A foot in both camps

General Features



01 March 2015

Andy Lymer and Lynne Oats interview Philip Baker QC about his career in academia and at the bar

Key Points

What is the issue?

Can a tax practitioner or tax academic have a foot successfully planted in the other's camp?

What does it mean for me?

There are opportunities to enhance your role as a tax practitioner or tax academic by having a role in the other domain. Gaining more advanced academic qualifications can enhance credibility and contribute to your expert knowledge. Academia needs tax practitioner engagement to develop the best research and educational practices

What can I take away?

Opportunities abound for a tax practitioner to engage in educating the next generation of professionals. Academic qualifications can complement and extend professional studies and underline practical experience in career-enhancing ways

In her inaugural speech in May 2014, CIOT President Anne Fairpo challenged the UK tax community to find more effective ways of linking tax practice with academic endeavour in research and education. Achieving greater, mutually beneficial ties creates several practical problems – not least at the personal level. Can anyone successfully have a foot in these two camps, or can this at most only ever be an occasional raid into alien territory to borrow something useful before retreating to the safety of your comfort zone?

Looking at people who operate successfully in both worlds could provide insight into what is possible and practical. Philip Baker OBE, QC, of Field Court Tax Chambers, is one. Throughout his career as a tax barrister he has combined his practice at the bar

with a variety of roles in academia.

We asked Philip why he chose to develop his career in this way and how each aspect of his professional life adds to, or imposes limits on, the development of his other. We asked whether he thinks other tax advisers should also participate in both fields, and how this can be achieved.

How has your career as a QC, tax practitioner, and academic developed?

I began in practice at the bar in 1987, taking silk in 2002. I had studied law as an undergraduate at Cambridge and then completed two postgraduate one-year degrees; the BCL at Oxford and a tax-focused LLM in London. I was a full-time lecturer at London University from 1979.

My original plan had been to go straight into practice, but I was drawn away into full-time academia for several years. While studying for my LLM, I developed an interest in Chinese law and spent seven years as a full-time academic teaching law, learning Chinese and researching Chinese law at the School of Oriental and African Studies (SOAS).

At SOAS I wrote my doctorate on the tax treatment of international commercial transactions and examined a range of countries: the UK, the Middle East and Far East. Completion of my doctorate gave me an academic title and trained me to supervise PhD students.

My legal career continues to make use of the knowledge I gained while writing my doctorate and I now author a book on double taxation conventions. My practice (I am now a member of the new Field Court Tax Chambers) covers international tax law (which cuts across private client and corporate work), EU tax law and even tax and the European Convention on Human Rights; another area in which I have an interest.

After going into practice I became a Fellow of the CIOT (by publication). Later, I served on the CIOT Council and continue as a member of several committees for CIOT, the Law Society and the International Fiscal Association (IFA).

I have taught international tax since the mid-1980s. This is a field where academia and practice, theory and application, come together well. Many of the leading

practitioners in this area also fulfil academic roles, teaching at universities and writing academic articles. In the sense, I drifted into the same position.

While at SOAS I put forward a proposal for a course on international tax law at London University in the intercollegiate LLM. Soon after it was approved, Queen Mary University of London appointed professor David Williams, and he and I taught that course together. When David accepted an offer to become a full-time social security judge I became one part of a team of part-time professors there.

> **I believe very strongly that it is an obligation on professional practitioners to train the next generation**

Fortunately, my earnings from practice have meant that I have been able to remain involved in academia on a voluntary basis for most of the past three decades. I remained at Queen Mary as a visiting professor for a little over 10 years until the intercollegiate LLM morphed into separate college-based master's degrees. At that time, I transferred to the Institute for Advanced Legal Studies as a senior visiting research fellow (translation: senior means I am getting old; visiting means they don't pay me; research means that they expect me to write articles from time to time; and fellow means I'm a fellow) and was responsible for the introduction of an MA in taxation at the Institute. I have been teaching courses there for the past seven years and have been director of the MA course on and off. For practical reasons, the master's is now to move to a different university and courses for the new MA will start in autumn 2016.

Why did you take on these academic roles before and after beginning a very active legal career?

My specialist area of practice is broadly international taxation, which is often complex and highly theoretical. Academic writing and practice flow very much together. Some of the best articles are as a result of the preparation for, or the argumentation of, a particular case. My academic background also gives me an element of legitimacy to act as an expert witness on cases involving international taxation, which I have done in several countries including India, Norway and the US.

How does your academic work affect your work as a QC? What about the other way around: does your work as a QC aid your work as an academic?

Matters I am advising on often lead to areas of research and publication. Occasionally, it works the other way around. I was asked to write a chapter for a book on the cross-border enforcement of taxes, which resulted in me being involved in a number of cases involving cross-border tax collection.

Also, from the point of view of teaching, it is doubtful that it adds much to the experience of students if they're being taught by somebody who is still practising. I can give the students latest insights into cases, particularly if I am involved in them personally.

Why do you give so much of your limited time to support and direct the master's degree in taxation?

I strongly believe that professional practitioners are obliged to train the next generation. The bar and the inns of court, for example, have always had a training role and senior barristers have often spent time in teaching the younger generation. The time that I have spent teaching LLM and MA taxation students, and supervising PhD students has been, in some way, a payback for the benefits I received from my education and my involvement in international tax.

Any loss of earnings in fees is balanced by the pleasure and the inspiration I get from teaching and writing. I also find that it helps me to understand some of the topics I am dealing with in practice if I have to explain them to other people! There is nothing like having to explain a topic to others (whether judges or students) for making you really understand a topic thoroughly.

Should people study again after their professional exams?

If you are truly interested in the topic that you are dealing with in your day-to-day life, it is natural that you would want to study more about it. The theory behind the MA in taxation was that it would be most attractive to people who have gone into practice – perhaps who have acted as a solicitor or an accountant for a couple of years – and realised that taxation is the area in which they want to specialise. The MA gives them an opportunity to study from an academic perspective the subject that they are going to spend the rest of their lives working on, and also to broaden their knowledge of areas of tax they may not previously have encountered.

I would strongly recommend those who have decided to devote themselves to tax to take something like an MA in taxation.

If someone opts for the further academic qualifications route, should they study a taught programme or look to engage in research?

It’s a matter of individual choice whether somebody takes a taught master’s degree or engages in research (as a research degree at master’s or PhD level, or just for the pleasure of doing research). However, it’s difficult to undertake research until you have a broad background in tax subjects, so for many people I would recommend first taking a taught course, such as the MA. Most master’s have an option of writing a medium-length dissertation as part of the degree which allows a student to discover whether they really like independent research and writing. For some students, their dissertation becomes the starting point for their PhD and a subsequent book.

Ideally, the MA, or the newly launched CIOT-Fellowship-linked MSc by Research (Taxation) at the University of Birmingham, leads to a PhD. Not everyone will want to devote three years full-time, or six years part-time, to a doctorate. Some may prefer to write articles for publication. However, over the years I have supervised well over a dozen successful PhDs.

This is incredibly important in ensuring the UK maintains a significant number of post-master’s researchers. Nowadays, it is hard to get a teaching appointment at a university unless you have a doctorate. If we do not have an active tax doctoral programme in this country, we will not be training the people who will be the tax teachers of the future.

In this context, I am delighted that the CIOT has a regular system of scholarships for doctoral students; nearly all of my PhD students have benefited from this.

In many cases, the ideal arrangement for a tax centre is to have a taught post-graduate degree and a doctoral programme running side by side. New doctoral students attend any master's courses for subjects they have not studied previously, as well as carrying out their independent research. Ideally, they return to teach some of the master's courses in areas they have carried out research.

If you had the chance to start again, knowing what you know now, would you have done things differently?

I would have focused on international tax earlier. I would have written a PhD in international tax on a full-time basis and then gone into practice at the tax bar.

At one time or another I have wondered whether it would have been better, in terms of practising international tax, to be in one of the big accounting firms.

However, I enjoy the element of being my own boss that being a barrister allows you; I can decide how much time I spend in academic work. It would also have had to be an extremely tolerant accounting firm to allow me to spend as much time as I have in academic work, teaching and writing. In a sense, if others are to combine academia and practice, law firms and accountancy firms are going to have to encourage this and be willing to give individuals the freedom and choice to do this.

What should a practitioner think about before engaging in academic study and research?

In terms of academic reading lists, I would guide practitioners towards articles in journals rather than books. In part, this is because I suspect most practitioners only have time to absorb shorter articles that appear in journals, but it is also because of the large number of good quality articles that are published in journals.

The British Tax Review is, of course, one of the best tax journals in the world (I would say that; I am one of the editors) and it's a great pity that more practitioners don't

read it regularly. Time was that virtually every tax practitioner in the UK had a subscription; we wish more of them did so (apart from the paper version, it is available electronically as a standalone subscription from LexisNexis-Checkpoint and as part of Westlaw UK). In addition, many of the journals coming out of the International Bureau for Fiscal Documentation in Amsterdam contain really interesting articles (though, again, I am biased as I am a trustee of the IBFD).

Is there scope for academics and practitioners to work more closely in research and education, and in which topics would this be useful?

The areas in which tax academics and practitioners could work together are without limit. Almost any practitioner with a particular matter at hand, or a particular area of specialisation, could bring something positive to a discussion with an academic, and virtually any academic could bring an interesting perspective for the practitioner.

The logical thing is that we ought to spend more time with meetings between academics and practitioners discussing how we could work together. The Tax Research Network (TRN) is one group in the UK that aims to facilitate this. Otherwise, attending events at the various academic tax research centres – such as the Oxford University Centre for Business Taxation – can be engaging, as well as inviting academics to address local CIOT branch meetings.