

The political power of tax complexity

Date(s) Wednesday 18th (19:00) - Thursday 19th September 2013 (17:00)

Contact Workshop Leader: [Dr Dominic de Cogan](http://staff/profiles/law/decogan-dominic.aspx) ([/staff/profiles/law/decogan-dominic.aspx](http://staff/profiles/law/decogan-dominic.aspx))

For full details regarding this colloquium, please visit: <http://www.ebhamlaw.com/taxcolloquium/> (<http://www.ebhamlaw.com/taxcolloquium/>)

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An interdisciplinary colloquium will be held in the University of Birmingham to investigate the relationship of political power and complexity in the UK tax system. The immediate output will be a submission of a series of articles to a special issue or section of **Social and Legal Studies (#contensis)**, but it is also hoped that the colloquium will stimulate ongoing working relationships and ultimately further collaborative publications.



There is a strong contradiction between the popularity of 'tax simplification' as an aspiration and the apparent long-term progression of UK revenue law in the opposite direction. [1] Nevertheless there is some optimism that, if only the right technical approach were adopted, tax legislation could be reduced in length and improved in expression,[2] administration streamlined and doctrines rationalised. [3] Naturally there is room for argument on which of these would contribute most effectively towards the overall goal of simplification.

Yet there is another perspective, often overlooked, which is that the spectrum of complexity and simplicity may be shaped by social and political factors and by ideological differences over the nature and purpose of a tax system. [4] Some suggestions are as follows:

- Tax complexity may confer instrumental benefits on certain groups, for example by facilitating the pursuit of sectional commercial interests through the tax system without full political scrutiny.
- The increase or reduction of tax legislative detail may occupy an important place in wider political agenda such as the creation of complex welfare programmes.
- Complexity may offer an interpretative advantage on those with the resources to challenge the opinion of the tax authorities, whether formally through the courts or informally through negotiation. [6]
- The technical difficulty of tax law may encourage the emergence of policy communities with privileged access to the law-making process, which groups may or may not reflect adequately the interests of the wider population.
- There is a potential contradiction when projects designed to simplify revenue law and its interpretation are staffed by members of professional firms that specialise in the mitigation of taxation through interpretative methods, even on the natural assumption that material conflicts of interest are prevented.
- There is also another possibility, that the complexity of UK tax law is exaggerated in order to justify a lack of effort in respect of taxpayers' compliance obligations.

These illustrations may be subject to challenge, but if the overall point is fair that tax complexity is fundamentally political as well as technical in nature, it should come as little surprise that it can be tenaciously difficult to remove. The idea that the interests and assumptions of overlapping interest groups and ideologies may play a significant role in regulation is hardly new, [7] but the sheer amounts of money involved in taxation undoubtedly increase sensitivities in what sometimes seems a rather specialised field. but the sheer amounts of money involved in taxation undoubtedly increase sensitivities in what sometimes seems a rather specialised field.

The need for cross-disciplinary work

The need for a cross-disciplinary approach is driven by the deadlock described above, by which tax complexity is seen as both disagreeable and intractable. [8] A purely legal approach can suggest conceptual or linguistic simplifications, but may have limited effectiveness if it ignores political incentives to complexity. Conversely, political or sociological analyses can provide great enlightenment on the processes, institutions and relationships needed to alleviate the disillusionment created by complexity, but may be little assured of practical success without engaging with specific problems of interpretation in concrete legal scenarios.

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There is therefore an opportunity for a co-ordinated study to achieve much more than has hitherto been gained by a variety of valuable but piecemeal approaches to complexity and simplification. The primary focus of the colloquium will naturally be upon academic merit, but it is hoped that some concrete ideas will also be developed on the best ways to proceed in our post-Tax Law Rewrite era.

Colloquium format

Guests will arrive on the evening of 18th September for a dinner and keynote speech, and the workshop will begin at 9:00 the following morning. There will be approximately three to four paper presentations, each followed by a formal 'discussant' and then opened up to full debate. The final session will consist of a 'round up' discussion in which the publication strategy will be finalised and the potential for ongoing engagement and publications explored. The session will finish between 16:00-17:00, leaving time for onward travel.

Internal attendees:

- [Geoff Morse \(#contensis\)](#)
- [Andy Lymer \(#contensis\)](#)
- [Karen Rowlingson \(#contensis\)](#)
- [James Lee \(#contensis\)](#)

Provisional External attendees:

- Judith Freedman, Oxford (<http://www.law.ox.ac.uk/profile/freedmanj>) (#contensis)
- Hans Gribnau, Tilburg (<http://www.tilburguniversity.edu/nl/webwijs/show/?anr=281522>) (#contensis)
- Ann Mumford, QMUL (<http://www.law.qmul.ac.uk/staff/mumford.html>) (#contensis)
- John Pearce, Exeter
- Sol Picciotto, Lancaster (<http://www.lancs.ac.uk/fass/law/profiles/Sol-Picciotto/>) (#contensis)
- Rajiv Prabhakar, Open and UCL (http://www.open.ac.uk/socialsciences/staff/people-profile.php?name=Rajiv_Prabhakar) (#contensis)
- David Salter, Warwick (<http://www2.warwick.ac.uk/fac/soc/law/staff/academic/salter/>) (#contensis)
- John Snape, Warwick (<http://www2.warwick.ac.uk/fac/soc/law/staff/academic/snape/>) (#contensis)
- John Tiley, Cambridge (<http://www.law.cam.ac.uk/people/academic/j-tiley/81>) (#contensis)
- Chris Wales, PwC

[1] Specific examples of this trend are explained in Dominic de Cogan, "Building incoherence into the law: a review of relief for tax losses in the early twentieth century" [2012] BTR 655.

[2] John Pearce, 'The Capital Allowances Act 2001: a view from the Tax Law Rewrite project' [2001] BTR 359.

[3] The establishment and work of the Office of Tax Simplification reflect this optimism.

[4] This political aspect is analysed in John Snape, *The political economy of corporation tax* (Oxford: Hart, 2011), although the author emphasises the enabling potential of complexity.

[5] See, for example, John Snape, *The political economy of corporation tax*, 209.

[6] See Cedric T. Sandford, *More key issues in tax reform* (Bath: Fiscal, 1995), Ch. 6.

[7] See, for example, R. Baldwin, M. Cave and M. Lodge eds., *The Oxford Handbook of Regulation* (Oxford: OUP, 2010), 313.

[8] See Malcolm James, 'Tax simplification: the impossible dream?' [2008] BTR 392

