

Footnotes

¹www.lexisnexis.com/uk/lawschool/certification

²www.lexisweb.co.uk/lawcampus

Biography

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Current Topics

The Cobweb Campaign

Abstract: Tax, national insurance, tax credits and the minimum wage are often difficult to understand. Those with questions frequently turn to HM Revenue & Customs (HMRC) for answers, but the HMRC website is often out-of-date and confusing. Last year, Anne Redston launched the Cobweb Campaign to sweep out the dusty corners of this huge information database.

Keywords: websites; taxation

Introduction

“Tax doesn’t have to be taxing” say HM Revenue & Customs, as they encourage you to file your tax returns on time. This is, however, an over-optimistic jingle. Tax is almost invariably taxing: it is complex, changes frequently and can be counter-intuitive.

The obvious place for non-specialists to find answers to their tax questions is the HMRC website: www.hmrc.gov.uk. Too often this site is out of date, confusing or just plain wrong. These deficiencies can cause taxpayers to take incorrect decisions, make mistakes in their tax returns, or miss opportunities.

Last year, I began a campaign to encourage HMRC to clean up its site. I asked other tax specialists to email me when they found any gremlins and combined their findings with research of my own, publishing the results in *Taxation* magazine, a long-established authoritative journal for tax practitioners. I called it “The Cobweb Campaign”.

This article explains the Cobweb Campaign, why I believe it is important and outlines its progress so far.



Anne Redston

First, though, it is important to understand the role of the website and why it matters.

In the old days

There are three reasons why the website matters. The first is the growing reach of HMRC. In the old days, the Inland Revenue dealt only with tax. National insurance contributions were handled by the Department of Social Security, while VAT and duties were under the aegis of Customs & Excise. Now these are all managed by a single body: HM Revenue & Customs (HMRC). Its reach even extends into welfare, as HMRC also administer tax credits and enforce the minimum wage.

Once upon a time, too, tax information was provided to the public via leaflets, sent out with tax returns, or collected from local tax offices or public libraries. Few of these leaflets survive today and most local tax offices have closed. HMRC’s preferred contact point is their website, backed up by call centres.¹

Until recently, tax was assessed by the local inspector, based on information provided by individuals and companies. Now it is self-assessed, so the burden of getting the

calculations right has shifted to the taxpayer. Mistakes can trigger automatic penalties, daily penalties and/or tax-related penalties.

Finally, tax has become more complex than ever before. In 1983, all the UK's taxing statutes could be contained within a single stand-alone book. Britain now has the longest fiscal code in the world, requiring five volumes of closely typed text. This is not the whole picture: there is also a huge compendium of case law and extensive extra-statutory guidance held in over 150 HMRC Manuals, supplemented by daily updates. In January 2010 alone, over 100 announcements were published on the "What's New" page of the HMRC website.² Finally, there are also complicated interactions between the various taxes, national insurance, tax credits and the minimum wage.

More than ever, people are asking questions about the areas for which HMRC have responsibility, and more than ever they are turning to the website for answers. They need authoritative, clear answers to their questions and the aim of the Cobweb Campaign is to encourage HMRC to provide appropriate responses.

The beginning

The Campaign was kick-started by capital gains tax (CGT). Until recently the CGT rate for most assets sold by businesses was 10% and between 40% and 28% for other assets.

On 9 October 2007, the government announced that it was abolishing the whole structure of rates, including the 10% rate on business capital gains. From April 2008 there would be a flat-rate of 18%. This very significant change affected everyone who was subject to the tax, including those who sold business assets, second homes and shares.

However, a year after the October 2007 announcement, HMRC had still not updated their web page on rates and allowances: it continued to state that businesses would pay tax at 10%.

As late as January 2009, some 14 months after the announcement, and nine months after the changes had taken effect, readers searching for "capital gains tax" using the search box on the HMRC Home Page were given, as the first hit, a booklet called *An introduction to Capital Gains Tax*. To give readers extra comfort that they were in the right place, the booklet was specifically identified as HMRC's recommended answer to their search:

HMRC recommends

Capital Gains Tax

Find information and guidance about CGT for individual taxpayers and trustees

Anyone who remembered hearing that the rules had changed and looked instead on the "Recent Developments"

section of the site was also directed to the same booklet. However, it hadn't been amended since June 2007, and thus made no mention of the 18% rate.

When the Cobweb article pointing out these deficiencies in the guidance booklet and the rates/allowance table was published in *Taxation*, it appeared to hit a nerve. The HMRC website was updated within 24 hours of publication.

Pensions

Pensions have been another area of focus for the Campaign. The tax law on pension contributions was radically reformed earlier this decade. Most of the new legislation was contained within Finance Act 2004 and its major provisions came into force on 6 April 2006, known as "A day". One of the main changes was a significant increase in contribution limits, allowing individuals to pay in up to 100% of their employed earnings³ rather than the previous much lower limit of 15%. For many years, these top-up payments had been known as "Additional Voluntary Contributions" or AVCs.

It was alarming, therefore, to find that three years after the new rules had come into force, a search for "AVC" led the unwary user to an out-of-date guidance Manual, which referred only to the earlier rules and contribution limits. The Cobweb Campaign highlighted these problems and suggested solutions.

I am pleased to report that the Pensions department of HMRC then made direct contact. After a follow-up meeting, they mended broken links, added new caveats and rewrote sections of guidance. As a result, the pensions sections of the site are now much easier to use. Given that most pensioners are unlikely to be able to afford tax advice, these changes were particularly welcome.

Missing links

Missing links are a particular bugbear. I was emailed by a reader of *Taxation* who had been looking for information about capital allowances, which is the most important tax relief for businesses who have purchased assets such as furniture, equipment and vehicles.

Despite the significance of these reliefs, there was no direct link to "capital allowances" on the HMRC homepage. My correspondent had therefore clicked on "Businesses and corporations – More topics," and was taken to a second list headed "Tell me about..." He again clicked "More topics." Finally, a link to capital allowances! His relief was short-lived, however, because the connection took him, not to capital allowances, but to an article about the Disability Discrimination Act.

Ironically, HMRC did have new guidance on capital allowances (albeit only in draft), which I discovered by a complete fluke, when searching the website for something else.

I wrote about this broken link and the hidden draft guidance in two Cobweb Campaign articles and finally received an email from HMRC confirming that the guidance had been finalised, and the links tightened up.

Bizarre connections

I receive many emails about the strange results sometimes produced by HMRC's search engine. One regular contributor to the Campaign contacted me to say she was trying to find out about the tax treatment of domain names. Putting "domain names" into the search engine produced an eclectic mix of topics, including landfill tax, members clubs and a link headed "Every year thousands of people start out along the road to becoming an Approved Driving Instructor."

Sadly, despite having been highlighted in a Cobweb Campaign article, this part of the website remains unreformed. Perhaps HMRC think that those who are interested in domain names should be familiar with websites, and do not need any signposting!

Lost calculator

Some of HMRC's most useful resources can be very hard to find. For example, small companies affected by a tax regime known as IR35 have to work out their self-assessment tax using a complex "grossing-up" formula, which is very difficult for the mathematically challenged. HMRC has helpfully built a piece of software which does this calculation. All the taxpayer has to do is to fill in the boxes and the number pops out of the bottom.

I tested this software when it was first produced, so I know it exists, but it is extraordinarily difficult to locate. HMRC have a list of "all calculators" at www.hmrc.gov.uk/practitioners/tools-more.shtml, but the IR35 calculator is not among them. Searching for "IR35 calculator" also appears fruitless. The search engine produces miscellaneous pages exploring the underlying legislation.

Frustrated, I turned to Google, and entered "IR35 calculator HMRC" and there it was. But if you did not already know it was on the website somewhere, you would never find it and the HMRC search engine doesn't disclose its existence either.

Selling on e-bay

HMRC have also published guidance on whether selling goods on e-bay is taxable. Given the growing use of online auctions, this is an issue of increasing importance. Is selling on e-bay a hobby, a one-off attic clearance, or a taxable trade? Again, I knew that HMRC had published guidance, but where was it?

If you put "e-bay" into the HMRC search engine, you get three results - the notes of a 2007 meeting on stamp duty, a report on Gift Aid, and a page from a guidance Manual which agrees that "online auctions provide new opportunities for selling" but confesses that "detailed guidance on internet trading and e-commerce generally has however not yet been written."

But if you take the trouble to read on, the Manual also provides a link to the guidance I had remembered, which (in case anyone else is looking for it) can be found at www.hmrc.gov.uk/guidance/selling/index.htm. It is entitled "A guide for people who sell items online, through classifieds and at car boot sales" – maybe not the last word in tax advice, but helpful – albeit hard to find.

Indexing

The Cobweb Campaign has also tried to improve the ways in which material can be searched. HMRC publish, at regular intervals, guidance for taxpayers and advisers in the form of "Business Briefs". Each is numbered and one Brief may cover several different topics.

These *Business Briefs* are stored on the website by topic, not by number. This is fine if you know what the Brief is about, but some academic articles simply give a footnote reference to the Brief by number, which means it cannot be found on the website and some Briefs appear under none of the topic headings, so have slipped down the cracks altogether and disappeared from the site.

I have twice suggested that *Business Briefs* should be searchable by both topic and by number, as this would ensure that none vanish without trace. Sadly, this suggestion has not yet been implemented, although it would be simple and straightforward and provide considerable help to users.

Out of date material

A regular theme of the Cobweb articles is highlighting out-of-date guidance. A contributor pointed out last year that the Tonnage Tax Manual did not reflect the Finance Act 2005 changes, for the simple reason that it was last updated in 2002 – around seven years previously. I am pleased to report that this triggered a wide-ranging rewrite in September 2009, see www.hmrc.gov.uk/manuals/ttmmanual/updates/ttmupdate100909.htm.

HMRC also often organise their material in the form of Frequently Asked Questions (FAQs). This is a helpful and user-friendly mechanism for communicating with the public, but dangerous if not kept up to date. In July 2009 we identified an FAQ which had been answered using rules abolished in the 2002 Finance Act, so the answer given on the site was completely wrong. Again, I am pleased to say that, following publication of this "cobweb", the answer has now been updated.

Wider implications

It is not only the taxpayer who is misled by incorrect guidance. One reader of *Taxation* emailed to say that she had realised a particular piece of website guidance was wrong and rang the HMRC call centre. The HMRC staff member who answered her query simply opened the same out of date web-page and refused to accept that it was several years out of date. Had the *Cobweb* contributor not known the true legal position, she would have accepted the advice given by the helpline. As a result she would have underpaid her pension contribution, and under-claimed her tax allowances.

When members of the public call the helpline because they are unsure about a piece of web guidance, it is deeply worrying to discover that staff turn to the same antiquated and inappropriate advice, and seek to convince callers it is still in force. In this context it is interesting to note that 11% of calls to the helpline fail even HMRC's internal check for "quality of advice"⁴. A clean-up of the website would certainly help to reduce this percentage.

Rome wasn't cleaned in a day

In my first *Cobweb* article, I suggested several ways of improving the website.

Firstly, when a change is made to the tax system, the appropriate Minister could confirm that HMRC's public information will be amended to reflect the change. Responsibility for updating the website should be delegated to the HMRC team implementing the tax reform. This would give the task of cleaning up the relevant part of the site to a specific team, in contrast to what I suspect is the current position, namely little or no connection between HMRC tax reformers and their web-writers.

Secondly, more technical writers are needed to identify and rewrite out of date guidance, and people skilled in information management should be recruited and deployed to ensure that the guidance is accessible and organised. Proper resourcing is a key part of the solution.

In addition to these structural changes, the *Cobweb* Campaign has frequently identified practical steps which HMRC could take relatively quickly, such as inserting a date on web material, and putting health warnings on out-of-date guidance. Of these, I am pleased to say that the second has now been adopted, at least in some parts of the site, but we are still campaigning for the first issue to be addressed.

Conclusion

As this article goes to print, the *Cobweb* Campaign is about to publish another sweep of the dusty corners of the HMRC database, focusing on some of the 50 plus recent emails that have been sent to me, describing ongoing problems with the site. We hope that the next article will sweep away a few more cobwebs.

The Campaign could not have achieved its successes without contributions from the many users of the site, who have emailed me with their concerns. And we would have got nowhere at all without the support and encouragement of the *Taxation* editorial team: Mike Truman, Richard Curtis and Allison Plager.

Sometimes the Campaign seems a promethean task, but we hope that one day it will trigger a systemic improvement in HMRC's knowledge management system.

Until that happens, we believe that identifying individual cobwebs and campaigning for them to be swept away, are steps in the right direction. They have a positive impact on the accuracy and accessibility of the site, and thus directly assist the many thousands of ordinary people who use it every day.

Footnotes

¹See National Audit Office (2010) *Handling telephone enquiries* para 1.

²This is only one of five sites which announce changes. It is prefaced by the notice; "For other listings please see our News Releases, Online Service Headlines, Indirect taxes and duties updates and Guides and Business Briefs for ongoing changes and reforms to general tax and duty".

³There have subsequently been further, complicating changes announced in the 2009 Finance Act affecting those with earnings above £150,000, but these are not relevant for the purposes of this article.

⁴*Handling Telephone Enquiries* National Audit Office Report 2010 at part 3. The NAO recommended that HMRC also institute 'mystery shopping' to evaluate better the quality of advice provided (para 17 of the Report), but this has so far been resisted by HMRC.

Biography

Anne Redston is a barrister, chartered accountant and chartered tax adviser. She is a Visiting Professor at King's College, London, where she teaches on the LLM. She has written numerous articles, several books and is the consultant editor of *Tolley's Yellow Tax Handbook*.