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**HOW TO CONQUER TAX RESEARCH:
MAKING THE MOST OF ONLINE RESOURCES**

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HOW TO CONQUER TAX RESEARCH: MAKING THE MOST OF ONLINE RESOURCES¹

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ABSTRACT

The past ten years have seen enormous changes not only in terms of tax reform, but also in the way tax practitioners have acquired information about taxation. In addition to paper sources, electronic sources such as online services and CD ROMs have been boosted by resources available on the internet. Many documents which often took a long time to acquire are now readily available on the internet. Yes, but where? The aim of this paper is to highlight how tax research can be conducted using the internet and how to optimise your time in finding useful and relevant information. There is no one source for tax research. Many exist, and knowing where to look is the key.

¹ Material presented in a seminar at Curtin Business School, 21 October 2004.

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INTRODUCTION

Examine the following quotations:

‘Most research is now done on the Internet, not at the Library.’³

‘The internet and the revival of the myth of the universal library.’⁴

Which of these two best reflects your daily research tasks?

The aim of this paper is to optimise your use of the internet when doing Australian federal tax research. Part of this paper was originally given to the Taxation Institute of Australia New South Wales Division Breakfast Club meetings held in March 2000 and published in *Taxation in Australia*.⁵ In this paper, I wish to go over some of the topics covered previously and to bring up to date some of the changes that have occurred since.

If the ATO is one of the key providers of tax information, isn't it sufficient to just stay on their website (<http://www.ato.gov.au>)? On 20 July 2004, when accessing the ATO website regarding currency of tax decisions, I came across the High Court decision in *Network Ten Pty Ltd v. TCN Channel Nine Pty Ltd and Ors* [2004] HCA 14, which as far as I could see, had nothing to do with tax. Yet other cases, such as *CBA Investments Ltd v Northern Star Ltd*,⁶ which some consider important in tax, is not there. Obviously, the commercial publishers deemed it an important case, due to its publication in both the Australian Tax Cases and Australian Tax Reports. Likewise, if AustLII (<http://www.austlii.edu.au>) is one of the key providers of legal information, isn't it sufficient to just stay on their site?⁷

The internet or the web, although complementary to traditional print sources, is increasingly perceived as a rival to those sources. Many traditional sources such as the *Commonwealth Law Reports* and *Federal Court Reports* are also available on the internet, via subscription.⁸ See also ‘An open letter to the Commissioner of Taxation.’⁹ Just as there is a diversity of print sources for taxation, so there is a diversity of internet sources for taxation.

At the outset, we have to ask some basic questions, such as: what sort of information are we after? Is it primary or is it secondary material? Too often people rely only on the secondary sources. Note the big difference between what a journalist may write about a case and what you discover when you read the case.¹⁰

³ Advertisement for kidz.net, *The Glebe & Inner Western Weekly*, 9 February 2000, 51.

⁴ M. Kruk, (1999) 48 *Australian Library Journal* 137-47.

⁵ ‘Tax research and the internet’ (2000) 34 *Taxation in Australia* 547-51.

⁶ 2002 ATC 4430; (2002) 49 ATR 610; [2002] NSWCA 94. Note also the omission of *CBA Investments Ltd v Northern Star Ltd (No 2)* [2002] NSWCA 146.

⁷ See C. Fong, ‘Assessing free legal websites: the good, the bad and the doable’ (2004) 19 (3) *Online Currents* 22-31.

⁸ Via LBC Online.

⁹ P Hill, *GST Today* Issue 14 - Dec/Jan 2000, 21.

¹⁰ Note Peter Hill's comments regarding a press release *Taxation Institute concerned on Tax Commissioner's 'unlawful' settlement tactics*, 23 February 2000, which commented on *Young v Commissioner of Taxation* [2000] FCA 122, Taxation Institute of Australia Breakfast Club, Sydney and Parramatta, 6 and 9 March 2000. See also *Rogers v Nationwide News Pty Limited* (2003) 77 ALJR 1739; (2003) 201 ALR 184; [2003] HCA 52.

SOME BASIC SEARCH STRATEGIES

Back to basics. When searching for information, whether it be on a CD ROM or online via the internet or a subscription service, it is important to remember what is known as Boolean searching. Here are some reminders:

- “Capital and gains” will get you items which have both capital and gains, however the terms may be separated by thousands of words between them. On some internet search engine query boxes, you have to use a + instead of ‘and’.
- “Goods and services tax or gst” will get you items which have either terms in the document, but not necessarily both. Useful when looking for synonyms.
- ‘Capital not gains’ will get you documents on capital but no documents including gains.

Added to Boolean operators of ‘and’, ‘or’ and ‘not’ are the proximity operators:

- ‘Capital w/5 gains’ means the word capital will appear within 5 words of gains or sometimes can be shortened to ‘capital /5 gains’.
- ‘Capital pre/5 gains’ means the word capital will appear 5 words preceding gains.
- ‘Capital near gains’ means the words will appear near each other, possibly either in the same paragraph or same sentence or can be shortened to ‘capital /p gains’ or ‘capital /s gains’.

Truncation (or wildcards) is a handy item worth knowing about. Some software or search engines use * or !, some use #, others ? or \$. For example: law* may yield laws, lawmaking, lawnmowing, etc, so be careful how you use them as you may get a lot of irrelevant material. If looking for bankruptcy, use bankr* rather than bank*. Neglig* (or !) may yield negligence or negligee!

Then there is what is known as nesting: eg (capital gains tax or cgt) and (compliance costs or administrative costs or operating costs) means the document must contain either capital gains tax or cgt and either compliance costs or administrative costs or operating costs.

INCOME TAX

Rather than compile an exhaustive list, listed as follows are a few places, which also act as a gateway to numerous other useful sites.

- Australasian Legal Information Institute (AustLII) (<http://www.austlii.edu.au>). By clicking on By Subject, under Catalog on the front page, then Taxation, Revenue and Customs, you will see links to 23 sites.
- Australian Taxation Office (ATO) (<http://www.ato.gov.au>), in particular under their Rulings and law heading, then Legal Database (<http://law.ato.gov.au/atolaw/index.htm>). By clicking on Browse database, you can see a menu listing: Legislation and Regulations, Amending Legislation, ATO Interpretative Decisions, ATO case decision summaries, case judgments, public rulings, public determinations (including GST Bulletins), extrinsic materials (back to 1936), practice statements, taxpayer alerts, ATO Guidelines and Policy, Freedom of Information, Legislative determinations, superannuation circulars. Case judgments include decisions from the High Court of Australia and the

Federal Court of Australia, Administrative Appeals Tribunal, and various Supreme Court judgments. Sometimes, these decisions are not as current as on AustLII.

- Taxation Institute of Australia (TIA). Contains a wealth of information for members including access to their database which indexes both TIA and non TIA materials, TIA submissions (<http://www.taxinstitute.com.au>). Non members can search the database and find references, and there is also some information available free for non members.¹¹ Members who pay extra can access the full text of most TIA publications published in the past 7-8 years.

GOODS AND SERVICES TAX (GST)

There are many Australian websites on the GST. The ones I wish to focus on are:

Top six:

- Australian Tax Practice (<http://www.atp-online.com.au>). Many GST materials of legislation, commentary and news are only available by subscription. Their GST Infosite features news and articles, as well as information regarding their comprehensive range of GST services.
- Australian Taxation Office (<http://www.ato.gov.au>). Under For Business, note their GST essentials, where they have links to the following. Basic topics: GST for small business, Registration, Accounting and reporting, Taxable and non-taxable sales, Taxable and non-taxable purchases, Input tax credits, Grant. Under Advanced topics: GST Rulings, Determinations and Bulletins, Food, Forms, Groups, branches and joint ventures, Importation and international issues, Insurance, Margin scheme, Motor vehicles, Non profit and fundraising, Second-hand goods, Transitional arrangements.
- The Australian Taxation Studies Program (Atax), University of New South Wales (<http://www.atax.unsw.edu.au>). Includes the *Research guide to GST* which is a comprehensive reference source of GST publications, both local and overseas. Also has details of forthcoming seminars/conferences on GST, three GST courses, the *Journal of the ATAX Association* and the *eJournal of Tax Research* have articles on GST.
- CCH Tax Page (http://www.cch.com.au/cch_sitemap.asp#tax). Some materials only available by subscription. See also the CCH New Zealand Tax web site (<http://www.cch.co.nz/tax>).
- Taxation Institute of Australia. Contains a wealth of information for members, including access to their index to journal articles on tax, today's tax news, access to full text TIA publications and TIA submissions. Note also the information available free for non members.

¹¹ See also Fiona Cochrane's article under Further reading.

The rest:

- Australia. Dept of Agriculture, Fisheries and Forestry - Australia (AFFA). Go to <http://www.affa.gov.au> then click on Rural Policy and Innovation, then click on Taxation issues and this includes *Your farm business and the GST – detailed guide*, news, and a range of resources.
- Australian Competition and Consumer Commission (ACCC) (<http://www.accc.gov.au>).
- Australian Customs Service (ACS) (<http://www.customs.gov.au>). See their Media, publications and forms link.
- CPA Australia (www.cpaaustralia.com.au).
- Australian GST law and practice by Mallesons Stephen Jaques (<http://www.lexisnexis.com.au>). This online resource library from LexisNexis, provides the complete legislation, and a chapter-by-chapter analysis of all GST and related legislation with commentary by GST experts from Mallesons Stephen Jaques. This service includes a perspective on the international application of consumer tax law and ATO releases. This service also emails subscribers to let them know about any changes in rulings, draft rulings, determinations and ATO bulletins.
- Centre for Professional Development (<http://www.cpd.com.au>). Includes information about their GST publications, seminars and workshops.
- Institute of Chartered Accountants in Australia (<http://www.icaa.org.au>).
- National Institute of Accountants (<http://www.nia.org.au>).
- TimeBase (<http://www.timebase.com.au>). Point-in-time GST Service contains every version of every provision of GST legislation, as it is in force on any day, since the introduction of the GST. You can research current legislation and related materials, or use a simple calendar to view the legislation in force on any day, back to 8 July 1999.

REVIEW OF BUSINESS TAX AND TAX REFORM

The Review of Business Taxation website (<http://www.rbt.treasury.gov.au>) contains the original Ralph Report and discussion papers, various press releases, legislation, and explanatory memorandum. To obtain the *Report of the Tax Consultative Committee*, Chair: D Vos, December 1998, you will need to go to the Treasury website, and then look for it via Publications. Commentaries on the Ralph Report may be found in various newspapers, magazines, journals or professional firm websites.

The Board of Taxation (<http://www.taxboard.gov.au>) is a useful website containing many helpful tax reform publications.

Another useful site for tax reform is the website of the Inspector-General of Taxation (<http://www.igt.gov.au>). The objective of the Inspector-General of Taxation is to improve the administration of the tax laws for the benefit of all taxpayers.

Two basic websites for tax reform are the Federal Treasurer and Treasury websites at <http://www.treasurer.gov.au> and <http://www.treasury.gov.au>.

SOME COMMON PROBLEMS IN FINDING INFORMATION ON THE INTERNET

Some of the common problems encountered in finding information on the internet include incorrect citation, disappearance of information, and information moved elsewhere. Since writing this paper and comparing it to my earlier paper published in 2000, I was not too surprised to see many broken links or link rot to the many internet websites I had mentioned previously.

Incorrect citation

With the proliferation of GST journals, are you after *GST News* (TIA) or *GST News Alert* (ATP) or *GST Newsletter* (CCH)? Which *GST Update* are you after, the one produced by Blake Dawson Waldron or the one produced by Mallesons Stephen Jaques or CCH? Correct information and accurate typing are important when keying in addresses for websites. The internet is not very forgiving for keystroke errors or mistaken Uniform Resource Locators (URLs).

Disappearance of information

Information may appear on the internet one day and disappear at a later date. This is sometimes known as link rot. The *Taxation Internet Review* appeared briefly at the Oz Tax: Australian Tax Index (Flinders University) website, then disappeared completely. Likewise the *Internet Law Journal* which appeared on the LBC Information Services website then also disappeared completely. The explanatory memoranda (EMs) appeared on the Australian Parliament House site (<http://www.aph.gov.au>), then disappeared after the bills were assented to. Fortunately, there is now an archive of explanatory memoranda on that site and SCALEplus back to 1996. Current and older tax EMs are available from the ATO website and commercial websites such as those provided by both ATP and CCH.

The National Library of Australia in June 1996 established a digital archive of Australian online publications. This is known as the PANDORA Project. This includes electronic journals (eg *E Law*; *National Law Review*), organisational sites (eg Pauline Hanson's One Nation), government publications (*Guidelines for Commonwealth Information Published in Electronic Formats*) and ephemera (eg Pauline Pantsdown Fan Club (unauthorised); The Real Jeff Kennett Site; The Wiggles). See <http://pandora.nla.gov.au/index.html>.

There are a number of sites in the PANDORA Archive, which may interest tax researchers such as:

- Australasian Tax Teachers Association Annual Conference papers 1996; 1999-2004.¹²
- 1996 and 1998 Australian Federal Election Campaign - Australian Internet Sites.
- Asia Pacific School of Economics and Management Working Papers.
- Australians for Fairer Tax Inc.
- Centre for Economic Policy Research Discussion Papers (Australian National University).
- Working Paper Series (Murdoch University Dept of Economics).

¹² <<http://pandora.nla.gov.au/tep/23524>>.

Note the original appearance of the Vos report: *Report of the Tax Consultative Committee*, 13 November 1998. This was originally found at the Tax Reform site, which was part of the Treasury home page. To find it now, you need to go to the Treasury home page, click on Publications, then scroll through until you get to the 13 November 1998 or you can type in vos under Search and restrict your search to Publications. Not exactly obvious to the ordinary user! Some people thought the report had disappeared. Try and think where you will find the information. If you are on the Treasury home page and can't find the information, email the Web Master. Other home pages often provide a similar service.

One way to preserve material from the internet is to download the material either to paper or to your hard drive or to a disk. In the past, I have downloaded overseas material such as the *Canada Report of the Technical Committee on Business Taxation*¹³ and the *New Zealand Report to the Treasurer and Minister of Revenue by a Committee of Experts on Tax Compliance*.¹⁴ So much for the paperless office!

FINDING HART'S CASE

On the morning of 27 May 2004, one of my colleagues, informed me about the imminent handing down of Hart's case by the High Court of Australia. Once it was handed down, I was asked to notify our academic staff. I looked on AustLII, but could not see it initially but did find it later on. Then I tried the LexisNexis website where they have new High Court of Australia judgments available also, shortly after being delivered. You can view them for free for a day, then the unreported judgments are only available to Butterworths subscribers.

So if you were citing it after it was handed down, you would cite it as [2004] HCA 26. It is now available in both print and electronic formats such as: (2004) 78 ALJR 875; (2004) 206 ALR 207; 2004 ATC 4599; (2004) 55 ATR 712; [2004] HCA 26; BC200403006. The latter is LexisNexis Butterworth's internal accession number.

If you were waiting for the print version of Hart's case, here are places where it has appeared together with the date received by a library.

- (2004) Australian Tax Cases 4599, issue 8 28 July, received on 9 August.
- (2004) 56 Australian Tax Reports 712, June received on 25 July 2004.
- (2004) 206 ALR 207, 9 June 2004 received on 28 June 2004.
- (2004) 78 ALJR 875, July 2004 received on 29 July 2004.

So if you were waiting for the print version of Hart's case, compare this with being able to obtain the case electronically within a few hours of it being announced by the High Court of Australia. You had variations of 4-9 weeks. The CLR reference will probably appear either in late 2004 or in 2005. Prior to the advent of the internet, you either waited for tax decisions to appear in print, or visited the relevant court registries and paid for the judgment.¹⁵

¹³ Chaired by Jack Mintz, December 1997 and released to the public in 1998. The Canadian equivalent to our Ralph Report.

¹⁴ December 1998.

¹⁵ I recall Federal Court of Australia judgments were a dollar per page.

PAPER AHEAD OF ELECTRONIC

Surprisingly, many print publications appear long before the electronic version is available. This seems ironic, as the electronic version is used to prepare the print version. Many US law reviews are available in print and are received by Australian law libraries. Unfortunately these are not always available on Lexis or other subscription databases at the same time. Sometimes it may be over four to six months later that the electronic version of the same journal is available. Recently, I received by post *The University of Sydney Gazette* (October 2004 issue), and then I checked the University of Sydney website, where the following message appeared: The October issue of the Gazette will soon be available online.

HOT TAX SITES

There is the old saying: 'If you pay peanuts, you get monkeys!' This is true with some internet sites. Many are free and some users suffer the delusion that if information is in electronic format then it automatically follows that it is up to date. Secondly, some commercial sites are not always current and may have out of date information. These ironies are manifested in some of the following internet sites.

Top ten:

- Australasian Legal Information Institute (AustLII) (<http://www.austlii.edu.au>). This has the full text judgments from all Australian superior courts (though not all their judgments and mostly from the past few years), legislation from the federal and state jurisdictions plus secondary materials and a lot of useful links. High Court of Australia and Federal Court of Australia decisions are often available from here a few hours after they are handed down. Not always up to date for legislation, compared to some commercial publishers and SCALEplus.
- Australian Parliament House (<http://www.aph.gov.au>) contains bills, explanatory memoranda (EM), Hansard, parliamentary reports plus links to other government departments. Old bills, EMs and second reading speeches go back to 1996.
- Australian Tax Practice (<http://www.atp-online.com.au>) Contains materials from their looseleaf services of legislation, commentary, and news, mainly available by subscription.
- Australian Taxation Office (<http://www.ato.gov.au>). This is one of the leading tax sites as it has the original source materials from the ATO.
- Australian Taxation Studies Program, University of New South Wales (<http://www.atax.unsw.edu.au>). Contains information about courses, seminars/conferences, professional education, *eJournal of Tax Research*, *Journal of the ATAX Association*, research guides to taxation and links.
- CCH Tax Page (http://www.cch.com.au/cch_sitemap.asp#tax) Materials from their looseleaf services are only available by subscription.
- KPMG (<http://www.kpmg.com.au>). At this site is the useful Daily Tax News.
- SCALEplus (<http://scaleplus.law.gov.au>). The federal statutory material for AustLII comes from this site and is often more up to date than AustLII.
- Taxation Institute of Australia (<http://www.taxinstitute.com.au>).

- TimeBase (<http://www.timebase.com.au>) contains current federal and state statutory material with options to subscribe to MALT, point in time facility for income tax and goods and services tax legislation.

The rest:

- Anstat Pty Ltd (<http://www.anstat.com.au>) offers a range of legislative services, including an email legislation alert service in nominated areas of interest.
- Australia. Treasurer (<http://www.treasurer.gov.au>). Contains, media releases, speeches, media transcripts.
- Australia. Treasury (<http://www.treasury.gov.au>). Contains Treasury publications, press releases.
- LawNow (via <http://www.lexisnexis.com.au>) contains updated consolidated Commonwealth, NSW, Queensland and Victorian legislation. To be made available via LexisNexis AU, their new global technology platform during 2004-2005.
- Oz Tax: Australian Tax Index, edited by Paul Kenny, Flinders University of South Australia (<http://www.ssn.flinders.edu.au/commerce/tax>). Includes hot topics such as popular tax acts, GST, trust losses, Review of Business Taxation, closely held trusts/ultimate beneficiary, Australian Business Number, Taxpayers Charter plus links to numerous tax and related sites.

PRESENT AND FUTURE DEVELOPMENTS

A number of online legal publishers, such as TimeBase (e.g., Income Tax Service with MALT) provide point in time legislation.¹⁶ That is, they provide clients with legislation as it was at a particular point in time. This is particularly useful in litigation when events occurred many years ago and the relevant legislation was a lot different to what it is today. In the past and present, copies of printed legislation were reprinted at yearly or more gaps, so paste ups had to be made. This manual task should be less of a task in future. One caveat should be noted. When legislation is retrospectively announced, make sure the point in time legislation has this embodied, e.g., *Reform of the Australian Taxation System*, 19 September 1985.

LawTracker from TimeBase makes it easy for you to keep right up-to-date with legislation relevant to your area of expertise, or even to a particular matter or issue you are working on. You no longer have to risk making decisions on information that may be out-of-date. With LawTracker, you can breathe easy, knowing you have the latest information delivered directly to your inbox. Features include:

- Unlimited customised alert profiles for groups or individuals
- Track legislative activity by subject matter or specific Act or Bill
- Automatic email alert when activity occurs

¹⁶ Australian Law Librarians' Group (NSW Division) 4th Annual Publishers' Forum, 12 August 1999, Parliament House, Sydney. MALT stands for Multi Access Layer Technology. For Tasmanian legislation, go to <http://www.thelaw.tas.gov.au/index.w3p> where you can now view a point-in-time summary which allows you to view components of legislation as they have changed through time.

- Frequency of alerts can be customised (eg daily, weekly, monthly)
- Extensive on-line database back to 1998 enables instant viewing of the history of any item of legislation or Bill
- View legislative activity within a period of time using sophisticated searching capabilities
- Delivery is via Web/email
- Legislative activity tracked daily and updated as material is received.¹⁷

E-commerce and taxation is likely to dominate thinking in the next few years. The ATO released a discussion paper *Tax and the internet* (August 1997) then released its *Tax and the Internet Second Report* (December 1999). Issues covered included electronic commerce, electronic payment systems, taxation and compliance issues.¹⁸

Electronic citation

At the beginning of 1998, the High Court of Australia initiated the use of medium neutral citation for its electronically available judgments. To give an example: *Commissioner of Taxation v Hart* [2004] HCA 26 means this case was decided in the year 2000 by the High Court of Australia and is the 26th case of that court for the year. To cite a paragraph, you could indicate as [2004] HCA 26 at [20] or paragraphs as [20-23]. After this initiative, most Australian superior courts followed with their own medium neutral citations. If appearing before the High Court of Australia and a *Commonwealth Law Reports* reference is available then that should be cited ahead of the medium neutral citation. Likewise, *Federal Court Reports* for Federal Court of Australia appearances.

One area which legal and tax researchers should be lobbying for is the availability of lower court decisions on the internet. At the moment, only South Australia and Queensland have some of their District Court decisions available on the internet, via AustLII. Yet there are many decisions in the District Court which relate to tax. Note the recent publicity concerning a Brisbane accountant who has been jailed for 4 years in the Brisbane District Court over tax fraud of \$190,942.¹⁹ Yet the judgment is not yet publicly available.

KEEP BROWSING

As many of you know, Hart's case was handed down by the High Court of Australia on the 27 May 2004. If I asked you to produce a list of what has been published in terms of commentaries on this case, how many do you think you could come up with? Without wishing to brag, as of 14 October 2004, here is what I found.

Michael Bersten & Wayne Plummer, 'The ATO's win in *Hart's* case – how safe do you feel now?' (2004) No 30 *Weekly Tax Bulletin* 1135-37.

¹⁷ From the TimeBase website <http://www.timebase.com.au> as on 16 October 2004.

¹⁸ See also P. McNab & D. Porter, 'Electronic commerce: determining source' (1998) 1 *Tax Specialist* 223-29; D. Pinto, 'Taxation issues in a world of electronic commerce' (1999) 4 *Journal of Australian Taxation* 227-80; D. Pinto, *E-commerce and source-based income taxation* (2003).

¹⁹ See Australian Taxation Office Media Release, 25 June 2004
<<http://www.ato.gov.au/corporate/content.asp?doc=/content/mr2004043.htm>>.

Mark Burton & Justin Dabner, 'Hart – the death of tax planning?' (2004) Issue 24 *CCH Tax Week* 373-77.

M. Cashmere, 'Part IVA after Hart' (2004) 33 *Australian Tax Review* 324-42.

Graeme S. Cooper, 'Australian High Court issues judgment on application of GAAR (general antiavoidance rule)' (2004) 34 *Tax Notes International* 994-997.

John De Wijn, & Fiona, Alpins, 'Hart's case – what kind of hand has the High Court dealt?' (2004) 39 *Taxation in Australia* 23-29.

Peter Donovan, 'The uncertainties of Part IVA - an analysis of the Sleight and Hart decision' (2004) Issue 22 *CCH Tax Week* 345-349.

Greenwoods & Freehills, *High Court Re-Mystifies Part IVA* (2004)
<http://www.gf.com.au/articles_276.htm> as at 31 May 2004.

Terry Hayes, 'Hart Case a Pyrrhic Victory for the ATO, says Deloitte' (2004) Issue 22 *Weekly Tax Bulletin* 786-787.

Jerry Reilly, 'Hart: High Court united against split loans' (2004) Issue 22 *Weekly Tax Bulletin* 783-786.

Robert Richards, 'What Harts really means' (2004) 74 (6) *Australian CPA* 62; 64.

Antonia Rowland, 'Court ruling on split loan interest deductions' (2004) 10 *Asia-Pacific Tax Bulletin* 346-47.

David Russell, 'Hart's case – what kind of hand has the High Court dealt? The Chancellor's foot and the Commissioner's nose,' Taxation Institute of Australia Queensland Division, 29 June 2004.

Ross, Seller, *Hart to Hart* (2004)
<http://www.gadens.com.au/docushare/dscgi/admin.py/Get/File-4751/Hart_to_Hart.pdf> 27 May 2004.

Karen Smith, 'Split loan saga comes to end' (July 2004) *Charter* 62-63.

Maheswaran Sridaran, 'The High Court decision in *Hart*: an alternative view' (2004) Issue 26 *Weekly Tax Bulletin* 935-38.

Taxability 'Part IVA – Hart's case goes Commissioner's way' (2004) *Income Tax Adviser*. A more extensive report was provided to subscribers
<<http://www.taxability.com.au/promo/sample/hartscase.pdf>> as at 15 June 2004

Lachlan R. Wolfers, & Kirk Wilson, 'How to mend a broken Hart - a CGT rainbow?' (2004) Issue 27 *Weekly Tax Bulletin* 986-87.

How did I compile this list? Was it simply just pressing a button and all the references appeared? No, most of the above were compiled by browsing the latest journals received in my library or by my colleagues. No doubt there will be others appearing in other tax and non tax journals. If you only rely on electronic sources, sometimes these take awhile to index current journals so you could be waiting months to find out what is written in recently published journals.

ODDS AND ENDS

1 One of my library users asked me recently for the *A New Tax System (Indirect Tax and Consequential Amendments) Bill 1999 Explanatory Memorandum*. I checked the CCH and ATP versions but they were on loan from the Library. I assumed the bill would be either on the Australian Parliament House site or SCALEPlus. I looked on the Australian Parliament House site and discovered that they are now storing an archive of EMs which in the past, they used to delete after date of assent. I printed out the EM and discovered it was 45 pages long, and then checked the SCALEPlus site where the same document was over 80 pages. The latter was the Adobe Acrobat PDF version, a facsimile of the original whereas the former was a HTML version with many words crowded onto the page.

2 In Australia if you wish to receive recent publications or something similar from the Institute of Chartered Accountants of Australia, you would have to be a member. Not so for New Zealanders. I was on the email list to receive the Institute of Chartered Accountants New Zealand Library Latest publications. Contact library@icanz.co.nz

CONCLUSION

Going back to the beginning quotations, the internet is like an enormous library, without walls. However, most research libraries are large and just as users benefit from library tours and guides, catalogues, bibliographies, training etc so too do users of the internet for tax research. As was demonstrated in this paper, there is no single tax site you should rely on. There are many and you should get used to regularly browsing them, if you don't like using the term 'surfing'. This paper was part of the process of demystifying the internet and in educating you how to get the best of the internet for Australian Federal taxation research.

SOME FREQUENTLY ASKED QUESTIONS

Q: How can I find out which tax cases are seeking or have been granted special leave from the High Court of Australia? Also I want to know if the High Court has heard a particular case and reserved its judgment. I don't want to be caught out as was mentioned in *NRMA Ltd v Morgan* (1999) Australian Torts Reports para 81-505; [1999] NSWSC 407.

A: Try the monthly *High Court of Australia Bulletin*, which is published by the High Court of Australia Library and available at <http://www.austlii.edu.au/au/other/hca/bulletin> It lists: cases reserved; cases granted special leave, section 40 removals; cases refused special leave. If you wish to find out the results of special leave applications as they occur go to the High Court of Australia website (<http://www.hcourt.gov.au>) then go to Registry then Results of Applications for Special Leave to Appeal.

Q: I'm trying to find Paul Keating's statement given in the House of Representatives, titled *Reform of the Australian Taxation System*, on 19 September 1985. I understand it is on the internet but I can't find it.

A: Try the Australian Parliament House site (<http://www.aph.gov.au>), then click on Hansard. You are given a choice of PDF or HTML for the House of Representatives. Do not choose PDF for this exercise as this only takes you back to 1996. Click on to HTML and there you will see Hansard Archive back to 1981. Click on 1985, then Budget, then 19 September then scroll down to Speech: *Reform of the Australian Taxation System*: Ministerial Statement. Alternatively, at the above homepage, click on Search then fill in the query box. Search: keating; Date: 19-9-85 or 19 September 1985; Title: Reform of the Australian Taxation System.

Q: How do I find the text of a new Federal Taxation Bill and how do I know how it is progressing through parliament?

A: It always helps to have the correct title. For example, if you were after the *Goods and Services Tax Act* or the *Taxation of Financial Arrangements Act*, neither of these are under G or T. The correct names are *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and the *New Business Tax System (Taxation of Financial Arrangements) Act (No. 1) Act 2003* (Cth). A good place to start is the Australian Parliament House website (<http://www.aph.gov.au>). Here you can get the text of current bills and old bills. If you wish to find out the progress of legislation going through the houses of parliament, after you have clicked on Bills, go to House Daily Bills List.

In addition to the above website, both ATP and CCH also have the full text of current bills of Parliament in their looseleaf and electronic services. For the print versions, go to either the ATP or CCH tax looseleaf binders which have the Bills and Explanatory Memoranda.

Q: How do I find extrinsic materials to interpret an Act of Parliament?

A: Extrinsic materials include: explanatory memoranda (EM), ministerial second reading speeches, government reports, law reform commission reports, parliamentary reports, parliamentary debates, treaties, etc., as per the *Acts Interpretation Act 1901* (Cth) s 15AB.

Fortunately with the advent of the web, there is now a myriad of sources to help you interpret legislation. Prior to the web, Butterworths published *Taxation Laws of Australia* 1936-1990, which contained the tax bills and official explanations. Both ATP and CCH for their tax subscribers reproduce with their tax bills the explanatory memoranda and second reading speeches.

The Explanatory Memoranda and second reading speeches may be found at the Australian Parliament House website (<http://www.aph.gov.au>) by clicking on Bills, then Current bills or Old bills. The Australian Taxation Office website (<http://www.ato.gov.au>) also has the EMs and ministerial second reading speeches dating back to the 1930s.

Over the years, there have been numerous government reports related to taxation such as Kerr (1920), Ferguson (1932), Spooner (1950), Ligertwood (1961), Asprey (1975), Ralph (1999). Only the Asprey and Ralph Report appear to be available electronically (<http://setis.library.usyd.edu.au/oztexts/parsons.html>, <http://www.rbt.treasury.gov.au>).

Materials published by the Board of Taxation can be classed as extrinsic materials (<http://www.taxboard.gov.au/content>).

Q: Where can I get journal articles on a particular topic?

A: This will depend on whether what you are after is local or overseas.

For local materials, three of the best journal indices for tax and legal research include:

- **AGIS** (Attorney-General's Information Services). Indexes journals received by the Attorney-General's Department Library, Canberra. Includes primarily Australian and some overseas law journals.
- **APAIS** (Australian Public Affairs Information Service). Indexes journals received by the National Library of Australia, Canberra. Includes Australian general journals, specific subject journals and some law journals.
- **TAXABS** (Australian Taxation Abstracts). Indexes journals received by the Australian Taxation Office.

There are full text options for AGIS and APAIS called AGIS Plus Text and APAIS Full Text. However please note, not all articles indexed in the latter are full text. If it is in full text, a note next to the article will say FT with a hypertext link.

For overseas materials that also include references to Australian materials, I suggest:

- **ABI Inform**. Also known as ProQuest, focuses mainly on US content.
- **EconLit**, published by the American Economic Association, provides bibliographic coverage of a wide range of economics-related literature. An expanded version of the *Journal of Economic Literature (JEL)* indexes of journals, books, and dissertations, EconLit covers both economic theory and application.
- **Expanded Academic ASAP** provides a combination of indexing, abstracts, images, and full text for scholarly and general interest journals embracing all academic disciplines.
- **Index to Legal Periodicals and Books** is US in origin. The print version originated in the late 19th century and the electronic version commenced in 1981. From 2004, there is an electronic version, which enables users to go back to the beginning of the 20th century.
- **Legal Journal Index**, which is part of Current Legal Information. Primarily concentrates on UK law journals and indexes mainly UK and European articles.
- **LegalTrac** commenced in 1981 as Current Law Index in hard copy and indexes more journals than Index to Legal Periodicals and Books.

Q: I am trying to work out the following abbreviation FLR.

A: Electronically you can browse at the University of New South Wales Law Library Law Reports and Abbreviations Database (<http://www.library.unsw.edu.au/~law/repsrch.html>).

Australian legal abbreviations may also be found in the following:

- C. Fong, & A. Edwards, *Australian and New Zealand legal abbreviations* (2nd ed, 1995) Sydney, Australian Law Librarians Group.
- C. Fong, *Australian legal citation – a guide* (1998) St Leonards, NSW, Prospect.
- P. Rozenberg, *Australian guide to uniform legal citation* (2nd ed, 2003) Pyrmont, NSW, Lawbook Co.
- C. Cook, et al., *Laying down the law* (5th ed, 2001) Chatswood, NSW, Butterworths, Appendix 2 ‘Abbreviations of commonly used law reports’.

Overseas legal abbreviations may be found in the following:

- *Cardiff Index to Legal Abbreviations* (<http://www.legalabbrevs.cardiff.ac.uk>).
- Mary Prince, *Bieber’s Dictionary of legal abbreviations*, (4th ed, 1993) Buffalo, Hein & Co.
- D. Raistrick, *Index to legal citations and abbreviations*, (2nd ed, 1993) London, Bowker-Sauer.

Q: Which tools will assist me in finding cases which judicially consider an act of parliament?

A: Fortunately in tax, there are two looseleaf/electronic services produced by Australian Tax Practice and CCH which annotate the *Income Tax Assessment Act 1936* (Cth) and the *Income Tax Assessment Act 1997* and other tax and related legislation. Other useful tools include:

- CaseBase, then key in under Legislation the act name, then the section, e.g., Income Tax Assessment Act 1936 75.
- Federal statutes annotations as published by either Lawbook Company or LexisNexis Australia which annotate all federal legislation. The LexisNexis version is available via Butterworths Online. The hard copies are often held with the Commonwealth legislation in a Law Library or on the reference shelves or on Reserve.
- On AustLII, once you have found a section of an act of parliament, you can click on Noteup and this will sometimes take you to where this section has been judicially considered by a court. There may be relevant journal articles noted, references in High Court of Australia transcripts, etc. It doesn't always yield perfect results.
- TimeBase by using CaseLink allows you to see cases that judicially consider legislation.
- Australian Legal Monthly Digest.
- Australian Current Law – Reporter.

Q: How do I find a copy of Justice Graham Hill 'Scheme New Zealand or An Example of The Operation of Div 165' (2003) 1 (2) *eJournal of Tax Research* 147-59?

A: Go to http://www.atax.unsw.edu.au/ejtr/content/current_issue.htm then you have to register to view it.

Q: Where can I purchase Atax publications?

A: Some are available from TimeBase (<http://www.timebase.com.au>). The *eJournal of Tax Research* is available free from http://www.atax.unsw.edu.au/ejtr/content/current_issue.htm

Q: What is the difference between a Bill and an Act?

A: A Bill is the original document on which the Act of Parliament is based. Sometimes the wording in the bill will be exactly the same as the act. Often the bill will be heavily amended during the parliamentary session or subsequent ones. Some bills never get passed. The act would have been passed by both houses of parliament and assented to by either the Governor (state) or Governor-General (federal).

Q: What is the explanatory memorandum? Why is it important? Where are they found in the Library?

A: The explanatory memorandum is the section by section analysis of federal bills of parliament provided to each Member of Parliament. They are important for interpreting the legislation. They are listed as an extrinsic source under the *Acts Interpretation Act 1900* (1900). They can be usually found in a Law Library filed or bound together with federal bills of parliament. Electronically, they can be found since 1996 at the Australian Parliament House website (<http://www.aph.gov.au>) and SCALEplus (<http://scaleplus.law.gov.au>).

Q: What is the second reading speech? Why is it important and how do I find a copy?

A: Second reading speeches are important for interpreting the legislation. They are listed as an extrinsic source under the *Acts Interpretation Act 1900* (1900). They can be usually found in a Law Library as part of the parliamentary debates for the relevant jurisdiction. Electronically, they can be found since 1996 at the Australian Parliament House website (<http://www.aph.gov.au>) either under Current Bills or under Old Bills.

Q: What is Royal Assent? Why is it important?

A: Royal Assent is the date an Act of Parliament is signed by either the Governor-General or the Governor. Prior to the assent date, the Bill of Parliament is not part of the law. The assent date is an important date as some Acts commence on the date of assent. Some Acts if not specified in the Act itself, commence 28 days after the date of assent. Further information about commencement dates is in the next question.

Q: How do I work out when an Act of Parliament commences?

A: An Act of Parliament may commence in one of the following ways:

- Date of assent by the Governor or Governor-General.
- Date mentioned in the act of parliament.
- Date to be proclaimed by the Governor or Governor-General.
- 28 days after the date of assent unless the contrary intention appears in the Act as provided by the *Acts Interpretation Act 1901* (Cth) s 5.
- Retrospectively, e.g., the *Civil Liability Act 2002* (NSW) was assented to on 18 June 2002 but commenced on 20 March 2002.
- Contingent on some other event occurring, e.g., an act may commence on a date contingent on, say, 50 nations signing a particular treaty.

If you go to SCALEplus (<http://scaleplus.law.gov.au>), once you have found the contents to the act, scroll down to the Notes field at the end of the contents, and this will yield commencement information.

Q: How do I find out if a section of an Act is in force?

A: An Act and/or a section is in force when the Act commencement is gazetted in the Government Gazette. Fortunately, students do not often have to peruse the Government Gazettes as the same information is often reproduced in many places such as:

- Acts Tables which are published on a monthly basis for most Australian jurisdictions.
- Australian Current Law – Legislation.
- Australian Legal Monthly Digest.
- SCALEplus for federal legislation has Notes at the end of each Act of Parliament, noting commencement dates of the Act and the various sections. Likewise the New South Wales Parliamentary Counsel website (<http://www.legislation.nsw.gov.au>) has similar information under Historical notes, for each Act of Parliament.

Q: What is a reprint?

A: Reprint usually refers to a reprinted Act of Parliament containing the original Act together with amendments. This term is being superseded by electronic publishing, where Acts of Parliament are continuously updated.

Q: How do you find the date of the latest reprint?

A: The date of the latest reprint can be found in a number of ways:

- The monthly table of Acts of Parliament for the relevant jurisdiction.
- Australian Current Law – Legislation.
- Australian Legal Monthly Digest.

Q: Where can I find the full text of a piece of legislation.

A:

- AustLII (<http://www.austlii.edu.au>) for all Australian jurisdictions.
- TimeBase (<http://www.timebase.com.au>) for all Australian jurisdictions.
- SCALEplus (<http://scaleplus.law.gov.au>) for current federal legislation.
- LawNow via LexisNexis AU (formerly Butterworths Online).

Q: How do I find legislation, where I only know the subject?

A: Wicks *Subject Index to Commonwealth Legislation*, available only in print. Wicks also has an index to New South Wales legislation, and there are others compiled by others for Victoria, South Australia and Tasmania.

Another good source is a legal encyclopaedia such as *Halsbury's Laws of Australia* or *The Laws of Australia* or a looseleaf service, or at textbook or various databases such as AustLII, SCALEplus, TimeBase, LawNow etc.

Q: I am trying to get *Esquire Nominees Ltd v Federal Commissioner of Taxation* (1975) 4 ATR 75 also reported in (1973) 129 CLR 177 from AustLII, as I thought AustLII held all High Court decisions back to 1901. I checked 1975 and 1973 High Court cases but could not find it.

A: There was a decision by Gibbs J on this matter in 1972 and as this is published with the 1973 decision of the High Court in (1973) 129 CLR 177 both of these are published on AustLII under 1972 decisions, not 1973.

Q: How do you correctly cite media releases?

A: Here are a couple of options:

Australia. Minister for Revenue and Assistant Treasurer. Senator the Hon Helen Coonan, *Consolidation - corporate unit trusts and public trading trusts*, Media Release, CO19/03, 27 March 2003.

Australia. Minister for Revenue and Assistant Treasurer. Senator the Hon Helen Coonan, *Consolidation - corporate unit trusts and public trading trusts*, Media Release, CO19/03, 27 March 2003
<http://assistant.treasurer.gov.au/atr/content/pressreleases/2003/019.asp>.

The reason I have done it as above, is so that when you go looking for this press release, it is found under Coonan's previous portfolio, not under her name, as she is now Minister for Communications, prior to the federal elections of 9 October 2004.

Q: How many bookmarks do you have?

A: I have none, because most of the sites I regularly go to number less than 20. If there is a site I go to irregularly, I can usually get there via one of my regular sites or use a search engine. Others have hundreds and sometimes take ages to find them.

FURTHER READING

C. Banks & H. Douglas, *Law on the internet* (2nd ed, 2002) Leichhardt, NSW, Federation Press.

F. Cochrane, 'TaxByte: Tax information at your fingertips' (2000) 34 *Taxation in Australia* 356-57. No information is located more than four steps from the TIA Homepage.

T. Corbitt, 'Searching the net' (1999) 77 (8) *Management Accounting* 52-53. Focussed on search engines and directories.

C. Fong, 'Assessing free legal websites: the good, the bad and the doable' (2004) 19 (3) *Online Currents* 22-31.

C. Fong, 'Beyond the taxation looseleaf services: advanced tax research techniques' in: *Australasian Tax Teachers Association 12th Annual Conference Proceedings*, Monash University, 3-5 February 2000. Also available from <http://pandora.nla.gov.au/tep/23524>.

C. Fong, 'Evaluating GST publications and products' (2000) 8 *Australian Law Librarian* 154-62.

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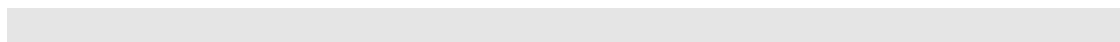
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