

**GX 623**

## QUALIFICATIONS

1. My name is Ravi Dhar. I am the George Rogers Clark Professor of Management and Marketing at the Yale School of Management. I am also the Director of the Yale Center for Customer Insights at the School of Management at Yale University, New Haven, Connecticut. I also have an affiliated appointment as a Professor of Psychology at the Department of Psychology, Yale University.
2. I hold a Ph.D. and M.S. in Business Administration from the University of California at Berkeley. My doctoral dissertation (“Consumer Preference for a No-Choice Option”) was in the area of consumer decision-making. I have published more than fifty papers in journals, proceedings, and as book chapters. Several of my publications were also considered for research awards such as the Paul E. Green Award (“The Effect of Forced Choice on Choice,” Finalist in 2004) and the William O’Dell Award (“Consumer Choice between Hedonic and Utilitarian Goods,” Winner in 2005 and “Making complementary choices in consumption episodes: Highlighting versus Balancing,” Finalist in 2004 and “The Effect of Forced Choice on Choice,” Finalist in 2008). The William O’Dell Award is presented to the best Journal of Marketing Research article that has made the most significant, long-term contribution to marketing theory, methodology, and/or practice. The Paul E. Green Award is presented to the Journal of Marketing Research article that shows or demonstrates the most potential to contribute significantly to the practice of marketing research and research in marketing. I also earned an undergraduate degree in engineering from the Indian Institute of Technology, and a master’s degree in business administration from the Indian Institute of Management. A detailed listing of my educational background and publications is set forth in the curriculum vitae, which is attached to the end of this report as Exhibit A.
3. My field of expertise is consumer behavior and consumer psychology, branding, marketing management, and marketing strategy. In my work as a marketing professor and as a consultant to major corporations, I have conducted, supervised, or evaluated more than a hundred surveys as well as analyzed questions relating to different aspects of consumer behavior. Most of my research focuses on consumers’ decision-making, the

- manner in which consumers acquire and process information when forming product perception and preferences, the effect of product attributes (including trademarks) and information presentation on consumer purchase decisions, and the effect of different marketing mix activities (such as promotions and advertising) on consumer buying decisions.
4. My research has been published in the leading marketing, psychology, and management journals, such as the Harvard Business Review, Journal of Behavioral Decision Making, Journal of Business, Journal of Consumer Psychology, Journal of Consumer Research, Journal of Marketing Research, Journal of Personality and Social Psychology, Management Science, Marketing Science, Organizational Behavior and Human Decision Processes, Sloan Management Review and other journals. I also serve on the editorial board of leading consumer research journals such as Journal of Consumer Psychology, Journal of Marketing, and Marketing Letters. I am also the past Area Editor of Marketing Science, current Associate Editor of Journal of Consumer Research, and current Associate Editor of Journal of Marketing Research. As a member of the editorial board as well as the current and past Associate Editor of the best academic journals in marketing, I critically evaluate survey and experimental based papers annually that contain hundreds of studies collectively. The criteria for evaluation include an assessment of the contribution of the paper, the soundness of the conceptual ideas, as well as the appropriateness of the survey or experimental methodology and the analysis techniques. I annually review more than seventy-five papers that contain more than one hundred surveys or experiments.
  5. My teaching responsibilities at Yale University's School of Management include two doctoral courses that examine advanced research topics in the area of consumer behavior, judgment and decision-making. I also teach or have taught several different courses for graduate students who are enrolled in the MBA program at Yale; Consumer Behavior, E-Business and Marketing, Marketing Strategy, Marketing Management, and Marketing of Financial Services. I have also taught and given seminars to mid-level and senior level executives in more than a dozen countries in North and South America, Asia, and Europe. I have also worked as a consultant or adviser to companies on marketing related

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issues in different types of industries (*e.g.*, consumer products, high technology, medical devices and financial services.)

6. I have served as an expert witness on marketing research issues in a variety of litigation matters. A list of cases in which I have testified as an expert, at trial or by deposition in the preceding four years or more, is attached as Exhibit B.
7. I am being compensated for my work on this matter at \$700 per hour. My compensation is not contingent upon the conclusions I reach or on the outcome of this matter.

#### **ASSIGNMENT**

8. The U.S. Department of Justice, asked me to provide a professional evaluation of certain questions relating to H&R Block's proposed acquisition of 2<sup>nd</sup> Story Software, Inc., makers of TaxACT. Specifically, I have been asked to review a survey conducted by Directions Research, Inc. in April 2011 ("2011 Survey"). This report contains my conclusions regarding the validity of the 2011 Survey.
9. In forming my opinions, I have reviewed materials provided to me by the Department of Justice listed in Exhibit C to this report, including the expert report of Dr. Christine Siegwarth Meyer and existing academic research on the principles of marketing, survey methodology, and consumer-decision making.
10. I reserve the right to update my analyses and to supplement my report to incorporate additional relevant information that may be presented by the parties, and/or in light of additional documents or testimony brought forth through the ongoing discovery in this case, at trial, or otherwise, which may be brought to my attention after the date of my signature below.

## **THE EXPERT REPORT OF DR. CHRISTINE SIEGWARTH MEYER**

11. The expert report of Dr. Christine Siegwarth Meyer relies on the 2011 Survey. Dr. Meyer contends that the 2011 survey “sheds light on the question at issue, namely, the likely consumer response to a price increase or similar change in non-price attributes.”<sup>1</sup>

## **SUMMARY OF MY CONCLUSIONS**

12. Based upon my education, background, and professional experience, it is my opinion that Dr. Meyer relies on a survey that is severely flawed in multiple respects and fails to meet the basic premises of good survey design.<sup>2</sup> My critiques of this survey can be summarized as follows:

- a) The 2011 Survey uses a severely flawed question that fails to serve the main purpose for which Dr. Meyer relies on the survey (i.e., to measure the likely “diversion”—consumer response to a price increase or similar change in non-price attributes—from TaxACT);
- b) The 2011 Survey does not ask specifically about customer responses to any change in the product or price;
- c) The 2011 Survey uses ambiguous language in the wording of the question that fails to isolate the effect of respondents’ hypothetical dissatisfaction with the product they bought or the price they paid on potential switching behavior;
- d) The 2011 Survey uses a closed-ended question and provides an incomplete list of response options and does not provide a “Don’t Know” or a “No Opinion” option, with the likely result of guessing by the respondents;
- e) The 2011 Survey fails to follow widely accepted principles of survey design because it fails to account for a high degree of non-response bias and it seems to fail to rotate the response options provided in the closed-ended question across respondents, thereby leading to inaccurate and biased results.

13. As a consequence of these serious flaws in the 2011 Survey, the conclusions Dr. Meyer draws from it are unreliable. Each flaw identified, by itself, contributes substantial concern that Dr. Meyer's interpretation of the 2011 Survey is unreliable. The cumulative effect of all these flaws is so egregious that the 2011 Survey, in my opinion, sheds no

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<sup>1</sup> Expert Report of Dr. Christine Siegwarth Meyer, 20 n.85.

<sup>2</sup> Diamond, Shari Seidman, “Reference Guide on Survey Research,” *Reference Manual on Scientific Evidence*, 2<sup>nd</sup> edition, (Federal Judicial Center, 2000), 229-76.

light on the likely consumer response to a price increase or similar change in non-price attributes.

**THE 2011 SURVEY FAILS TO ASK THE APPROPRIATE QUESTION TO ASSESS DIVERSION FROM TAXACT**

14. A survey should be designed to answer the precise question or questions relevant to the issues. A survey that fails to ask the proper question can provide little, if any, insight into the question of interest. According to my understanding, one of the key questions in this case is: “Where would TaxACT customers go if TaxACT raised its price or reduced its quality?” The 2011 Survey fails to test for this specific issue. The main question in the 2011 survey stated: “If you had become dissatisfied with TaxACT’s price, functionality or quality, which of these products or services would you have considered using to prepare your federal taxes? (Please select all that apply).”<sup>3</sup> This question completely fails to provide a basis to measure likely diversion from TaxACT to H&R Block and other products *as a result of any change in the price or quality of TaxAct products*, which is the question that I understand is relevant for this case. Instead, this question simply asks for response regarding dissatisfaction, which may arise from causes other than a change in price or quality. For example, a respondent’s dissatisfaction with TaxACT’s price, functionality, or quality could be entirely attributable to the changing needs of the tax filer and have little or nothing to do with any response to a *change* in price or quality of the TaxACT product. Indeed, such a scenario does not contemplate any change to the TaxACT price or product at all, but rather implies a change in the respondent’s needs.
15. The question asked states “If you had become dissatisfied...” and makes no explicit mention of any increase in price or decrease in quality. Without an explicit assumption on the part of the respondent as to the cause(s) of his or her dissatisfaction, this question provides little, if any, useful information relating to how respondents would switch, if at all, in response to information that TaxACT has raised its price (or reduced its quality). On the contrary, the question, as phrased, most likely communicated to respondents to consider how they might respond if they were dissatisfied with the price (or quality) of

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<sup>3</sup> PX604 (attached as Exhibit D).

the TaxACT product that they actually purchased. A respondent's dissatisfaction with a product can occur for many unspecified reasons, such as changes in one's personal circumstances that necessitate additional features (e.g., new tax complexity), wanting a product that is easier to use (e.g., desire for a different interface), or a change in financial circumstances, necessitating a product that is cheaper than TaxACT.

16. Causes of dissatisfaction are qualitatively different and may have little to do with how a current customer who uses TaxACT would respond to *changes* in its price or quality (e.g., an increase in price or reduction in quality). Thus, the wording of the survey question is fatally flawed to the extent that it seeks to measure where current TaxACT customers would go if TaxACT raised its price or reduced its quality. Due to this flaw and the other flaws discussed below, the results of the 2011 Survey simply offer no insight into the fraction of unit sales lost by TaxACT due to an *increase* in price that would be diverted to other products.

#### **THE WORDING OF THE QUESTION IS NOT PRECISE**

17. In addition to the fact that the question asked does not help to answer how a user would respond to any price increase (or quality reduction) of a TaxACT product, the wording of the question as phrased is also imprecise even for addressing the question of how customers would behave if they were dissatisfied with the purchased product (or its price). A cornerstone of good survey design is the use of clear, unambiguous, and precise language. If the survey questions are unclear, they threaten the validity of the survey by introducing error in the responses due to respondents' guessing and misunderstanding of the questions.<sup>4</sup> Specifically, it is impossible to determine from the responses to the question whether respondents are referring to an outcome that is based on their dissatisfaction with price, functionality or with quality. Indeed, this kind of question is inherently ambiguous. This is especially important because the switching in response to dissatisfaction with quality could be very different from switching in response to dissatisfaction with price. For example, in being told to think about their dissatisfaction

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<sup>4</sup> Fowler, F.J. Jr., "How Unclear Terms Affect Survey Data," Public Opinion Quarterly, Vol. 56, 1992.

with functionality, respondents might use it as a cue to consider products with better or more features. In contrast, if they focus on dissatisfaction with price, they would use it as a cue to consider lower priced alternatives. There is no way of knowing whether respondents are basing their answers by focusing on dissatisfaction with price, functionality, or quality.

### **THE 2011 SURVEY HAS ONLY CLOSED-ENDED QUESTIONS AND LIMITED RESPONSE OPTIONS**

18. Survey design principles dictate that great care be taken in designing questions and response options that are not leading, i.e., they do not direct respondents to a particular response or responses. Because open-ended questions require the respondent to formulate and express an answer in his or her own words, almost all surveys in the context of litigation start with an open-ended question. For example, in the current situation, respondents could be asked what, if anything, they would do in response to a particular price increase on the product they currently use. Because closed-ended questions may remind respondents of options that they would not consider or which simply do not come to mind easily,<sup>5</sup> it is best to commence a survey with an open-ended question.
19. The 2011 Survey relies only on closed-ended questions. The responses to a closed-ended question are only meaningful if the list of choices is exhaustive, that is, if the choices cover all possible options a respondent might choose in response to the question. If a question presents respondents with an incomplete set of response options, the distribution of their responses is likely to be different in the survey than if the set of the responses encompassed an exhaustive set of choices.<sup>6</sup> The main question in the 2011 Survey focuses respondents' attention on specific response options. The survey presents ten response options (an eleventh option presented was "other"). In addition to providing an incomplete list of response options, the option of staying with a TaxACT product was not provided. It is well known that current customers may stay with the status quo brand even

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<sup>5</sup> Diamond, S., "Reference Guide on Survey Research," *Reference Manual on Scientific Evidence*, 2<sup>nd</sup> edition, Federal Judicial Center, 2000, p. 246.

<sup>6</sup> Diamond, S., "Reference Guide on Survey Research," *Reference Manual on Scientific Evidence*, 2<sup>nd</sup> edition, Federal Judicial Center, 2000, p. 247.



- if they are not completely satisfied. The exclusion of any TaxACT branded products would fail to reflect switching patterns by dissatisfied customers obtained under marketplace conditions, where staying with the current product is always an option.
20. The 2011 Survey covered four categories of TaxACT customers: (1) customers who purchased a paid federal product and a state product; (2) customers who purchased a paid federal product but not a state product; (3) customers who used a free federal product and purchased a state product; and (4) customers who used a free federal product and did not purchase a state product. The response options provided were different across the four customer categories (and thus did not include a full set of options for any category). Inherent in crafting response options based on the customer category are assumptions about likely choices based on the product used in the prior year and hence they are highly leading. For example, the options provided to customers who used a free federal product and did not purchase a state product were almost exclusively free options. This is highly leading and likely to suggest to the respondent that they are supposed be price sensitive and may make them more likely to select the option of preparing the returns themselves.

**THE 2011 SURVEY DID NOT PROVIDE INSTRUCTIONS TO MINIMIZE GUESSING**

21. In addition to the response options not being exhaustive, there was also no information provided to choose among them other than price and brand name. It is extremely unlikely that consumers were familiar with the differences among the set of options that were provided. Such results are highly unlikely to represent actual switching behavior in response to dissatisfaction in the marketplace and are likely to be based on guessing, as discussed below.
22. The survey does not seem to have exercised any care to minimize the likelihood that some respondents may be guessing. It is standard survey practice to explicitly mention to the respondents that it is appropriate not to have an opinion on a question.<sup>7</sup> As stated earlier, there was very little information provided on the features of each of the provided

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<sup>7</sup> Diamond, S., "Reference Guide on Survey Research," *Reference Manual on Scientific Evidence*, 2<sup>nd</sup> edition, Federal Judicial Center, 2000, pp.250-51.

response options. Thus, many survey respondents may not have had an opinion on the question either because they had not thought about the issue or because the question assumes familiarity with the different products. The respondents are likely to provide their guesses that do not reflect what their actual behavior would be. It is, therefore, important to provide a “Don’t Know” or “No Opinion” option to all closed ended questions, so that respondents are not forced to choose an answer when they either do not know or do not have an opinion.”<sup>8</sup> Studies have found that presentation of an explicit “Don’t Know” or “No Opinion” option can lead to an increase in that category of responses of about 20 percent to 25 percent compared with when those options are not explicitly provided.<sup>9</sup> The 2011 Survey did not provide explicit instructions not to guess (something I see in almost all surveys done for litigation) nor an explicit “Don’t Know” or a “No Opinion” option and hence the obtained estimates of switching by dissatisfied customers may not reflect actual marketplace conditions.

23. Finally, survey responses can also be influenced by the order in which response options to closed-ended questions are provided. It is therefore important to rotate response options across respondents so that any order effects are mitigated.<sup>10</sup> If the survey did not rotate the response options, the results from the survey would be potentially biased.

### **SURVEY RESULTS ARE LIKELY BIASED BECAUSE THE RESPONSE RATE WAS VERY LOW**

24. To further examine the reliability of the survey data that was collected, it is important to look at nonresponse rates. The survey was mailed to a sample of 46,899 TaxACT clients of online e-file accepted returns. Of the 46,899 emails sent, 46,129 were received and 770 emails bounced.<sup>11</sup> A second mail was sent to 24,898 TaxACT clients who purchased a

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<sup>8</sup> Diamond, S., “Reference Guide on Survey Research,” *Reference Manual on Scientific Evidence*, 2<sup>nd</sup> edition, Federal Judicial Center, 2000, p 244-45.

<sup>9</sup> Schuman, H. and S. Presser, *Questions and Answers in Attitude Surveys: Experiments on Question Form, Wording and Context*, Sage Publications, 1996.

<sup>10</sup> Diamond, S., “Reference Guide on Survey Research,” *Reference Manual on Scientific Evidence*, 2<sup>nd</sup> edition, Federal Judicial Center, 2000, pp. 248-49.

<sup>11</sup> Adding across the four groups results in 47,836 emails that is different from 46,899 and 46,129.

paid federal and did not purchase a state product. The response rates in each of the four groups were 1.7% (Free Federal / No State), 2.08% (Free Federal / Paid State), 0.6% (Paid Federal / No State), and 2.45% (Paid Federal / Paid State).

25. The level of nonresponse in the 2011 Survey is extremely high (more than 98%).<sup>12</sup> Even when a sample is drawn from an appropriate target population, because nonresponse is not random, such a low response rate does not allow one to make valid inferences about the population. For example, people who are busy are potentially less likely to respond to the survey and also more likely to switch to alternatives that are not time intensive. In other words, non-respondents (e.g., for reasons of time) will have preferences that differ from those who do respond. The extremely low response rates makes it difficult to determine whether the results were impacted by a certain segment who were systematically more likely to respond to the survey (e.g., those who were price sensitive or time insensitive) in relation to those who did not respond.

## **CONCLUSION**

26. Given all the serious flaws with the survey methodology, I have concluded that the 2011 Survey results have no validity in answering the question of diversion from TaxACT or switching due to dissatisfaction with the price, functionality, or quality of the TaxACT products.

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<sup>12</sup> I have not seen the background data to determine if some of the nonresponse computed above is due to a failure to qualify in the screening question (i.e., respondents were terminated because they were not appropriate). I am assuming this number is relatively small as the invitations were sent exclusively to TaxACT clients.

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*Ravi Dhar*

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**Ravi Dhar**

**Dated: August 16, 2011**

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**EXHIBIT A**

CV OF RAVI DHAR

January 2011

**RAVI DHAR**  
 Yale School of Management  
 135 Prospect Street  
 Yale University  
 New Haven, CT 06511  
 (203) 432-5947

**Employment**

<b>George Rogers Clark Professor of Management</b>	<b>2005 - Present</b>
<b>Professor of Psychology (<i>joint appointment</i>)</b>	<b>2003 – Present</b>
<b>Director, Yale Center for Customer Insights</b>	<b>2004 – Present</b>
<b>Professor of Marketing,</b>	<b>2000 – Present</b>
Associate Professor of Marketing,	1997 - 2000
Assistant Professor of Marketing	1992 - 1997
Yale School of Management	

**Other Appointments**

Visiting Faculty, HEC Paris	Summer 1996
Visiting Associate Professor, Stanford University	Spring 1998
Visiting Professor, Erasmus University	Summer 2000, 2001
Visiting Professor, New York University	Spring 2005, Spring 2010

**Education**

<b>Haas School of Business, UC Berkeley</b>	<b>1988-1992</b>
Ph. D. (Business Administration)	1992
M.S. (Business Administration)	1990
<b>Indian Institute of Management</b>	<b>1987</b>
M.B.A.	
<b>Indian Institute of Technology</b>	<b>1985</b>
B.Technology	

**Academic Honors and Fellowships**

Finalist, O'Dell Award, 2008  
 Winner, O'Dell Award 2005  
 Finalist, O'Dell Award, 2004  
 Finalist, Paul Green Award, 2004  
 AMA Consortium Faculty Fellow, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010  
 INFORMS Doctoral Consortium Faculty – Multiple Years  
 ACR Doctoral Consortium Faculty – Multiple Years  
 John A. Howard Doctoral Dissertation Award (Honorable Mention), 1993

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AMA Doctoral Consortium Fellow, 1991

### Research Interests

Consumer Behavior	Marketing Strategy
Judgment and Decision Making	Branding
E-Commerce	Behavioral Finance

### Teaching Interests

Marketing Management	Consumer Behavior
Marketing Strategy	Behavioral Decision Theory
Financial Services	E-Commerce Marketing

### Professional Affiliation (Member)

American Marketing Association  
Association for Consumer Research  
Society of Judgment and Decision Making

### Professional Activities

Editorial Board, *Journal of Consumer Research*, 1997 – Present, Associate Editor  
*Journal of Consumer Psychology*, 1997 – 2002, 2005 - Present  
*Journal of Marketing Research*, 2001 – Present, Area Editor  
*Journal of Marketing*, 2005 - Present  
*Marketing Letters*, 2000 - Present  
*Marketing Science*, 2002- 2010, Area Editor

Occasional Reviewer, *Marketing, Management, Psychology Journals, NSF, etc.*

### Publications in Journals

**Approximate Number of Citations in Google Scholar: 2500+**

1. "Self-Signaling and the Costs and Benefits of Temptation in Consumer Choice," (with K. Wertebroch), *Journal of Marketing Research*, conditionally accepted, *Journal of Marketing Research*, 2011.
2. "Price Framing Effects on Purchase of Hedonic and Utilitarian Bundles," (with U. Khan), *Journal of Marketing Research*, 2010.

3. "Making Products Feel Special: When Metacognitive Difficulty Enhances Evaluation," (with A. Pocheptsova and A. Labroo), *Journal of Marketing Research*, 2010.
4. "Modeling the Under Reporting Bias in Panel Survey Data," (with Sha Yang and Yi Zhao) *Marketing Science*, 2010.
5. "The Effect of Decision Order on Purchase Quantity Decisions," (with I. Simonson and S. M. Nowlis), *Journal of Marketing Research*, 2010.
6. Tradeoffs and Depletion in Choice," (with N. Novemsky, J. Wang, R. Baumeister), *Journal of Marketing Research*, 2010.
7. Opportunity Cost Neglect" (with S. Frederick, N. Novemsky, J. Wang, and S. Nowlis), *Journal of Consumer Research*, 2009.
8. "Anticipating Adaptation to Products" (with J. Wang and N. Novemsky), *Journal of Consumer Research*, 2009.
9. Deciding Without Resources: Psychological Depletion and Choice in Context," (with O. Amir, A. Pocheptsova, and R. Baumeister), *Journal of Marketing Research*, 2009.
10. Customization Procedures and Customer Preferences," (with A. Valenzuela and F. Zettelmeyer), *Journal of Marketing Research*, 2009.
11. "Beyond Rationality: The Content of Preferences," (with N. Novemsky), *Journal of Consumer Psychology*, 2008.
12. "Of Frog Wines and Frowning Watches: Semantic Priming of Perceptual Features and Brand Evaluation," (with A. Labroo and N. Schwarz), *Journal of Consumer Research*, 2008.
13. "When Thinking Beats Doing: The Role of Optimistic Expectations in Goal-Based Choice," (with A. Fishbach and Y. Zhang), 2007, *Journal of Consumer Research*.
14. "Seeing The Forest Or The Trees: Implications of Construal Level Theory for Consumer Choice," (with E. Kim), *Journal of Consumer Psychology*, 2007
15. "Where There Is a Way, Is There a Will? The Effect of Future Choices on Self-Control" (with U. Khan), *Journal of Experimental Psychology: General*, 2007
16. Preference Fluency in Choice," (with N. Novemsky, N. Schwarz, and I. Simonson), 2007, *Journal of Marketing Research*.



17. "The Shopping Momentum Effect," (with J. Huber and U. Khan), 2007, *Journal of Marketing Research*.
18. "Institutional Perspectives in Real Estate Investing," (with W. Goetzmann), 2006, *Journal of Portfolio Management*.
19. "Are Rheumatologists' Treatment Decisions Influenced by Patients Age?," (with L. Fraenkel and N. Rabidou)," 2006, *Rheumatology*.
20. "Sub-goals as Substitutes or Complements: The Role of Goal Accessibility," (with A. Fishbach and Y. Zhang), 2006, *Journal of Personality & Social Psychology*.
21. "Up Close and Personal: A Cross Sectional Study of the Disposition Effect" (with N. Zhu), *Management Science*, 2006.
22. "Licensing Effect in Consumer Choice," (with U. Khan), *Journal of Marketing Research*, 2006.
23. "Goals as excuses or guides: The liberating effect of perceived goal progress on choice," (with A. Fishbach), *Journal of Consumer Research*, 2005.
24. "Goal Fulfillment and Goal Targets in Sequential Choice," (with N. Novemsky), *Journal of Consumer Research*, 2005.
25. "Towards extending the Compromise Effect to Complex Buying Contexts," (with Anil Menon and Bryan Maach), *Journal of Marketing Research*, 2004.
26. "To Buy or Not to Buy: Response Mode Effects on Consumer Choice," (with S. Nowlis), *Journal of Marketing Research*, 2004.
27. "Hedging Customers," (with R. Glazer), *Harvard Business Review*, 2003.
28. "The Effect of Forced Choice on Choice," (with I. Simonson), *Journal of Marketing Research*, 2003.
29. "Coping with Ambivalence: The Effect of removing a "fence sitting" option on Consumer Attitude and Preference Judgments (with B. Kahn and S. Nowlis), *Journal of Consumer Research*, 2002.
30. "Consumer Psychology: In Search of Identity," (with Z. Carmon, A. Drolet, S. Nowlis, and I. Simonson), *Annual Review of Psychology*, 2001.
31. "An Empirical Analysis of the Determinants of Category Expenditure," (with W. Putsis), *Journal of Business Research*, 2001.

32. "Trying Hard or Hardly Trying: An Analysis of Context Effects in Choice" (with S. Nowlis and S. Sherman), *Journal of Consumer Psychology*, September 2000.
33. "Consumer Choice between Hedonic and Utilitarian Goods," (with K. Wertebroch), *Journal of Marketing Research*, February 2000.
34. "Assessing the Competitive Interaction Between Private Labels and National Brands," (with R. Cotterill and W. Putsis), *Journal of Business*, January 2000.
35. "Comparison Effects on Preference Construction," (with S. Nowlis and S. Sherman), *Journal of Consumer Research*, December 1999.
36. "The Effect of Time Pressure on Consumer Choice Deferral," (with S. Nowlis), *Journal of Consumer Research*, March, 1999.
37. "Making complementary choices in consumption episodes: Highlighting Versus Balancing," (with I. Simonson), *Journal of Marketing Research*, February, 1999.
38. "The Many Faces of Competition," (with W. Putsis), *Marketing Letters*, July, 1998.
39. "Consumer Preference for a No-Choice Option," *Journal of Consumer Research*, September, 1997.
40. "Context and Task Effects on Choice Deferral," *Marketing Letters*, January, 1997.
41. "The Effect of Decision Strategy on the Decision to Defer Choice," *Journal of Behavioral Decision Making*, December, 1996.
42. "The Effect of Common and Unique features in Consumer Choice," (with S. J. Sherman), *Journal of Consumer Research*, December, 1996.
43. "Similarity in Context: Cognitive Representation and the Violation of Preference Invariance in Consumer Choice," (with R. Glazer), *Organizational Behavior and Human Decision PROCesses*, September, 1996.
44. "The Effect of the focus of comparison on consumer preferences," (with I. Simonson), *Journal of Marketing Research*, November, 1992.

***Publications in Book Chapters / Managerial Summary***

1. "The Power of Customer's Mindset," (with Kelly Goldsmith and Jing Xu), *Sloan Management Review*, 2010.
2. "Giving Consumers License to Enjoy Luxury," (with U. Khan and S. Schmidt), *Sloan Management Review*, 2010.
3. "Brand Permission: A Conceptual and Managerial Framework," (with Tom Meyvis), In *Handbook on Brand and Experience Management*, Bernd H.Schmitt and David L. Rogers (Eds.), Elgar Publishing, Northampton, MA, 2008.
4. "Dynamics of goal-based choice," (with A. Fishbach), In *Handbook of Consumer Psychology*, (eds. C. P. Haugtvedt, P.M. Herr & F. R. Kardes), Erlbaum Press, 2007.
5. "A Behavioral Decision Theoretic Perspective on Hedonic and Utilitarian Choice,"(with U. Khan and K. Wertenbroch) in *Inside Consumption: frontiers of Research on Consumer Motives, Goals, and Desires*, (eds. S. Ratneshwar and David Glen Mick), London: Routledge, 2005.
6. "Customer Relations Online," in *Wiley Next Generation of Business Thinkers*, (ed. Subir Chowdhury), 2004.
7. "Defining Customers' Needs and Values for Marketing Success," in *Inside the Minds: Textbook Marketing*, Aspatore Press, 2003.
8. "The Online Store," (with D. R. Wittink), in *Managing Customer Relationships* (eds. Martha Rogers and Don Peppers), Wiley, 2003.
9. "Choice Deferral," in *The Elgar Companion to Consumer Research and Economic Psychology* (eds. P. Earl and S. Kemp), 1999.

**Select Working Papers / Papers Under Review**

1. "Seeing and Comparing Brand Extensions: The Importance of the Consumer Decision Environment," (with T. Meyvis and K. Goldsmith), under third review, *Journal of Marketing Research*.
2. "When Guilt Begets Pleasure: The Positive Effect of a Negative Emotion," (with K. Goldsmith and E. Kim), revising for second round, *Journal of Marketing Research*.

3. "Ironic Effects of Goal Activation on Choice," (with K. Goldsmith), under first review.
4. "The Effect of Goal Breadth on Consumer Preferences," (with E. Kim), under first review.
5. "Choosing between Apples or Apples and Oranges: The Role of Mental Construal in Comparable vs. Non-Comparable Choices," (with E. Kim and U. Khan), *under first review*.
6. "The Impact of Clientele Changes: Evidence from Stock Splits," (with W. Goetzmann and N. Zhu), soon under review, *Management Science Special Issue*.
7. "Can Investors Multiply and Divide: Investors' response to Stock Splits," (with N. Zhu and Dan Ariely).
8. "Category Expenditure and Promotion: Can Private Labels Expand the Pie," (with W. Putsis), Working Paper.
9. "Mindset over Matter: The Interplay between Goals and Preferences," (with A. Pocheptsova), Working Paper.
10. "Sophisticated by Design: Nonconscious Influences on Consumer Choice," (with T. Andrew Poehlman, Eric Luis Uhlmann, and John A. Bargh), Working Paper.
11. "Consumer Decisions to Rent versus Buy," (with Anastasiya Pocheptsova and Ran Kivetz), Working Paper.

Conference Proceedings Publications (Selected)

1. Constructing preferences: The role of comparisons in consumer judgment and choice," (with S. Zhang) *Proceedings of the Association for Consumer Research*, University of Chicago Press (1999).
2. "Sequential Choices and Uncertain Preferences," *Proceedings of the Association for Consumer Research*, University of Chicago Press (1997).
3. "Causes and Effects of Reference Effects in Choice," *Proceedings of the Association for Consumer Research*, University of Chicago Press (1997).

4. "New Directions in Mental Accounting," *Proceedings of the Association for Consumer Research*, University of Chicago Press (1995).
5. "Decision Difficulty and Uncertain Preferences: Implications for Consumer Choice," *Proceedings of the Association for Consumer Research*, University of Chicago Press (1994).
6. "Behavioral Decision Research: Theory and Applications," *Proceedings of the Association for Consumer Research*, University of Chicago Press (1993).
7. "To Choose Or Not To Choose: This is the Question," *Proceedings of the Association for Consumer Research*, University of Chicago Press (1992).

### **Invited and Conference Presentations**

#### **Invited Academic Presentations (\* denotes multiple presentations)**

*Boston College*  
*Carnegie-Mellon University*  
*Columbia University\**  
*Cornell University\**  
*Duke University\**  
*Harvard University*  
*Hong Kong University of Science and Technology*  
*IIPM\**  
*INSEAD\**  
*Indiana University*  
*Koc University*  
*Korea University*  
*London Business School\**  
*MIT\**  
*National University of Singapore*  
*New York University\**  
*Northwestern University\**  
*Pennsylvania State University*  
*Stanford University\**  
*Texas A&M University*  
*Tilburg University*  
*Tulane University*  
*University of Alberta*  
*University of British Columbia (planned)*  
*University of California, Berkeley\**  
*University of California, Los Angeles\**

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*University of California, San Diego*  
*University of Chicago\**  
*University of Delaware*  
*University of Colorado*  
*University of Florida*  
*University of Houston*  
*University of Miami*  
*University of Maryland*  
*University of Massachusetts, Amherst*  
*University of Michigan\**  
*University of North Carolina*  
*University of Pennsylvania\**  
*University of Rotterdam\**  
*University of Texas, Austin*  
*University of Utah*  
*University of Toronto\**  
*Washington University, St. Louis\**

**Conference Presentations (Over 150 presentations at conferences, consortiums, keynotes, symposiums, workshops, etc.) Recent presentations include:**

Keynote Addresses to Practitioners  
Choice Symposium  
CEO Roundtables, New York and New Haven  
CMO Roundtables  
ACR  
Informs  
Judgment and Decision Making  
Behavioral Decision Research in Management  
Society of Consumer Psychology

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**EXHIBIT B**

PRIOR TESTIMONY OF RAVI DHAR

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PRIOR TESTIMONY OF RAVI DHAR (Past Four Years)

1. Mattel vs. MGA (C.D. Cal.) (Deposition)
2. Pandora Jewelers 1995 v. Pandora Jewelry, et al. (S.D. Fla.) (Deposition)
3. Hansen Beverage Company v. Cytosport, Inc (C.D. Cal.) (Deposition)
4. Autodesk, Inc. v. Dassault Systemes SolidWorks Corporation (N.D. Cal.) (Deposition)
5. PBM Products, LLC v. Mead Johnson & Company (E.D. Va.) (Deposition and Trial)
6. LG Electronics USA v. Whirlpool Corporation (N.D. Ill.) (Deposition and Hearing)
7. Hoffman, Carr, Aviation Data vs. American Express (Cal.Superior, Alameda County) (Deposition and Trial)
8. In Re ATM Fee Antitrust Litigation (N.D. Cal.) (Deposition)
9. Johnson & Johnson., et al. v. Actavis Group hf, et al. (S.D. Fla.) (Deposition)
10. Figueroa vs. Sharper Image (S.D. Fla.) (Hearing)
11. Adidas Inc. v. Payless ShoeSource, Inc. (D. Or.) (Deposition and Trial)
12. BOIS v. S.C. Johnson & Son (M.D.N.C.) (Deposition and Trial Testimony)



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**EXHIBIT C**

DOCUMENTS REVIEWED

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## DOCUMENTS REVIEWED

### H&R Block Documents

2/16/11 Production Letter and underlying survey data

11/09/10 Production Letter introducing HRB000001 through HRB000182 and underlying survey materials

2008 questionnaire.pdf

2009 questionnaire card 1.pdf

2009 second card.pdf

Data Labels.xlsx

Historical\_file\_2010v2.txt

HRB000001

HRB000123

HRB000476

HRB000540

HRB001102

HRB001169

HRB002888

HRB002950

HRB003013

HRB003365

HRB003429

HRB013375

HRB013376

HRB013377

HRB013378

HRB013379

HRB013380

HRB013381

HRB013382

HRB013383

HRB013384

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HRB013386

HRB013387

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HRB013389

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HRB013391

HRB013392

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HRB013394

HRB013395

HRB013396

HRB013397

HRB013398

HRB013399

HRB013400

HRB013401

HRB013402

HRB013403

HRB013404

HRB013405

HRB013406

HRB013407

HRB013408

HRB013409

HRB013410

HRB013411

HRB013412

HRB013413

HRB013414

HRB013415

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HRB013416

HRB013417

HRB013418

HRB013419

HRB013420

HRB013421

HRB013422

HRB013423

HRB013424

HRB013425

HRB013426

HRB013427

HRB-DOJ-00170956

HRB-DOJ-00374265

HRB-DOJ-00377105

HRB-DOJ-60115926

HRB-DOJ-60115927

May Version Mail Survey.pdf

TaxACT Documents

TaxACT Interrogatory Response, including appendix 3

2SS-GRECe-0031471

Joint Submissions

Expert Report of Dr. Christine Siegwarth Meyer, 8/12/11

Parties' Joint White Paper (5/2/11), including all appendices and tabs

Parties' Condensed White Paper (5/16/11), including Appendices 4 and 5

Department of Justice

Expert Report of Principal Economic Expert, Dr. Frederick Warren-Boulton, 7/25/11

Expert Report of Ravi Dhar

Miscellaneous

TY2007 to TY2008 Migration.xlsx, provided by Abdul Motani, IRS, to Lawrence Buterman

Expert Report of Ravi Dhar

**EXHIBIT D**

PX604: Directions Research, Inc. Survey Results & Questionnaire.

## **Appendix 2**

**Directions Research, Inc.  
Survey Results & Questionnaire**

**April 29, 2011**





April 29, 2011

**Re: TaxAct Study -- Privileged**

Below you will find the results of the survey performed on behalf of H&R Block and TaxAct as discussed with legal counsel.

**Research Method**

A quantitative internet based study was conducted between April 20-April 29, 2011 among respondents who were responsible for the preparation of their taxes in 2011 (for income earned in 2010). In the first mail out, 46,899<sup>1</sup> email invitations were sent to TaxAct clients based on a random sample pull among all online efile accepted returns and the groups were as follows:

Tape 1

Free Fed/No State	13,881
Paid Fed/No State	4,990
Free Fed/Paid State	11,770
Paid Fed/Paid State	17,195

A second mail out was sent on April 27, 2011 in an effort to increase the quantity for Paid Fed/No State. The second Tape was a random pull for online efile accepted returns of Paid Fed/No State of 24,898 records.

The respondents were classified into four independent groups based on how they filed and how they paid in 2011:

1. Free Federal and no State filing through TaxAct
2. Free Federal and paid State filing through TaxAct
3. Paid Federal and no State filing through TaxAct
4. Paid Federal and paid State filing through TaxAct.

After determining their filing status in 2011, respondents were asked the following 2 questions:

- A. *if you had become dissatisfied with TaxACT's price, functionality or quality, which of these products or services would you have considered using to prepare your federal taxes? **(Please select all that apply)***
- B. *Below is the list of choices that you selected from the preceding question. Which **one** of these would you be most likely to select to prepare your taxes if you had become dissatisfied with TaxACT's price, functionality or quality? **(Select one answer)**<sup>2</sup>*

The options that were given reflected the filing status and payments they had made for their 2011 tax preparation.

<sup>1</sup> Of the 46,899 emails sent, 46,129 emails were received and 770 emails bounced.

<sup>2</sup> The fill in text of the survey is appended to this document.



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**Findings**

## 1. Free Federal/No State

	PRICE	All Options	One Most Likely
Free Fed/Mo State I would prepare myself without help		44%	34%
TurboTax Free Edition	\$	38%	30%
H&R Block at Home Free Edition	\$	17%	10%
Free TaxUSA Free Edition	\$	13%	8%
Complete Tax Free Basic	\$	11%	5%
An Accountant	\$	4%	2%
I would use a product on FFA		3%	2%
TaxSlayer Free Edition	\$	5%	1%
Jackson Hewitt free Basic	\$	4%	1%
TaxSimple Free Basic	\$	2%	0%
Other		7%	6%
Total Respondents		240	240

## 2. Free Federal/Paid State.

	PRICE	All Options	One Most Likely
Free Fed/Paid State I would prepare myself without help		40%	33%
TurboTax Free Edition	\$27.95	31%	24%
Free TaxUSA Free Edition	\$9.95	24%	20%
H&R Block at Home Free Edition	\$27.95	8%	5%
An Accountant		4%	4%
TaxSlayer Free Edition	\$14.90	6%	3%
I would use a product on FFA		3%	1%
Complete Tax Free Basic	\$34.95	1%	1%
Jackson Hewitt free Basic	\$29.95	1%	0%
TaxSimple Free Basic	\$24.95	0%	0%
Other		9%	8%
Total Respondents		245	245

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## 3. Paid Federal/No State.

Paid Fed/No State	PRICE	All Options	One Most Likely
TurboTax Basic	\$19.95	35%	29%
I would prepare myself without help		34%	27%
Free TaxUSA Deluxe	\$5.95	14%	13%
An Accountant		10%	9%
H&R Block at Home Basic	\$19.95	9%	4%
TaxSlayer Classic	\$9.95	5%	4%
I would use a product on FFA complete Tax Deluxe	\$34.95	3%	2%
Jackson Hewitt Deluxe	\$27.95	2%	1%
Tax\$imple Deluxe	\$24.95	0%	0%
Other		11%	10%
<b>Total Respondents</b>		<b>182</b>	<b>182</b>

## 4. Paid Federal/Paid State.

Paid Fed/Paid State	PRICE	All Options	One Most Likely
I would prepare myself without help		36%	33%
TurboTax Basic	\$56.90	27%	22%
Free TaxUSA Deluxe	\$15.90	20%	16%
TaxSlayer Classic	\$14.90	12%	7%
An Accountant		6%	5%
H&R Block at Home Basic complete Tax Deluxe	\$54.90	9%	5%
Jackson Hewitt Deluxe	\$69.90	1%	1%
Tax\$imple Deluxe	\$57.90	2%	1%
I would use a product on FFA	\$49.90	0%	0%
Other		2%	1%
Other		9%	8%
<b>Total Respondents</b>		<b>422</b>	<b>422</b>

Regards,



Tina Ruddy  
VP/Group Manager

Attachment



**TAX ACT STUDY**  
DR#17119  
4/20/2011 – 3:45 P.M. EST

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**INTRODUCTION**

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We would like to ask you about your opinions and experiences about different ways to prepare your taxes. There are no right or wrong answers; we value your feedback and opinions. Your responses will be held strictly confidential.

Thank you for your participation.

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**SCREENING**

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**[ASK ALL]**

QA. Which of the following statements best describes your level of involvement in the preparation of your income taxes? Would you say you...? (**Select one answer**)

1. Do all of the income tax preparation for your household
2. Share equally in the income tax preparation for your household
3. Do very little or no income tax preparation for your household(**THANK AND TERMINATE**)

QB. Have you prepared your taxes this year, meaning the tax return that was due April 18, 2011, for income earned in 2010 using TaxACT? (**Select one answer**)

1. Yes
2. No -- **TERMINATE**

QC. Omitted

QD. What version of TaxACT tax preparation did you use for your **federal** 2010 tax return? (**Select one answer**)

- 01 TaxACT Free Edition
- 02 TaxACT Deluxe
- 03 TaxACT Ultimate Bundle (Deluxe + State)
- 99 Don't know -- **TERMINATE**

QE. Did you file a **state** tax return through TaxACT this year for income earned in 2010? (**Select one answer**)

1. Yes
2. No

---

**PRICING SECTION**

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**(ASK Q.1A-1B IF Q.D=01 AND Q.E=2.)**

1A. If you had become dissatisfied with TaxACT's price, functionality or quality, which of these products or services would you have considered using to prepare your federal taxes? *(Please select all that apply)*

- a. An accountant (Please Specify:)
- b. CompleteTax Free Basic – Some limitations apply \$0
- c. FreeTaxUSA Free Edition \$0
- d. H&R Block at Home Free Edition - Some limitations apply \$0
- e. Jackson Hewitt Free Basic - Some limitations apply \$0
- f. Tax\$imple Free Basic - Some limitations apply \$0
- g. TaxSlayer Free Edition - Some limitations apply \$0
- h. TurboTax Free Edition - Some limitations apply \$0
- i. I would use a product offered through the IRS's FFA website (Please Specify Company:)
- j. I would prepare taxes myself without help
- k. Other (Please Specify:)

**(ASK Q.1B FOR ALL RESPONSES SELECTED AT Q.1A. IF ONLY ONE ITEM SELECTED AT Q.1A, AUTOMARK.)**

1B. Below is the list of choices that you selected from the preceding question. Which one of these would you be most likely to select to prepare your taxes if you had become dissatisfied with TaxACT's price, functionality or quality? *(Select one answer)*

**(ASK Q.2A-2B IF Q.D=02 OR 03 AND Q.E=2.)**

2A. If you had become dissatisfied with TaxACT's price, functionality or quality, which of these products or services would you have considered using to prepare your federal taxes? *(Please select all that apply)*

- a. An accountant (Please Specify:)
- b. CompleteTax Deluxe \$34.95
- c. FreeTaxUSA Deluxe \$5.95
- d. H&R Block at Home Basic \$19.95
- e. Jackson Hewitt Deluxe \$27.95
- f. Tax\$imple Deluxe \$24.95
- g. TaxSlayer Classic \$9.95
- h. TurboTax Basic \$19.95
- i. I would use a product offered through the IRS's FFA website (Please Specify Company:)
- j. I would prepare taxes myself without help
- k. Other (Please Specify:)

**(ASK Q.2B FOR ALL RESPONSES SELECTED AT Q.2A. IF ONLY ONE ITEM SELECTED AT Q.2A, AUTOMARK.)**

2B. Below is the list of choices that you selected from the preceding question. Which one of these would you be most likely to select to prepare your taxes if you were to become dissatisfied with TaxACT's price, functionality or quality? *(Select one answer)*

**(ASK Q.3A-3B IF Q.D=01 AND Q.E=01.)**

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TaxAct Study

4/20/2011

3A. If you had become dissatisfied with TaxACT's price, functionality or quality, which of these products or services would you have considered using to prepare your federal and state taxes?

*(Please select all that apply)*

- a. An accountant (Please Specify:)
- b. CompleteTax Free Basic-- Some limitations apply to federal \$34.95
- c. FreeTaxUSA Free Edition \$9.95
- d. H&R Block at Home Free Edition-- Some limitations apply to federal \$27.95
- e. Jackson Hewitt Free Basic -- Some limitations apply to federal \$29.95
- f. TaxSimple Free Basic -- Some limitations apply to federal \$24.95
- g. TaxSlayer Free Edition -- Some limitations apply to federal \$14.90
- h. TurboTax Free Edition-- Some limitations apply to federal \$27.95
- i. I would use a product offered through the IRS's FFA website (Please Specify Company:)
- j. I would prepare taxes myself without help
- k. Other (Please Specify:)

**(ASK Q.3B FOR ALL RESPONSES SELECTED AT Q.3A. IF ONLY ONE ITEM SELECTED AT Q.3A, AUTOMARK.)**

3B. Below is the list of choices that you selected from the preceding question. Which one of these would you be most likely to select to prepare your taxes if you had become dissatisfied with TaxACT's price, functionality or quality? *(Select one answer)*

**(ASK Q.4A-4B IF Q.D=02 OR 03 AND Q.E=1.)**

4A. If you had become dissatisfied with TaxACT's price, functionality or quality, which of these products or services would you have considered using to prepare your federal and state taxes?

*(Please select all that apply)*

- a. An accountant (Please Specify:)
- b. CompleteTax Deluxe \$69.90
- c. FreeTaxUSA Deluxe \$15.90
- d. H&R Block at Home Basic \$54.90
- e. Jackson Hewitt Deluxe \$57.90
- f. TaxSimple Deluxe \$49.90
- g. TaxSlayer Classic \$14.90
- h. TurboTax Basic \$56.90
- i. I would use a product offered through the IRS's FFA website (Please Specify Company:)
- j. I would prepare taxes myself without help
- k. Other (Please Specify:)

**(ASK Q.4B FOR ALL RESPONSES SELECTED AT Q.4A. IF ONLY ONE ITEM SELECTED AT Q.4A, AUTOMARK.)**

4B. Below is the list of choices that you selected from the preceding question. Which one of these would you be most likely to select to prepare your taxes if you had become dissatisfied with TaxACT's price, functionality or quality? *(Select one answer)*

**Thank you for your time. We appreciate your input. Have a nice day!**