It’s fantastic. I’ve really, really enjoyed the last year and a half. Building out the team, which was the number one priority. Going back to kind of a theme that runs throughout, is the connections that we make with people.

So, the calls that I made after I got this job were to people that I knew—whether it’s Novartis, whether it’s Tyco—and bringing them on, because I know that they can do the job, and they can do it right. And so, those were the first calls I made.

And so, the team has come together better than I could have imagined, really. And it’s made my job so much easier. They have to be patient with me sometimes to get me to where I need to be. But I know that every time I step in front of Sam or Brent, our CEO, or our audit committee for our quarterly results, I’m very, very well prepared to present whatever I need to present and to answer whatever questions that I need to answer.

Len: I want to focus on this point you made about immediately calling your kind of friends and contacts from previous jobs because those people had impressed you in those roles, because you knew those people were talented, because you knew those people would either be able to take on similar roles in your job or learn the roles that you had in mind for them.

It’s a really great lesson for junior lawyers and junior professionals of all kinds that life is long, and, now more than ever, you are unlikely to be at your first job for your entire career. You’re likely, instead, to move around to have several jobs over the course of your career.

And so, the task you’re doing today for somebody on a deal that’s closing next week—it’s today’s work. And doing it, and doing it collaboratively, and having good relationships with your colleagues benefits today’s work and the way you feel when you ride the train home today. That’s important.

But it also benefits you over the long term if you make a good impression on people. And over the long term, if you’re 27 years old today, 20 years from now, you and your colleagues are all going to be 47. And you’re going to be doing senior tasks, and you’re going to have different roles, and you’re going to have different opportunities, and you’re going to be able to help each other.

And if you stay at your law firm and you make partner, and then the 47-year-old might be the CFO at a company that you might consider bringing in as a client. And so, I just think it’s probably worth mentioning, without dwelling on it, that the opposite is also true if you don’t leave a good impression.

David: Absolutely.

Len: And so, in my business, in my field, I take to heart that some of the Firm's biggest clients are clients or people who we originally met and encountered on the opposite side of a transaction. We were representing somebody else. And I think it's important to realize that in every meeting you go to, in every task you're given, you have an opportunity to make an impression on people. And that impression may have effects years down the road.

David: Oh, absolutely. It's very difficult, I think, as a young professional to take the long view on things. It's easy to see kind of what's right in front of you. But to say, "OK, what is this going to look like in five years, 10 years?"

I don't have to tell you how small the tax world is. I mean, we all know reputations of folks just because the tax world is so small, and we work with plenty of the same people all the time.

So, as you say, to be easy to work with, to be collaborative. Again, I think to be smart is the baseline. Most tax professionals are going to be smart, and they're going to have this baseline knowledge. OK, what else do we bring? Are they likable? Do we get along with them? Can they get the job done? You remember those things. And even if I'm not looking for somebody, I have colleagues who will call me and say: "Hey, I'm looking for somebody to do tax provision. Who do you know?" And I can give them names.

And so, as you say, your reputation is the one thing I think that you can control in your career. And to have a good reputation will open up doors throughout your career. To your point, you work with folks on the other side of the deal. How you relate with those people—how you work with those people—also makes a big impression.

Len: Good lessons, David. Thank you. So, in the few minutes we have left, I want to talk about non-tax stuff. We ask all of our guests, what do they like to do in their spare time? So, when you're not doing tax stuff, how are you filling your time?

David: Good question. I do a lot of cycling, so I like to get out on the road.

I do a lot of hiking/backpacking. So, been to Switzerland to do that, Iceland, a lot of places here in the U.S. So really enjoy that. Enjoy getting out on the river. You're close to the Delaware River, so I get out on the Delaware River a bunch on our Sea-Doos.

Len: That's great.

David: So, mostly outdoor activities is really what I'm into when I'm not here at work.

Len: And also having lunch and playing golf with me a couple times a year.

David: Absolutely. Anytime you're up for it.

Len: That's right.

David Ware, Vice President of Tax at Bausch + Lomb in Bridgewater, New Jersey. David, thank you so much for joining us. It was great to catch up with you, and it was a really great conversation. Thanks.

David: Great. Thanks so much, Len.

Len: That's all for this episode of On Tax—A Cravath Podcast. You can find us online at [cravath.com/podcast](https://www.cravath.com/podcast), and don't forget to subscribe on Apple Podcasts or Spotify.

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