

# To The Point

Tax Edition

## A Practical Guide to Clear and Powerful Writing

### Issue 1: Find Your Voice

#### Opening Remarks

Let's begin by discussing a verb that is essential to the English language: *to be*. If you could not say, "I am," would you exist? Descartes' philosophy aside, let's address the more practical topic of how writers fall into a stylistic trap when they do not use *to be* appropriately.

First, though, let's have a very short grammar lesson. You won't often find the words *to be* in a sentence; rather you'll find a conjugated form of the *to be* verb. When conjugated in the present tense, the *to be* verb appears as *I am, you are, he is, we are, and they are*. When conjugated in the past tense, it appears as *I was, you were, she was, we were, and they were*.

Here is a sentence with a *to be* verb phrase that appears in many tax documents:

- An affiliated group of corporations is required to file Form 1122 when making a consolidated return election.

Here, the verb *to be* (in this case it appears as *is*) precedes the past participle of the verb *to require* (that is, the *-ed* form of *to require*). This verb construction -- *to be* + *past participle* -- represents the most pervasive stylistic trap involving the *to be* verb, the dreaded passive voice.

Let's take a quick trip back to English 101 to review the passive voice and its counterpart, the active voice, and then we'll learn why the passive voice in the above example is so bad.

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#### A Quick Trip Back to English 101

Nearly every freshman college student learns in English class that writers generally should use the active voice rather than the passive voice. Even if you learned this principle, you may be using the passive voice too frequently.

To refresh your memory, let's define the active voice and the passive voice. In the active voice, the subject of the sentence or clause causes the action. Here is an example of an active voice construction:

- Our client timely filed its extension request.

In contrast, in the passive voice, the subject of the sentence or the clause receives the action. In other words, the action happens to the actor. An example of a passive voice construction is as follows:

- The extension request was timely filed by our client.

Here, the actor appears after the verb. Some passive voice constructions, however, do not even mention the actor:

- The extension request was timely filed.

Why do good writers prefer the active voice? They prefer the active voice in most instances because it produces more powerful and precise writing. The active voice is powerful because it uses action-oriented verbs, and it is precise because it tells the reader who is performing the action. This last passive voice example is far from precise; rather, it is ambiguous because it hides the actor.

What if the actor's identity doesn't matter? Don't we care only that an "extension request was timely filed"? In the next issue, we'll discuss that when the actor's identity is irrelevant, a writer may use the passive voice without incurring the wrath of the writing style police. Nevertheless, isn't the following sentence much more powerful than the passive voice version?

- Our client timely filed its extension request.

This sentence highlights the client's action by placing the term *client* at the beginning of the sentence followed by an action-oriented verb.

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### ***Who's Doing the Requiring?***

We opened this issue with the following example that uses the passive voice construction *is required*:

- An affiliated group of corporations is required to file Form 1122 when making a consolidated return election.

Why is the passive voice bad in this example? It's bad here because the verb phrase is unnecessarily wordy. Even worse, it is ambiguous, in that readers must ask, "Who (or what) is doing the requiring? Is it the Code, regulations, or maybe the courts?" Unfortunately, tax professionals use this construction frequently; *is (are) required to* is a popular phrase in the tax lexicon. To fix this stylistic problem, let's eliminate the *to be* verb in the sentence and create an active voice construction by using the verb *requires*:

- Section 1.1502-75(b) of the Treasury Regulations requires an affiliated group of corporations to file Form 1122 when making a consolidated return election.

This revised sentence is not ambiguous because it specifies what imposes the requirement. Unfortunately, the main message—what an affiliated group must do—is lost in the dead zone, i.e., the middle of the sentence. If you want to emphasize what an affiliated group must do rather than what imposes the requirement, you could place the Treasury Regulation cite after the sentence:

- An affiliated group of corporations must file Form 1122 when making a consolidated return election. Treas. Reg. § 1.1502-75(b).

In future issues, we will revisit the dead zone and discuss how to use sentence structure to emphasize (or de-emphasize) material. For now, though, notice by making *affiliated group*

the sentence's subject, we emphasized what an affiliated group must do. Also, compare the verb phrase in this second revision with the one in the original sentence. A statement about what an affiliated group *must* do is much more powerful than one about what the group *is required to* do, particularly if you do not even mention who or what is doing the requiring.

Just remember, when the *to be + past participle* verb construction is encountered by you, you are reading a sentence written in the passive voice. (Oops!) Did you notice the passive voice construction in the last sentence? Let's rewrite that sentence using the active voice:

- When you encounter the *to be + past participle* verb construction, you are reading a sentence written in the passive voice.

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### ***Practice Makes Perfect***

Let's practice applying the active voice principle. Rewrite the following sentence using the active voice:

- The trust's tax-exempt status was not recognized by the trustee; thus, income tax returns have been filed erroneously for the trust the past several years.

Can you eliminate the passive voice in both clauses?

- The trustee did not recognize the trust's tax-exempt status; thus, he erroneously filed income tax returns for the trust the past several years.

Of course, if you are the trustee, you may not want to use the active voice because it unambiguously states your culpability. We'll discuss how the trustee may want to draft this sentence in the next issue when we learn the exceptions to the active voice principle. If we, however, are trying to blame the trustee, we should use the active voice.

Here's another exercise:

- The estate of Mr. Smith will be deemed to have satisfied its reporting obligations with respect to this transaction when it is in compliance with the various terms of Rev. Proc. 00-000.

This sentence contains another passive voice construction that tax professionals use far too often -- *will be deemed*. Who is doing the deeming here? The passive voice construction suggests a hidden actor. We may know the IRS is the hidden actor, but generally you should not imply concepts in your writing. The following sentence eliminates the passive voice construction:

- The estate of Mr. Smith will satisfy its reporting obligations with respect to this transaction when it is in compliance with the various terms of Rev. Proc. 00-000.

We've solved the passive voice problem in the above sentence, but four stylistic problems remain. You will learn how to identify and fix these remaining problems in subsequent issues in Part 1.

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## ***Parting Points***

The active voice is a very useful tool because it can eliminate ambiguity by clearly identifying the actor, and it can provide power to what otherwise might be dry technical tax prose. Every good principle, however, has exceptions. We'll learn about some of the exceptions to the active voice principle, including using the passive voice to hide the actor's identity, in the next issue of *To The Point*.

If you want additional practice in applying the principles in this issue, you'll find several exercises on our website at [www.tothepointpubs.com](http://www.tothepointpubs.com). The exercises, and subsequent issues, are available only to subscribers. To subscribe to *To The Point*, [click here](#).