

***An Australian and New Zealand Tax Research Guide: Who Will Show Me the Way?*¹**

Colin Fong²

Librarian, Australian Taxation Studies Program (ATAX)
Faculty of Law, University of New South Wales

THE PROBLEM

Presently in Australia and New Zealand there is no shortage of legal research guides. However there appears to be a dearth of taxation research guides. Is it because law students outnumber tax students by 10 to 1 or is it more? Taxation is sometimes mentioned as a small component of these legal research guides and is often ignored. There is certainly more to taxation than the major tax looseleaf services. One purpose of this essay is to outline how students, academics and practitioners might go about finding tax information.

AUSTRALIAN AND NEW ZEALAND TAXATION RESEARCH PUBLICATIONS: STRENGTHS AND WEAKNESSES

There are a number of publications which relate to researching taxation law. They vary from bibliographies to tax thesauri to publishers' guides to using their products.

In 1974, Robert Sperry compiled *Domestic Taxation in Australia: A Comprehensive Classified Bibliography*.³ This was a useful guide for the time and will still be useful in the future for those wishing to research tax from a historical perspective. Some of the interesting entries include the following:

- Mayo, A, "The high cost of dying" (1993) *Australian Home Journal* at 64; and
- Bennett, WA *Income Tax Reform in Australia: an Appraisal of the Value Added Tax*. Unpublished Honours Thesis, School of Economic and Financial Studies, Macquarie University, 1972.

The number of references to *Taxation in Australia* were minimal. A lot has occurred in twenty five years. Many more tax and law journals have appeared. Journal articles are now comprehensively indexed by various journal indexes, which are discussed later in this essay.

In 1984 CCH published *Access: User Guide and Thesaurus for Australian Tax Index*. This was continued by Enterprise Information Management Pty Ltd which published *Tax Thesaurus Plus Tax Finding Aids* in 1989 and then *Tax Thesaurus*, 2nd ed. in 1992. The

¹ Paper presented to the 11th Annual Australasian Tax Teachers Association Conference. School of Law and National Centre for Corporate Law and Policy, University of Canberra. 7 February 1998

² BEc (Syd), AALIA. Colin presently works for ATAX, LawNow and the University of Sydney Law Library. Over the years, Colin worked for a Sydney law firm as a librarian, conducted a review of the Office of State Revenue Library, taught legal research at the University of Technology, Sydney (UTS). An avid writer. Colin wrote *Australian legal citation – a guide*, St Leonards, Prospect, 1998 and has completed the course requirements for his Master of Legal Studies from UTS

³ Parts I and II (1974) 3 *Australian Tax Review* 118-178; 220-280.

purpose of these guides was to ensure the researcher used the correct terminology. As an example, when researching a goods and services tax in various overseas jurisdictions, it is useful to know that the terms value added tax or VAT may be appropriate.

Also useful are the 'Principal index' and 'Latest additions to Principal index' to the *Australian Federal Tax Reporter* Vol 12. The useful Conversion Table: IBRD to CTBR (NS); ATC to CTBR (NS) and ATR Board of Review, Tribunal and AAT decisions is in the same volume

Publishers' guides can be a useful starting point to using research tools efficiently, however they only refer to the publisher's products and do not publicise any of the product's weaknesses. The guides range from printed booklets to videos ⁴ And in some cases include instruction on the publisher's Internet site. For example, the CCH Interactive Services Internet site includes a guide to using Dynaweb.

For a number of years CCH provided training services for its looseleaf services to a number of clients. These usually consisted of a one hour training session on getting the best out of their looseleaf services. Since 1996 CCH have appointed two Customer Training Officers for Sydney and Melbourne to train clients in both print and electronic products though the latter is predominant. Three training options exist:

- Electronic training seminars held in most Australian capital cities using a large screen projector;
- Hands-on training workshops conducted at an external training centre with one PC for each participant and run in most Australian capital cities; and
- On-site hands-on training at one's own office

Each of the above takes approximately three hours with different costs involved. Some of the outcomes expected from these include:

- Select the best research method for a given problem;
- Move around books by "menu walking", using the index and hypertext links;
- Make full use of the search panel, using wildcards and boolean connectors;
- Utilise the various options available in search forms;
- Keep a record of your schedules using tools such as the journals and bookmarks;
- Print out full paragraphs or selected text; and
- Copy and paste text from the Electronic Library into your word processing program

CCH gives a copy of their *Electronic Libraries – Quick Tips* to their seminar attendees.

JOURNAL INDEXES

Journal indexes for Australian and New Zealand taxation include some of the following local and overseas sources:

- *ABI/Inform* Many articles are available in full text.
- *AGIS (Attorney-General's Information Service)*. Indexes journals received by the Attorney-General's Library in Canberra.

⁴ 1994 *Australian Electronic Master Tax Guide User Manual*. 1994; *How to use your Australian Federal Tax Reporter*, CCH Training Video Series, 1990

- *APAIS (Australian Public Affairs Information Service)*. Indexes Australian journals received by the National Library of Australia in the areas of social sciences and the humanities
- *Australian Accounting and Taxation Database* (Institute of Chartered Accountants in Australia)
- *Australian Business Intelligence (ABIX)* Indexes business articles from newspapers and magazines
- *Australian Taxation Abstracts (TAXABS)*
- *Bibliography of Asian Studies*
- *Business Periodicals Index (BPI)*
- *Current Contents*
- *EconLit*. Corresponds to the printed *Journal of Economic Literature* and *Abstracts of Working Papers in Economics*
- *Financial Journals Index (UK)*
- *Index New Zealand*
- *Index to Foreign Legal Periodicals*. Covers mainly non common law countries.
- *Index to International Economics, Development and Finance*
- *Index to Legal Periodicals and Books (Wilson)*
- *Index to Theses with Abstracts Accepted for Higher Degrees by the Universities of Great Britain and Ireland*
- *International Taxation Issues Database (INTAX)* (Australian Taxation Office)
- *Legal Journals Index (UK)*
- *NBER Working Papers* (National Bureau of Economic Research)
- *PAIS (Public Affairs Information Service)* Primarily US in focus
- *Social Sciences Index* Primarily US in focus
- *Taxindex* (last updated in 1995)
- *TaxTrace* (Taxation Institute of Australia). Available only to members.

Evaluating each of the above is a big task and warrants a separate paper. For the interim it is useful to point out some of the Australian journal indexes are stronger on taxation than others. AGIS is weaker than APAIS in taxation. The reason is that AGIS indexes journals only received by the Attorney-General's Library in Canberra whereas APAIS indexes journals received by the National Library of Australia. As the NLA is a copyright deposit library for the whole of Australia, theoretically it should receive all taxation journals published in Australia. Some of the overseas journal indexes are more up to date than the Australian journal indexes. Note that LegalTrac is updated daily on the Internet. This does seem ironic that an overseas index is more up to date about Australian material than our own! However, LegalTrac does not index all Australian law journals and presently omits a lot of LBC Information Services journals eg *Tort Law Review* and has not indexed *Melbourne University Law Review* since 1995. There have been some improvements. For example AGIS is updated every four months on Austrom. However from 1998 it has been updated monthly via Austlaw.

Of particular note from the above list are the specialist Australian tax journal indexes:

- *Australian Accounting and Taxation Database*
- *Australian Taxation Abstracts (TAXABS)*
- *International Taxation Issues Database (INTAX)*

- *Taxindex* (last updated in 1995)
- *TaxTrace* (Taxation Institute of Australia). Available only to members.

The focus of these publications is primarily tax and tax related journals. Researchers should also be aware many useful tax articles appear in non tax journals. Some appear in economics/accounting journals, some of which are not covered in the above five specialist tax journal indexes eg *Economic Record*.

UNDERGRADUATE, POSTGRADUATE, ACADEMIC AND PRACTICE PUBLICATIONS

Publications for undergraduates, postgraduates, academics and practitioners vary. Whilst an undergraduate tax student may get by with an introductory text,⁵ this will not usually be the case with postgraduates, academics and practitioners. Publications for the latter will often involve looseleaf services, journal articles, conference/seminar papers, government reports and esoteric texts.

For the undergraduate, finding the relevant information is often not a problem as the academics provide reading lists. For the postgraduate, academics and practitioners, finding relevant information may include some of the following techniques:

- Looking at and following up footnotes or a bibliography;
- Noticing a publication in a newspaper or hearing about something in the media;
- Going to a conference/seminar and retaining the papers;
- Reading the current journals such as: *Australian Tax Review*, *Taxation in Australia*, *Journal of Australian Taxation*, *Revenue Law Journal*;
- Being on the mailing list of various publishers such as: Australian Tax Practice, Butterworths, CCH, Centre for Professional Development, Taxability;
- Surfing the Internet; and
- Browsing the newly arrived journals in the library

Use of the journal indexes in the previous section is a good start to taxation research

PRESENT GUIDES : STRENGTHS AND WEAKNESSES

For a number of years, the Australian Taxation Studies Program, University of New South Wales conducted one-day workshops on both manual and computerised legal research. These are now run as audio conferences. The legal research study guide contains a wealth of information in terms of coming to grips with legal research.

On the Internet are a number of Australian tax sites including:

- Australian Taxation Office – www.ato.gov.au
- Craig Latham: Tax on Australia – www.csu.edu.au/faculty/commerce/account/tax/main.htm
- Institute of Chartered Accountants in Australia – www.icaa.org.au
- OZ TAX Australian Taxation Index – www.law.flinders.edu.au/tax
- Taxation Institute of Australia – www.taxia.asn.au

⁵ Such as Lehmann, G and Coleman, C *Taxation Law in Australia* 5th ed, North Ryde, NSW, LBC Information Services, 1998; Woellner, R et al *1999 Australian Income Tax Law*, 9th ed, North Ryde, NSW, CCH, 1998 (annual)

There are more sites listed via the Australasian Legal Information Institute (AustLII) Australian Law Index: Subjects: Taxation and Revenue.

One of the major weaknesses of these sites is that they inform you of other links on the Internet and there is important information available which is not linkable

The OZ TAX Australian Taxation Index was the first Australian taxation oriented Internet journal: *Internet Tax Review*. However only one article was published and this no longer exists. Recently the *Journal of the ATAX Association* was published as Vol 1 November 1998 and is available at www.atax.unsw.edu.au/journal.htm.

Of the above taxation sites, some are not easy to navigate. The ATO site in particular does not appear to me to be an easy site to navigate. By way of contrast the New Zealand Inland Revenue Department site appears to be more user friendly with free email update pages, biography of Commissioner of Inland Revenue, and Taxation Information Bulletins. The GST Newsletter and the Payroll News do not appear to be hyperlinked from the Overview page at www.ird.govt.nz/menu.htm, you have to go to Goods and Services Tax (GST) at www.ird.govt.nz/business/index.htm to locate them

OVERSEAS GUIDES

In the late 80s, David Sherman wrote for the Canadian market, *Income Tax Research: A Practical Guide*, Don Mills, Ont, R De Boo Publishers, 1989. This was followed by a second edition, and renamed *Canadian Tax Research: A Practical Guide* published by Carswell, in 1994. A third edition was published in 1998. The following description is taken from the Carswell 1998 *Law catalogue*:

- Part I introduces types of issues that need research, reviews fundamentals of the taxation system and discusses how various types of tax law come into being;
- Part II introduces and comprehensively explains all the sources of tax information highlighting the strengths and weaknesses of different publications;
- Part III explains how to read and understand the *Income Tax Act*;
- Part IV discusses research aids for the GST and other taxes, both federal and provincial;
- Part V, ideal for students, sets a sample problem, which is solved using a step-by-step approach; and
- Part VI provides a comprehensive reference list of tax publishers and publications

One of the striking features of the above is Part II where Carswell allows the writer to expose the strengths and weaknesses of different publications, including presumably their own.

In the United States, there are a number of guides to researching tax of various kinds. Note particularly the following three titles:

- Jacobstein, JM; Mersky, RM and Dunn, DJ *Fundamentals of legal research*, 7th ed, Westbury, NY, Foundation Press, 1998. In particular the chapter on federal tax research
- Raabe, WA; Whittenburg, GE and Bost, JC *West's Federal Tax Research*, St Paul, MN, West, 1997
- Richmond, G *Federal Tax Research*, 5th ed, Westbury, NY, Foundation Press, 1997 (initially published in 1981)

Many of these have appeared in numerous editions and many are not even held by Australian law or tax libraries.

AUSTRALIAN TAXATION CITATION PRACTICES: A CONTROVERSIAL VIEW

In finding tax cases, you can rely on a number of indexes put out by the tax publishers, such as:

- *Australasian Tax Reports Index* Vols 1-35, 1969-1997
- *Australian Federal Tax Reporter* Vol 12 Case table and Latest additions to Case table. This has references to all cases cited in the commentary and in New developments.
- *Australian Tax Cases Index* 1969-1989
- *Australian Tax Decisions* Vols 1-15, 1930-1969
- *Commonwealth Taxation Board of Review Decisions Consolidated Index and Tables* 1925-1986

In addition to the above, tax cases can be found in numerous other law report series such as *Administrative Law Decisions*.

Instead of just relying on the above students, academics and practitioners should be aware of the various print and electronic case citators available such as:

- *Australasian Current Case Annotator* (electronically known as *CaseBase*) (Butterworths from 1998)
- *Australian Case Citator* (LBC Information Services)

Many students, academics and practitioners, when citing tax cases, cite only the *Australian Tax Cases* or the *Australian Tax Reports*. This is fine if you are citing the case within a few months of it being handed down. However, once the case is reported in the authorised reports such as the *Commonwealth Law Reports* or other series such as *Australian Law Journal Reports* or *Australian Law Reports* then I think these should be cited ahead of ATCs or ATRs. Many articles are read by practitioners who then cite cases before the judiciary or tribunals such as the Administrative Appeals Tribunal. If the judges prefer the authorised reports then writers should get in the habit of writing with this audience in mind.

In a recent article on Australian tax avoidance,⁶ the writer frequently made reference to the authorised reports of the High Court of Australia, the *Commonwealth Law Reports* whereas elsewhere other writers omit references to the authorised series.⁷

RECENT DEVELOPMENTS FOR AN AUSTRALIAN AND NEW ZEALAND TAX RESEARCH GUIDE

In 1996, Margaret McAleese, the Law Librarian, University of Sydney Law Library, asked me to prepare a number of pathfinders for particular areas of law. A pathfinder is a guide to finding information in an area you may not be familiar with. The purpose of this was not to mention every piece of information but to highlight where to go to find information.

⁶ Harris, P. 'Australia's general anti-avoidance rule: Part IVA has teeth but are some missing?' 1998 *British Tax Review* 124-39.

⁷ For example Sles, L. 'The interaction of administrative law and the public ruling system: lessons from Bellinz' (1998) 1 *Journal of Australian Taxation* 169-79.

so that legislation, cases, texts, looseleaf services, conference/seminar papers, electronic resources, directories, abbreviations were mentioned. Work commenced on an Australian taxation law pathfinder. Feedback was received from various academics

This publication covered the basics of primary and secondary materials. This may sound too basic to many, however many students start doing postgraduate studies in various law schools without a law qualification. Contents include:

Introduction; Legislation; Interpreting legislation: extrinsic materials; Rulings and determinations; Cases; Using the catalogue; Some current Australian texts (post 1992); Looseleaf services; Conference/seminar proceedings; Tax journals held in the Law Library; Journal indexes; Electronic databases on taxation; Online services; Just published and forthcoming publications; Dictionaries of legal abbreviations; Not held, try . . .

On completion this was discussed and handed out at seminars involving postgraduate students and practitioner seminar attendees. The students were also examined on aspects of this course. For example they were given the task of finding Paul Keating's Reform of the Australian Taxation System of 19 September 1985 and the explanatory memorandum to the capital gains tax legislation. Some of the questions are not dissimilar to what you may experience in a daily tax practice. Then in mid 1998 this was made available with other pathfinders at www.law.usyd.edu.au/~library/pathfind.htm.

In April 1998 I started work with the Australian Taxation Studies Program (ATAX), University of New South Wales. Work commenced on the *ATAX Guide to Tax Research*, which again is a guide to students, particularly those new to studying tax. This guide starts with basics such as: Glossary of terms, publications, libraries, legal research guides, bookshops and information centres, publications by ATAX staff etc. This is available at the ATAX home page – www.atax.unsw.edu.au. Click on Library Guides. Contents include: Introduction; Glossary of terms; Libraries; Legal research guides; Bookshops and information centres; Past exam papers and examiners comments; Current developments in taxation; International tax research; Publications by ATAX staff; Professional education; ATAX Professional training; Other useful sites; What's new; Useful trivia.

Other guides ready, or in the pipeline, are *ATAX Research guide to GSI* and *ATAX Postgraduate Research Guide to Taxation*.

Whilst surfing the Internet, I came across the Institute of Chartered Accountants of New Zealand Library and Information Service. They provide an email service to their members and non members which lists their *Latest publications received*. This useful publication lists a lot of accounting, corporate and tax information. For further details contact library@icanz.co.nz or Direct Fax: 64-4-499-8033.

In Australia, the Institute of Chartered Accountants in Australia via its Web Library contains the online version of *Charter*, *Charter* supplements, discussion and strategy papers, *Interface*. In 1999 the Web Library is planning to include the Institute's Library Catalogue. However this will be for members only.

Recently, on the Australian and New Zealand Law Librarians List,⁸ an academic posted an inquiry as to where he could obtain the federal Treasurer's press release of late 1992 on fringe benefits and non-profit associations. Fortunately for him, at least two librarians brought to his attention the availability of the federal Treasurer's press releases in *Taxation in Australia*. Nowadays, many government press releases are available on the Internet, at various sites.⁹

One regrettable recent development is the demise of the Legal Information Institute of New Zealand (LIINZ) at the end of 1998. At one stage LIINZ was touted as the New Zealand equivalent of both the Australasian Legal Information Institute (AustLII) and the Legal Information Institute, Cornell (US). The decommissioning occurred primarily because of lack of funds.¹⁰

BOOKMARKS ON THE INTERNET : ARE THEY WORTH IT?

One of the signs of a good Internet surfer was the number of Internet bookmarks they had on their machines. However many surfers make the mistake of bookmarking every interesting site they visit in the likelihood they will visit that site again. What often happens is that you end up with over a hundred bookmarks and it takes ages to get to your bookmark.

Personally I don't book mark Internet sites. The reason I don't is because I usually know how to get to a site, I once found interesting, by going to sites I know have links to that site. There are a number of key sites I know which will lead me to what I need:

- Australasian Legal Information Institute (AustLII) – www.austlii.edu.au
- National Library of Australia – www.nla.gov.au
- University of New South Wales Library Electronic Resources Reference Tools – www.library.unsw.edu.au/links/Reference_Tools/
- University of Sydney Library Ready Reference – www.library.usyd.edu.au/Guides/Readyref/index.html

Alternatively, you can memorise some of your favourites as their acronyms aren't that difficult to remember:

- Australian Broadcasting Corporation – www.abc.net.au
- *Sydney Morning Herald* – www.smh.com.au
- Treasurer's Tax Reform site – www.taxreform.gov.au
- Australian Taxation Office – www.ato.gov.au

CONCLUSION

From the above discussion there are many useful developments in showing people how to maximise their way in finding relevant tax information. Will there be a need for a tax research guide akin to US and Canadian publications? If so I would argue the only way to go would be electronic, as so much tax information changes, as most of us know, on a daily basis. Though if someone offered me a job to put together a print version, I would find the temptation hard to resist!

⁸ 18 January 1999

⁹ For example *Australian Government Media Releases* – media.fed.gov.au; *Australian Taxation Office Media Releases* – www.ato.gov.au

¹⁰ Harwood. N Closure of Legal Information Institute of New Zealand. *Australian and New Zealand Law Librarians Discussion List*. 8 December 1998