



# **International Handbook on Clinical Tax Education**



# **International Handbook on Clinical Tax Education**

Edited by Amy Lawton  
with Annette Morgan, David Massey and  
Donovan Castelyn

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## List of abbreviations

ATO	Australian Tax Office
ATT	Association of Taxation Technicians
BDS	Business Development Service
BTG	Bridge the Gap (campaign)
CABS	Chartered Association of Business Schools
CIOT	Chartered Institute of Taxation
CITN	Chartered Institute of Taxation, Nigeria
CJP	Criminal Justice Partnership
CLE	clinical legal education
CTE	clinical tax education
CTLP	Community Tax Law Project
CV	Curriculum Vitae
DGT	Directorate General of Taxes
ELT	experiential learning theory
EOI	Expression of Interest
ESL	English as a second language
EST	Extra Support Team (HMRC)
FBM	Fogg Behaviour Model
FIRS	Federal Inland Revenue Service
GST	Goods and Service Tax
HMRC	His Majesty's Revenue and Customs
IMF	International Monetary Fund
IRS	Internal Revenue Service
ITSA	Income Tax Self-Assessment
LIRS	Lagos State Internal Revenue Service
LITC	low-income taxpayer clinic
LITRG	Low Incomes Tax Reform Group
Moj	Ministry of Justice
MP	Member of Parliament
MTD	Making Tax Digital
MTD4ITSA	Making Tax Digital for income tax self-assessment
NICs	National Insurance Contributions
NWTC	North West Tax Clinic
OECD	Organisation for Economic Co-operation and Development

PI	professional identity
PO	performance objective
PRT	Prison Reform Trust
PWE	professional work experience
RSE	RIFT Social Enterprise
SCA	simultaneous constructive alignment
STC	Scottish Tax Clinic
SDT	self-determination theory
SME	small and medium-sized enterprises
TAC	Tax and Accountancy Clinic
UN	United Nations
VAT	Value Added Tax
WCOTA	Worshipful Company of Tax Advisers
WIL	work-integrated learning
WP	Working Paper
WTO	World Trade Organization

## Foreword

*Nina Olson, Executive Director of the Center for Taxpayer Rights\**

In 1992, when I founded The Community Tax Law Project (CTLP), the first nonacademic low-income taxpayer clinic (LITC) in the United States, I thought the idea of providing both pro bono representation to low-income taxpayers and expanding volunteer opportunities for tax lawyers and other tax professionals would slowly come to be accepted in the tax community. At the time there were only a handful of tax clinics at law and accounting schools. It seemed to me that there was a natural fit for legal aid societies and other nongovernmental aid organizations who already served the low-income population to add tax controversy work to their service offerings. I hoped that the small tax clinic movement would eventually become national in scope.

But I certainly did not predict that tax clinics would expand at such a fast clip in the US and internationally. In the US, the LITC movement received the necessary boost of grant funding authorized in the United States Congress. What resonated with members of Congress from both parties was the plain truth that unrepresented taxpayers in tax disputes are at a fundamental disadvantage and often get the wrong result simply because they do not understand or meet the complex procedural requirements the tax agency establishes. Congress also grasped that case law developed in the federal courts was skewed toward taxpayers who could afford representation; a whole swath of issues affecting low- and middle-income taxpayers never received the benefit of judicial review, or if they did make it to court, again, the processes often determined a poor outcome. In all these instances, pro bono representation was essential to maintaining both the perception and reality of a fair and just tax system.

The LITC program immediately expanded in the first year funding was available, and has sustained a strong presence throughout the US, numbering over 120 clinics covering almost every state each year. However, the expansion was not limited to the US. In 2017, Annette Morgan came to visit the US

\* Nina Olson is the Executive Director of the Center for Taxpayer Rights. She was the National Taxpayer Advocate at the US Internal Revenue Service from 2001 to 2019, where she oversaw the Low-Income Taxpayer Clinic (LITC) grant program. In 1992, she founded the first independent LITC in the US and her testimony before Congress in 1997-8 contributed to the enactment of federal funding for low income taxpayer clinics.

with several of her students; in the course of their meeting with me to learn about the role of the National Taxpayer Advocate and the Taxpayer Advocate Service, we discussed the LITC program. Upon her return to Australia, Annette wasted no time in gathering support for establishing a tax clinic at Curtin University, and on my next visit to Australia, she arranged for us to meet with Australia Tax Office officials to gain their support for the program. The history of the tax clinic movement in Australia is recounted elsewhere in this volume, but suffice it to say that the programs continue to grow and evolve at a very impressive pace. Interest in establishing clinics is evidenced by the high attendance at the free annual online workshop offered each year by the Center for Taxpayer Rights, as part of the International Conference on Taxpayer Rights.

It is clear that tax clinics – either as an academic clinical program or as part of a portfolio of services offered by NGOs – are here to stay. The goal today is to expand the tax clinic’s reach to other countries, even as existing clinics strengthen their support in their communities and also add systemic advocacy, impact litigation and academic research to their current offerings. That is where this book comes in.

This volume is a treasure trove of information for anyone considering establishing a tax clinic. It acknowledges at the outset that given the diverse systems of taxation adopted by different countries, tax clinics will, of necessity, vary in terms of the populations they serve and the services they offer. For example, the US pulls tens of millions of low-income taxpayers into its income tax system via refundable credits that are social benefit programs run by the tax agency. Other tax systems include a value added tax or goods and services tax that can ensnare micro and small businesses. Although each clinic will decide its focus, this book, written by experienced clinicians from different backgrounds and different countries, provides a road map for how to start a clinic, establish relationships with tax agencies, publicize the clinic services and gain the trust of the targeted clientele, and find funding (not the least of one’s concerns).

But the editors and authors do not stop at the start-up considerations. The chapters on the pedagogy of clinical education, creating a curriculum and working with students are very thoughtful. The chapters nudging us to think beyond case-by-case representation and advice to undertake high-impact litigation, or commenting on rules and regulations, or filing *amicus briefs* in significant procedural cases, demonstrate that clinics can have a profound impact on the lives of all taxpayers, not just their immediate clients.

I, for one, am very grateful to the editors and authors for publishing this important work. It will certainly ease the path for clinics to come and will

help ensure that the tax clinic movement does indeed become an international movement. The contributors to this book have charted a path for others who want to increase access to justice in their tax systems; only good can come from that.

Nina Olson  
October 2022





# Chapter 1

## Introduction

*Amy Lawton with Annette Morgan, David Massey and Donovan Castelyn*

Tax education is a cornerstone of tax compliance. Previous studies have clearly linked education with how likely a taxpayer is to pay their taxes (and the right amount of tax).<sup>1</sup> Research also shows that there is a disconnect between taxpayers understanding their tax obligations: in other words, levels of tax understanding are low.<sup>2</sup> Beyond the objective interest of a state in improving tax compliance, and so increasing the revenues collected to fund public services, low levels of education can have devastating impacts on our taxpayers. Tax clinics have shown us that the most vulnerable taxpayers can face crippling tax debts as a result of not understanding their tax obligations.

Tax education has the potential, therefore, to change lives.

This book focuses on one element of tax education: clinical tax education (CTE). CTE builds on the rich and strong foundations of clinical legal education (CLE). It is difficult to define: ‘Treating a clinic as a cathedral – defining very narrowly what its architecture must look like, what resources and materials it must have available, who may enter and what activities must be conducted therein – is to discourage the maverick creative spark which is so often the very hallmark of CLE.’<sup>3</sup>

Instead, Bleasdale et al. refer to CLE as a bazaar: with stalls of different shapes and sizes; some stalls are there permanently while others pop up and pack away. This metaphor for CLE is apt as it recognises the many shapes of clinical education. This book adopts Bleasdale et al.’s approach to defining CTE as broadly as possible and by altering their two common denominators for the purposes of tax:<sup>4</sup>

1 Giulia Mascagni and Fabrizio Santoro, ‘What Is the Role of Taxpayer Education in Africa?’ (International Centre for Tax and Development, April 2018), <[www.ictd.ac/publication/what-is-the-role-of-taxpayer-education-in-africa/](http://www.ictd.ac/publication/what-is-the-role-of-taxpayer-education-in-africa/)> accessed 1 October 2022.

2 See Chapter 5 for further information. See, for example, Deloitte, ‘The Tax Education Gap: Majority of the UK Don’t Understand Personal Tax’ (2019), available at <[www2.deloitte.com/uk/en/pages/press-releases/articles/the-tax-education-gap-majority-of-the-uk-dont-understand-personal-tax.html](http://www2.deloitte.com/uk/en/pages/press-releases/articles/the-tax-education-gap-majority-of-the-uk-dont-understand-personal-tax.html)> accessed 1 October 2022.

3 Lydia Bleasdale et al., ‘Law Clinics: What, Why and How?’ in Linden Thomas and Nick Johnson (eds), *The Clinical Legal Education Handbook* (University of London Press, 2020), 8.

4 Ibid.

1. The provision of a tax service (actual or simulated)
2. The participation of university students, acting under professional supervision where necessary.

It should be noted here that the tax profession is not regulated in the same way as the legal profession. There are therefore some practical differences between CLE and CTE. With that in mind, this book will present a range of different clinical tax projects with different designs. While most of the CTE projects discussed in this book help live clients (tax clinics), others do not, and some harness the power of public education.

Tax clinics within educational organisations (and particularly universities) are a new phenomenon worldwide. Notwithstanding that the USA commenced its Low-Income Taxpayer Clinic (LITC) regime in the mid-1970s, it was not until 2018 that Australia became the second country to start a national tax clinic programme, with other countries, such as the UK and Ireland, to follow soon after. Tax systems are unique to the jurisdiction, meaning that each tax system works slightly differently, with different rules and processes that taxpayers need to follow.

Despite these differences, we can find some common components needed to establish a CTE project as defined above. Those components include clinic design, funding (or wider resources), student participation, government, educational institutions' involvement and ensuring compliance with the relevant regulations. We can also reflect on the prior experiences of others already working in CTE, to carry those experiences and lessons forward to future CTE projects.

This handbook builds on the success of *The Clinical Legal Education Handbook* to provide an international lens through which to analyse CTE. It should be read alongside *The Clinical Legal Education Handbook*, which provides a comprehensive checklist of what to consider when considering a clinic in a regulated profession (regardless of the UK-specific, legal context). This handbook provides a valuable resource, or a 'how to', for those contemplating a clinical tax project. However, this book also draws on original research by our contributors to consider wider themes around CTE.

In particular, this book explores the rationale behind tax clinics and the need for more CTE projects. It also explores the community-facing element that is common (although not necessary) in CTE, considering some of the benefits that such projects can have for taxpayers, tax law and tax policy. Student involvement is one of our common denominators in defining CTE, and the pedagogical research presented in this book analyses some of the benefits to student involvement in CTE. CTE environments can also provide the opportunity for further research into both our education practice and how our

tax systems impact the most vulnerable taxpayers. Broader themes such as the impact of the COVID-19 pandemic can be seen throughout, providing an insight into the adaptability of CTE.

Overall, this handbook seeks to provide guidance on the introduction and delivery of CTE projects of all shapes and sizes. We are grateful for the collaborative efforts of law and taxation academics all over the world, who have contributed to this book, the first of its kind on CTE. In line with our broad approach to defining CTE, we wish to acknowledge that this handbook is to be used as guidance and does not present the only ways to incorporate CTE. A one-size-fits-all approach is neither appropriate nor desirable when considering how to innovate tax teaching in universities.

The handbook consists of four parts. Part I: The tax clinic; Part II: Tax clinics and our communities; Part III: Tax clinics and our students; and Part IV: Moving forwards. We hope that you find this handbook of value and it helps you with informed decisions in relation to offering tax clinical education within your educational organisations.

*If you have bought this handbook as a physical copy, then the royalties are being donated to UK tax charity TaxAid UK. You can find out more about the work that this charity does in [Chapter 4](#), where Tina Riches outlines common issues faced by low-income taxpayers in the UK.*



**Part I**  
**The tax clinic**



## Chapter 2

# A brief history of tax clinics around the globe

*Donovan Castelyn and Annette Morgan\**

### 2.1 Key findings

While tax clinics are not as well established as their law clinic counterparts, tax clinics are becoming more numerous all around the world. What started in the US is now present in Australia and Europe, meaning that low-income taxpayer support is improving in those jurisdictions with a tax clinic. However, some of the newer tax clinics (particularly in Europe) remain in their infancy, meaning that it is important to reflect on the history and future of clinical tax education (CTE) in universities.

### 2.2 Introduction

Tax clinics globally are a fairly recent phenomenon, though their origins date back to the late 1960s in the United States of America. Since 2018, we have seen a growing global community of tax clinics sprouting up around the world. First, Australia started with one clinic in 2018, which soon grew to seventeen in 2022. The UK and Ireland followed suit and have also established their own clinics under the guidance of both the US and Australian models.

Tax clinics are similar in nature to that of legal clinics within educational organisations, but their focus is solely on taxation matters. It is important to note that the actual profession of taxation can be undertaken by both lawyers and accountants each having their own areas of expertise, and this will also be the case in the study of taxation at educational organisations: we often find tax courses in both law and business schools within universities.

Students may therefore study taxation as part of their legal studies before training to be lawyers, or they may study it as part of their business or commerce degrees before qualifying as accountants. In the US and the UK, many of the tax clinics are predominantly run out of law schools and therefore only students studying law are able to work within these clinics.

\* Donovan Castelyn, Senior Industry Fellow, Senior Lecturer, University of Tasmania; Annette Morgan, Lecturer, Curtin Law School. Co-founders of the Curtin Tax Clinic.



In Australia and Europe, working with students from business schools is more prominent (or a combination of business and law schools).

The countries where tax clinics are present have a differing concept of their target group to benefit from their assistance. The US makes use of the Low-Income Taxpayer Clinics (LITC) concept, which requires clients to be under a certain level of income as determined by the government each year: they have an exceedingly small ability to assist those with more income than the threshold. Meanwhile in Australia, income is not necessarily the primary basis on which help can be provided. Under the national programme, it is mainly left to the discretion of the individual clinics to decide whom they will assist, with many choosing to assist vulnerable taxpayers or those with no representation in their taxation affairs.

What follows is a brief history of the tax clinic regime from its inception in the US to where it is today, with several more countries actively involved in having tax clinic regimes of their own.<sup>1</sup> Technical and pragmatic details in respect of the establishment of a clinical initiative, together with assessment and eligibility criteria, will largely be addressed in subsequent chapters.

## 2.3 From humble beginnings

Much of what follows is dedicated to the early work of Harvard professor, Keith Fogg, who diligently chronicled the American LITC experience.<sup>2</sup> Fogg recalls that the first *test* tax clinic was established at Harvard Law School in 1968 and supported by funding from the Internal Revenue Service (IRS).<sup>3</sup> This initial programme enabled law students from the Harvard Law School to assist taxpayers undergoing an office audit in the Boston District whereby students were permitted to accompany taxpayers as a 'witness' but not as the taxpayers' legal representative.

Despite the well-intentioned motivations for this programme, it was discontinued a mere eighteen months later based on a perceived lack of benefit to the school and the IRS.<sup>4</sup> Clearly undeterred, the somewhat modern version

1 Keith Fogg, 'Taxation with Representation: The Creation and Development of Low-Income Taxpayer Clinics', *Tax Law* 67 (2013): 5. This work is highly commended for a deep and rich exploration of the American position with respect to tax clinics and explores concepts not addressed in this chapter in significantly more detail.

2 Ibid. See also, Taxpayer Advocate Service, 'Low Income Taxpayer Clinics', <[www.taxpayeradvocate.irs.gov/about-us/low-income-taxpayer-clinics-litc/](http://www.taxpayeradvocate.irs.gov/about-us/low-income-taxpayer-clinics-litc/)> accessed 4 August 2022.

3 Fogg, 'Taxation with Representation'.

4 Ibid.

of the LITC appeared in the early 1970s.<sup>5</sup> Fogg and the IRS credit the first LITC to Hofstra University in 1974. This programme continues to operate to this day.<sup>6</sup> Throughout the 1970s and 1980s, more universities opened tax clinics, stipulating that the service was targeted at low-income taxpayers and supported by funds from the Department of Education.<sup>7</sup>

In addition to the pedagogical motivations, a central theme of each clinic during this time (and which continues today) was the provision of timely, accurate and reliable tax advice and/or representation to eligible low-income taxpayers.<sup>8</sup>

Despite this growth, only about ten law school tax clinics existed by 1990.<sup>9</sup> About that time, Janet Spragens started a tax clinic at American University (based in Washington DC) and, shortly thereafter, Nina Olson started the first nonacademic low-income taxpayer clinic in Richmond, Virginia.

For all intents and purposes, Spragens and Olson are credited with navigating the explosive growth of the clinical initiative from the early 1990s and shaping the programme into its modern form. In particular, Spragens and Olson advocated extensively for national funding of the LITC and a robust bill of taxpayer rights during this time, ultimately succeeding in their efforts at attaining matching grants for the LITCs in the summer of 1998,<sup>10</sup> and amendments to the taxpayers' bill of rights, codified in 1996.<sup>11</sup>

With the creation of the grants to federal tax clinics, the clinics took off rapidly, demonstrating the importance of sustainable resourcing for clinics.<sup>12</sup> In the first year (in which grant applications were available), the IRS received forty-three grant applications and approved thirty-four grants

5 Ibid.

6 The Hofstra programme was started by Stuart Filler and was officially created by an order of the Supreme Court of the State of New York. See, Internal Revenue Service, Office of the Assistant Commissioner, 'Report on Legal Assistance Test Program' (November 1978). The description of the Hofstra clinic is the basis for the operation of most law school tax clinics today – third-year students acting as tax advisors for clients while supervised by an attorney serving as clinic director.

7 Fogg, 'Taxation with Representation', 3. Each clinic based their models on the previously established clinics focused on low-income taxpayers and providing practical skills to their enrolled university students.

8 Internal Revenue Service, 'Report on Legal Assistance Test Program'.

9 Ibid.

10 Ibid, 23. See also, US: Restructuring and Reform Act of 1998 (RRA 98), which authorised \$6 million in matching grants to the LITCs.

11 Ibid, 22. See also, US: Taxpayer Bill of Rights 2, Pub. L. No. 104–68, 110 Stat. 1452, 1452 (1996).

12 Discussed in more detail in [Chapter 3](#).

totalling approximately US\$1.46 million.<sup>13</sup> Initially, oversight of the grant programme was placed with the IRS Assistant Commissioner (Wage and Income).<sup>14</sup> In 2003, oversight of the grant programme was moved to the National Taxpayer Advocate.<sup>15</sup>

Fogg emphasises that the remarkable change after the establishment of the grant concerned the makeup of LITCs. He notes:

Prior to the establishment of [Olson's Community Tax Law Project (CTLP)] in 1992, the first 18 years of LITCs involved only academic clinics. By 1998, three of the 17 clinics were independent with the remaining clinics coming from academia. That changed dramatically in 1999 as the first grants were issued. Starting that year, academic and independent clinics grew but legal services organizations entered the mix and overtook the other types of clinics combined. This change in the mix of types of clinics created a change in the makeup of the LITC community.<sup>16</sup>

Since these humble beginnings, LITCs have continued to operate in both the academic and nonacademic domains with a particular focus on assisting low-income individuals who have a tax dispute with the IRS and providing education and outreach to individuals who speak English as a second language (ESL).<sup>17</sup>

Relevantly, the established aims of the programme now include:

- The provision of pro bono representation on behalf of low-income taxpayers in tax disputes with the IRS including audits, appeals, collection matters and federal tax litigation
- Responding to IRS notices and correction of account problems
- The education of low-income and ESL taxpayers about taxpayer rights and responsibilities
- The identification and advocacy for issues that impact low-income taxpayers.<sup>18</sup>

13 See, Taxpayer Advocate Report and Low-Income Taxpayer Clinics: Hearing before the Subcommittee on Oversight of the H. Comm. on Ways and Means (107th Cong. 44, 12 July 2001) (statement of Leslie Book, Federal Tax Clinic, Villanova University School of Law).

14 Ibid.

15 Under the direction of Nina Olson. The Secretary of the Treasury appointed Nina Olson the second National Taxpayer Advocate (NTA). She assumed this position in January 2001.

16 Fogg, 'Taxation with Representation', 21-2.

17 Internal Revenue Service (IRS), 'Low Income Tax Clinics', <[www.irs.gov/advocate/low-income-taxpayer-clinics](http://www.irs.gov/advocate/low-income-taxpayer-clinics)> accessed 5 August 2022.

18 Ibid.

The impact of the LITC programme continues to expand. In the 2021 grant year, LITCs represented 19,413 taxpayers, educated 133,757 taxpayers and service providers, helped secure US\$5.8 million in refunds, and decreased or corrected US\$50 million in tax liabilities.<sup>19</sup> Moreover, the LITC programme awarded over US\$12 million in grants to 130 organisations in 47 states and the District of Columbia – with similar funding and assistance levels expected in 2022 and beyond.<sup>20</sup>

## 2.4 From east to west

With a clear and demonstrated history of success, it was only natural that the clinical initiative found footing in other jurisdictions, and Australia is understood to be the first nation following the US to introduce a similar concept. Moreover, Curtin University, under the leadership of Annette Morgan and Donovan Castelyn, is credited as the first tax clinic in Australia and subsequently the impetus for the National Tax Clinic Project.<sup>21</sup>

The tax clinic at Curtin University parallels the LITCs in the US, sharing similar philanthropic and pedagogical ideologies. As noted by Castelyn and Morgan, the Curtin Tax Clinic

was conceived with the dual purpose of (i) responding to the evolving demands placed on Australian tax and legal education, in recognition of the emerging needs of industry, and (ii) facilitating access to free and reliable tax advice for unrepresented taxpayers seeking to meet or comply with their tax-related affairs.<sup>22</sup>

Informed by the success of their clinical initiative and the value of the clinical proposition from the US, Morgan and Castelyn lobbied the Australian

19 Ibid.

20 Low-Income Taxpayer Clinics, 'Annual Report 2021' (2021), <[www.irs.gov/pub/irs-pdf/p5066.pdf](http://www.irs.gov/pub/irs-pdf/p5066.pdf)> accessed 5 August 2022.

21 Donovan Castelyn, Stephanie Bruce and Annette Morgan, '2019 National Tax Clinic Project: Curtin University – Curtin Tax Clinic', *Journal of Australian Taxation* 22, no. 2 (2020): 1. In 2018 Curtin University provided Morgan and Castelyn with \$25,000 seed funding to pilot the initiative. See also, Ann Kayis-Kumar and Jack Noone, 'Measuring the Social Impact of University-Based Pro Bono Tax Clinics: Co-creating a Framework for Evidence-Based Evaluation', (Austaxpolicy: Tax and Transfer Policy Blog, 3 October 2019), <[www.austaxpolicy.com/measuring-the-social-impact-of-university-based-pro-bono-tax-clinics-co-creating-a-framework-for-evidence-based-evaluation/](http://www.austaxpolicy.com/measuring-the-social-impact-of-university-based-pro-bono-tax-clinics-co-creating-a-framework-for-evidence-based-evaluation/)> accessed 5 August 2022.

22 Castelyn, Bruce and Morgan, '2019 National Tax Clinic Project', 3.

Government to fund the National Tax Clinic Pilot Program throughout the course of 2018 and into early 2019.<sup>23</sup>

The National Tax Clinic Trial was subsequently established in 2019 and enabled ten academic institutions (including Curtin University), state and territory wide, to conduct a twelve-month funded trial of the programme.<sup>24</sup> Following the success of a Tax Clinics Pilot Program, the Australian Government confirmed it would provide AUD4 million over four years from 2019–20 to fund tax clinics across the country.<sup>25</sup>

The ten Australian universities who benefited from this subsequent funding included: Australian National University (Australian Capital Territory, ACT), UNSW Sydney (New South Wales, NSW), Western Sydney University (NSW), Charles Darwin University (Northern Territory, NT), Griffith University (Queensland, QLD), James Cook University (QLD), University of South Australia (South Australia, SA), University of Tasmania (Tasmania, TAS), Melbourne Law School (Victoria, VIC) and Curtin University (Western Australia, WA).

More recently, in mid-2021, the Australian Government sought to expand the initiative more broadly. While still confined to academic institutions, 2021 would see a shift in the future funding model, with grants now awarded on an open and competitive basis.<sup>26</sup> Following the initial competitive round, the clinical programme was expanded to thirteen participants, with a registry of current members housed on the Australian Tax Office (ATO) website.<sup>27</sup>

Although there were (and remain) some noticeable differences among the universities selected for the pilot and future funding, as well as a stark contrast in eligibility and services offered in respect of the US initiative (as will be explored in subsequent chapters), the practical experience afforded

23 See Curtin Tax Clinic, 'Annual Report' (2019), <[www.linkedin.com/posts/curtin-tax-clinic\\_2019-annual-report-activity-6577819156249366528-Xjm0/?utm\\_source=linkedin\\_share&utm\\_medium=member\\_desktop\\_web](https://www.linkedin.com/posts/curtin-tax-clinic_2019-annual-report-activity-6577819156249366528-Xjm0/?utm_source=linkedin_share&utm_medium=member_desktop_web)> accessed 4 August 2022.

24 See Scott Morrison, 'Keynote Address' (Speech, Australian Chamber of Commerce and Industry Annual Dinner, 28 November 2018). Relevantly, the prime minister announced the establishment of 'ten new tax clinics ... to provide free assistance to small businesses and individuals with disputes with the ATO. These tax clinics will ensure small businesses in need have access to specialist advice from tax practitioners and students in the field on a pro bono basis'. See also, *Journal of Australian Taxation* 22, no. 2 (2020) Special Edition on Tax Clinics for a comprehensive overview of clinics involved in the trial phase.

25 See Treasury, 'Mid-Year Economic and Fiscal Outlook' (December 2019), <[https://archive.budget.gov.au/2019-20/myefo/download/MYEFO\\_2019-20.pdf](https://archive.budget.gov.au/2019-20/myefo/download/MYEFO_2019-20.pdf)> accessed 4 August 2022.

26 Australian Taxation Office, 'National Tax Clinics Grant Program' (archived Grant, closed 21 June 2021), <[www.grants.gov.au/Go/Show?GoUUid=04bd4ff8-8251-4713-aafe-92ac41f55134](https://www.grants.gov.au/Go/Show?GoUUid=04bd4ff8-8251-4713-aafe-92ac41f55134)> accessed 4 August 2022.

27 Australian Taxation Office, 'National Tax Clinic Program', <[www.ato.gov.au/General/Gen/National-Tax-Clinic-program/](https://www.ato.gov.au/General/Gen/National-Tax-Clinic-program/)> accessed 4 August 2022.

to students and assistance provided to vulnerable and/or unrepresented taxpayers remains consistent.

In particular, each participant in the Australian programme is required to deliver on the following:

- To provide pro bono advice, guidance and assistance on tax matters
- To represent clients on a pro bono basis in dealings with the ATO
- To create education activities in each tax clinic to improve understanding of the tax system
- To provide advocacy facilities to enable wider involvement in highlighting and reducing issues and problems in the tax system
- To staff tax clinics with students undertaking relevant studies including accounting, law or dispute resolution.

While a cohesive annual report showcasing the marked and demonstrative successes of each clinic is still forthcoming, one such illustration of the value of the programme comes from the Curtin Tax Clinic. By February 2022 (from 1 July 2021), the clinic had assisted over 750 new clients to write off over AU\$160,000 in debt, prepared over 6,000 tax returns and 2,000 business activity statements, and assisted in the consolidation of 200 superannuation funds.

## 2.5 From south to north

More recently, both the United Kingdom and Ireland have undertaken to pilot similar initiatives in their respective jurisdictions. The United Kingdom's first tax clinic, the North West Tax Clinic (NWTC), piloted between January and March 2020 under the supervision of Amy Lawton and David Massey. This clinic was a collaboration between Lancaster University, the University of Central Lancashire and TaxAid UK. As will be discussed in [Chapter 4](#), TaxAid are a unique form of low-income taxpayer support in the UK.

Following the success of the NWTC, Lawton has launched the Scottish Tax Clinic (STC) at the University of Edinburgh using a similar model (and partnership with TaxAid).<sup>28</sup> The STC launched in September 2021.<sup>29</sup>

28 Kapil Summan, 'Tax Clinic at Edinburgh Law School First in Scotland' (*Scottish Legal News*, 23 September 2021), <[www.scottishlegal.com/articles/tax-clinic-at-edinburgh-law-school-first-in-scotland](http://www.scottishlegal.com/articles/tax-clinic-at-edinburgh-law-school-first-in-scotland)> accessed 5 August 2022; ICAS, 'Edinburgh Law School Has Opened a Tax Clinic: Find Out More and Get Involved', <[www.icas.com/landing/tax/edinburgh-law-school-has-opened-a-tax-clinic-find-out-more-and-get-involved](http://www.icas.com/landing/tax/edinburgh-law-school-has-opened-a-tax-clinic-find-out-more-and-get-involved)> accessed 4 August 2022.

29 You can find out more about what the STC gets up to via their social media pages, for example, <<https://twitter.com/ScotTaxClinic>> accessed 1 October 2022.

The UK clinics aim to provide free, expert, independent and confidential advice to those unable to pay for professional advice, especially if the taxpayer has been unable to resolve their issue with His Majesty's Revenue and Customs (HMRC). The UK clinics thus align with the US model that uses income to determine whether the clinic can help. Specifically, the NWTC and STC can assist eligible taxpayers with:

- Completing self-assessment tax returns
- Appealing against penalties for tax returns filed late
- Understanding Pay-As-You-Earn codes and assisting with changes if incorrect
- Explaining tax calculations and appealing against these if they are incorrect
- Liaising with HMRC to cancel tax returns they have issued if not necessary.<sup>30</sup>

While the STC continues to develop, there is yet to be national funding in the UK to support the expansion of tax clinics to other in-need areas of the UK. There remain large parts of the UK that do not have access to a tax clinic. It is hoped that this changes in the future.

In Ireland, the University of Galway Tax Clinic is the first university-led tax clinic. Based in the J. E. Cairnes School of Business and Economics, the clinic is run by students of taxation on a voluntary basis, under the supervision of the clinic director, Emer Mulligan, and tax experts from the business community.

The University of Galway clinic is currently embarking on a phased approach to operation and continuation. Phase one concerned the pilot phase, which spanned across the 2019 and 2020 calendar years. This phase largely concerned consultation with students in University of Galway and the broader tax profession. Phase two concerned the expansion and roll out of the initiative to all students across the university, undertaken across the 2021 and 2022 calendar years.

Phase three, which broadly accords with the timeline of phase two, saw the service offered on a pilot basis to two community groups who support marginalised citizens in the region, in addition to the student body.<sup>31</sup> The clinic is primed to be extended for these groups and over time its services will be offered to other community groups.

30 TaxAid, 'North West Tax Clinic', <<https://taxaid.org.uk/guides/taxpayers/northwest>> accessed 4 August 2022.

31 See <[www.universityofgalway.ie/taxclinic/](http://www.universityofgalway.ie/taxclinic/)> accessed 2 January 2022.

The aim of the clinic, consistent with the aforementioned initiatives, is to provide tax assistance and information to individuals and community organisations who would benefit from tax consultations but may not otherwise have access or funding, and to give them the lifelong skills to handle their own tax affairs, while also enhancing their overall tax education.

## **2.6 Conclusion**

While the position in the US and Australia is relatively certain in respect of the continuation of CTE initiatives, the path is less clear for the UK and Ireland (and beyond). To that end, this chapter and, indeed, the book serve not only as a reflection on best and past practices but also as a foundation for a pathway forward.

It is essential that we continue to build upon the work of those before us to drive forward new initiatives. This will allow universities to navigate yet uncharted territory and to build on the underlying themes engendered by access to tax justice, service to the community and capacity building in our students.

Pragmatically, this may involve initiating international student exchanges, continuing to engage in international conferences, encouraging the development of new clinical projects, and advocating further for both domestic and international recognition.



# Chapter 3

## Project administration

### *How to set up a tax clinic*

*Amy Lawton\**

### 3.1 Key findings

This chapter provides an introduction to some of the common starting points and things to consider when designing a tax clinic. As most of the tax clinics discussed in this book are pro bono and client facing, these reflection points are not dissimilar to the practicalities of setting up a legal advice clinic.<sup>1</sup>

### 3.2 Introduction

This book serves a number of purposes. It explores the benefits that tax clinics (and wider tax education projects) can have for our communities and students, by showcasing the research of those who have already embarked on this journey, and it asks us to reflect on how we teach tax.

Beyond these more theoretical objectives, this book also seeks to support anyone who is considering a tax clinic or similar project at their own institution.

This book adopts a broad definition of clinical tax education (CTE) and recognises that tax education projects can come in all shapes and sizes. A project is a CTE project if:

1. It provides a tax service (actual or simulated).
2. It involves the participation of university students, acting under professional supervision where necessary.<sup>2</sup>

\* Senior Lecturer in Tax Law, University of Edinburgh. Founder of the Scottish Tax Clinic, co-founder of the North West Tax Clinic.

1 For a consideration of the regulatory framework of law clinics, see Linden Thomas and Nick Johnson, *The Clinical Legal Education Handbook* (University of London Press, 2020).

2 Adapted from Lydia Bleasdale et al., 'Law Clinics: What, Why and How?' in Linden Thomas and Nick Johnson, *The Clinical Legal Education Handbook* (University of London Press, 2020), 8.

The provision of a tax service is equally broad. This could range from providing one-to-one tax advice to a client, to providing public education through student presentations or written materials, to simulating tax problems that the students need to solve, to providing tax policy recommendations in a policy-focused clinic.

### 3.3 The foundations of a clinic

Designing a clinic takes time. To ensure that any project runs smoothly at launch will require a significant amount of planning: for example, the North West Tax Clinic and Scottish Tax Clinic (STC) both took around twelve months of planning before their launch. Many of the Australian clinics were set up quickly due to the funding model proposed by the Australian Government: the Curtin Tax Clinic (the first in Australia) took six months to establish once seed funding was provided and they shared the information of establishment with all the other Australian clinics to make it easier for them to get started. But the motto really is spending the time to prepare before you open the clinic doors.

If you are considering the concept of establishing a clinic soon, take the time to reach out to existing clinics and use their experiences to help your project run as smoothly as possible. Do not be afraid to ask questions such as what worked and what did not – doing this saves you from making the same mistakes that others may have unearthed before you. This book shares some such lessons.

You also need to consider a variety of things when thinking of starting up your clinic, such as: what services the clinic is going to offer; to whom the clinic will offer their services; who is going to assist in clinic; the ratio of students to professional/academic staff; infrastructure and resources; and marketing and publicity. Below, a number of these practicalities are explored to aid in the design process. Several of these considerations are interdependent and will change depending on the clinic model adopted.

#### **Institutional and/or organisational support**

Regardless of format, CTE takes a step away from traditional forms of higher education.<sup>3</sup> In some law schools, clinical education may already have a presence in the form of a law clinic. In this case, the rationale for introducing a tax clinic becomes easier. However, not all jurisdictions or schools where

3 For a consideration of pedagogical theory, see [Chapter 13](#).

tax is taught have an existing clinical infrastructure, so you may be creating the clinical infrastructure from scratch (which was the case for many of the Australian Clinics). Some universities have managed to create clinics that hold a mixture of both legal students and commerce students, but this is quite rare and depends on the university structure. Massey discusses some of the hurdles for business schools in [Chapter 19](#).

In most cases, you will need to create a business case for the establishment of a tax clinic and the benefits to the university and students. Massey outlines some recommendations for making a business case in [Chapter 19](#) (particularly in relation to business schools). Remember that clinics have a twofold purpose: to give students real life experience and (where including live clients) to benefit the community. The university's focus is on the students, so that should be the focus of a business plan. You will therefore need to consider the educational design of your CTE project (discussed further below).

If you have any collaborative partners in the clinic (such as a law firm, accounting firm or tax charity) then it is worth considering whether having a legal agreement to formalise the collaboration would be beneficial. This formalises the responsibilities of both parties and provides a stable framework for the clinic. It will also help gain institutional approval as you have industry bodies participating with you in the clinic.

**Tip:** Have an extraordinary business case, outline benefits for university, students, community and industry engagement, and explain how you will measure the clinic's success.

## Costs and wider resources

Introducing and running a clinic costs money. You may need initial institutional support to cover these costs, or you may need to seek external funding to cover these costs, depending on the resources available to your institution and the amount of the resources your clinic would need. Depending on the structure of your clinic (and whether it engages in live client work or simulated scenarios), resources to consider are shown in Table 3.1.

If you need external funding for these costs, consider what is available. Sams outlines the difficulties and importance of finding funding for your clinic in [Chapter 7](#). Funding can be sought from your university (have a look and see whether external engagement and community support are strategic priorities for your university) or externally, through education research or teaching grants, private firms, or public authorities.

**Table 3.1:** Resources and rationale of a tax clinic

<i>Resource</i>	<i>Rationale</i>
Time	Regardless of the clinical model, all tax clinics require the time of the individual introducing them. This time commitment is particularly heavy during the design and implementation of the clinic.
Human	This includes, for example, supervision of the students and wider administrative support. If you are running a live client clinic, who will manage the client queries? Who will allocate cases to the students and supervisors? Quite often, the answer may be you, so this adds to the time commitment of introducing a clinic. If those individuals are not you, then this will potentially introduce a financial cost to the clinic.
Infrastructure	Your clinic will need a room or online platform regardless of its model. If you are adopting a virtual model, consider whether your institutional software is sufficient for the clinic, or whether you will need additional software. Other infrastructure may include: <ul style="list-style-type: none"> <li>• If you are handling live clients, then you will need appropriate customer relationship management (CRM) software to hold their details. There may be other software costs (such as call handling software if you do not have a phone number associated with the space you can use).</li> <li>• Depending on how the clients can contact the clinic, you will need an email address and a telephone number. Making calls costs money.</li> <li>• You may need to provide hardware, such as laptops or a mobile phone (particularly important to protect the students' own numbers).</li> </ul>
Marketing	If your clinic works with your local community, then you need to let your community know that you are there. While many institutions have internal marketing and press offices, you may need to engage in additional marketing to integrate your pro bono service into the community. Examples include local press, printing leaflets and advertising on social media.

You may consider running a pilot clinic to provide evidence of success to make subsequent funding easier to obtain. The North West Tax Clinic initially ran for three months as a pilot. The Curtin Tax Clinic ran a six-month pilot after receiving internal seed funding from the university. This then allowed the pilot's outcomes to be shared with the Australian Government, who saw benefits in the work undertaken in the pilot and led to the creation of a National Tax Clinic trial of ten clinics in Australia.

The seed funding was very important to cover the initial start-up costs of the clinic and clinics should try, if possible, to raise funds within the university environment. Another source of funding is donations from former clients who are pleased with the services they received from the clinic in the past – you would need to ensure your university can receive donations of this kind. In some circumstances and jurisdictions, it would not be appropriate to fund a clinic through donations and a clinic should not accept donations from current clients (particularly if your clinic targets low-income individuals).

**Tip:** Ensure you have prepared a budget that covers all the costs associated with the creation and ongoing running of your clinic; you do not want to be left short of money.

## Supervision

Tax may or may not be a regulated profession in some form. For example, in the jurisdictions with an established culture of tax clinics:

1. United States – tax professionals are regulated by the Internal Revenue Service and in particular Treasury Circular 230, which dictates who may provide tax advice.<sup>4</sup> The circular also outlines the duties of a tax adviser and the linked sanctions for non-compliance.
2. Australia – tax agents are regulated by the Tax Practitioners Board.<sup>5</sup> The Board, introduced from 2010, has established an appropriate national regulatory framework and registration system.<sup>6</sup>
3. United Kingdom – providing paid tax advice is not a directly regulated profession, which means that anyone could technically practise as a tax adviser. However, most tax agents are a member of a tax professional body.<sup>7</sup> These professional bodies regulate the behaviour of their members; there are also some baseline standards for agents expected by HM Revenue and Customs.<sup>8</sup> This is in contrast

4 United States of America: Treasury Department Circular No. 230 (Rev. 6-2014), §10.3.

5 Australia: Tax Agent Services Act 2009, s.14; <[www.tpb.gov.au](http://www.tpb.gov.au)> accessed 15 July 2022.

6 Australian Taxation Office, 'The Regulation of Tax Practitioners by the Tax Practitioners Board' (2013), available at <[www.anao.gov.au/sites/default/files/201213%20Audit%20Report%20No%2033.pdf](http://www.anao.gov.au/sites/default/files/201213%20Audit%20Report%20No%2033.pdf)> accessed 15 July 2022.

7 Kantar Public and HMRC, 'Role of Professional Bodies in the Regulation of Tax Agents' (September 2018), available at <[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/802570/Role\\_of\\_professional\\_bodies\\_in\\_the\\_regulation\\_of\\_tax\\_agents-HMRC\\_research\\_report.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/802570/Role_of_professional_bodies_in_the_regulation_of_tax_agents-HMRC_research_report.pdf)> accessed 15 July 2022.

8 <[www.gov.uk/government/publications/hmrc-the-standard-for-agents/hmrc-the-standard-for-agents](http://www.gov.uk/government/publications/hmrc-the-standard-for-agents/hmrc-the-standard-for-agents)> accessed 15 July 2022.

to legal advice, which is regulated by a number of bodies depending on the title used or area of practice.<sup>9</sup>

4. Similarly in Ireland, tax advice is not a legally restricted profession although the Irish Tax Institute is the only professional body exclusively dedicated to tax.<sup>10</sup>

In some jurisdictions, ‘tax advice’ may also be either legal advice or accounting advice – both of which could also be regulated professions. While this regulation may or may not apply to pro bono advice (that is, advice that is not paid for), it is beneficial to see and treat a student tax clinic as a professional undertaking in the field.

This means that undergraduate students cannot, or should not, simply provide free tax advice to members of the public. The common way to overcome this is to employ the supervision of appropriately qualified individuals who can effectively sign off the students’ work. This creates an additional layer of quality assurance and scrutiny within the clinic. This could be the individual designing and running of the clinic if they hold the appropriate qualification and time within their workload.

A number of the clinics discussed in this book recruit volunteer professionals to supervise the students. If your proposed clinic has greater resourcing and support, then you could pay the supervisors for their time. Another approach might be to secure sponsorship from a firm that practices tax; this could take the form of money or time, providing you with the resources to pay your professional volunteers (or a time commitment from the firm).

Thinking about how and what your supervision will look like will help you to recruit any additional supervision before the clinic opens. Things to consider include:

- Will supervision take place in person, or can the supervisors engage with the students virtually (for example, through CRM software, email, video calls or over the telephone)?
- What training will you need to provide to any professionals? Low-income taxpayer work can be very different to fee-paying client work.
- How many supervisors will you recruit and how will this impact the time commitment of each, individual supervisor?
- How will you verify that they are qualified to supervise the students?

9 <[www.gov.uk/government/publications/professions-regulated-by-law-in-the-uk-and-their-regulators/uk-regulated-professions-and-their-regulators](http://www.gov.uk/government/publications/professions-regulated-by-law-in-the-uk-and-their-regulators/uk-regulated-professions-and-their-regulators)> accessed 15 July 2022.

10 <<https://taxinstitute.ie/about-us/>> accessed 18 August 2022.

**Tip:** If you have tax professionals supervising students and working with your clients then ensure they are suitable. They need to be able to work with the students in a teaching/mentoring capacity as well as working with clients who may be different to their fee-paying work. Choosing the right person to begin with can save issues later on.

## Insurance

This is important if your clinic will be working with live clients. With advice being provided by students, insurance is a valuable safety net and, indeed, may be required in your jurisdiction. Most institutions will have professional indemnity insurance; it may be that you can write the tax clinic directly into that policy, or you may need to take out separate insurance. A separate insurance policy will come with costs.

When considering the wide range of activities that a university engages in (for instance, live clinical trials on humans or animals and the storage of dangerous materials), a tax clinic is a relatively low-risk activity. This risk is even lower when considering all the safeguards that should be in place: student and professional training, supervision of all work, and support and guidance from the clinic organiser.

**Tip:** Meet with your university risk team and discuss your tax clinic plans prior to any implementation so that they can review the insurance policies of the university to ensure the activities of the tax clinic would be covered.

## Data protection

In a simulated clinic, you will be working with students and their data should be protected in line with your university policy and data protection rules. This becomes more complex if your clinic works with live clients.

To ensure client confidentiality and data protection, you will need to think about how you will store client data in line with the data protection requirements of your jurisdiction. You may need to undertake a risk assessment, consider what software you need to use, as well as specific training for your students and professional volunteers.

You may also have to consider if there are any government regulations that safeguard data protection of taxpayer's personal information. In Australia, under Tax Practitioners Board policy, you must establish proof of identify of the taxpayer before taking them as a client and any document being forwarded to or on behalf of the client must have their Tax File Number redacted.

Personal data theft is an ongoing risk and tax clinics are not immune to their client's data being stolen, so it is imperative that tax clinics enforce with all those working within the clinics the importance of not releasing client data to third parties without permission and that only the authorised software and programmes are utilised for client work.

**Tip:** Meet with your university's data protection team for guidance on how to correctly safeguard the documents of the tax clinic and do this on a regular basis of at least once a year.

## 3.4 Clinic design

### Clinic model

You will need to decide whether your clinic will be based on simulation or live clients. A number of different models are presented throughout this book (see [Table 3.2](#)).

No matter the type of CTE project you are going to be running, you will be creating an experiential learning environment – whether that is live client or simulated. The benefits to both students and the (if applicable) community must be taken into account when designing your tax clinic.

**Tip:** Think about the type of services you want your CTE project to offer and then build your clinic around those. Having the vision of the goal will assist you in the design process.

### Student and supervisor recruitment

You will need to decide on the scale of your project. Public tax education projects may facilitate higher student numbers, as students tend to work in groups. Live client work is restricted by local demand – the more students you have, the more clients you will need to recruit.<sup>11</sup> CTE through simulation can be delivered to greater student numbers (depending on your own capacity and ability to supervise the students through this process).

If you are running a live client advice clinic, then you will need appropriate supervisory support. You will want qualified tax professionals to supervise your students. A good place to start is either your own network of contacts

11 Sometimes this does not work out: see Amy Lawton, 'Lemons to Lemonade: Experiential Learning by Trial and Error', *The Law Teacher* 55 (2021): 511–27.



**Table 3.2:** Example clinic design models

<i>Model</i>	<i>Chapter</i>	<i>Outline</i>
Simulated	14	This could include role plays. These engage the students in solving problems through interaction. The more realistic these scenarios are, the more the students will be able to engage with them as a simulated workplace. Vitale and Medlen outline how the Western Sydney University Tax Clinic employs simulation to train students for their live client clinic in <a href="#">Chapter 14</a> . Simulation provides students with development opportunities without the live client interaction; it can also run alongside live client projects as training or additional skill development.
Controversial	11, 15	Lora and Speidel argue that the controversial model allows students to not only gain skills and direct advocacy experience, but also learn habits of reflective, thoughtful practice which will allow them to succeed in any professional context. Fogg explores the role of litigation and benefits that a tax clinic can bring to tax policy in an adversarial system.
Live client	5, 16, 17	Similar to the controversial model, the live client clinic also works with real clients to provide tailored advice for their needs. This could be compliance work rather than advocacy work. For instance, Kayis-Kumar et al. introduce the UNSW tax clinic in <a href="#">Chapter 5</a> ; Freudenberg et al. discuss the Griffith Tax Clinic in <a href="#">Chapter 17</a> ; Boahen et al.'s clinic is a little different in that their live clients are small businesses: something that is explored in <a href="#">Chapter 16</a> .
Educational	8, 9, 10	These projects focus on educating others about their tax obligations rather than working on a one-to-one basis to resolve tax issues. Bassey and Oluwatofunmi discuss tax clubs and their contribution to public tax education in <a href="#">Chapter 8</a> ; Drumbl outlines the benefits of engaging with school students in <a href="#">Chapter 9</a> ; and Prasetyo and Khusnaini explore how educational projects can help improve taxpayer compliance in <a href="#">Chapter 10</a> .

or the professional tax bodies in your jurisdiction. They may be able to help you identify individuals or send out an email calling for volunteers through their mailing list. Firms may wish to sponsor a tax education project and may be happy to provide volunteer support as part of this.

There are two methods of securing students to work in the tax clinics: they may be volunteers, or you may offer the clinic as a credit-bearing course in

which they enrol into the clinic for a semester or year as part of their studies. Depending on how your clinic is structured within the university will depend on the criteria you may need to have for recruiting students. For example, a law clinic will most likely only recruit law students and a business school running clinics will use business students; the basic requirement is that they have some introductory knowledge from a previously studied taxation unit. It is also beneficial that they have an interest in tax as a subject!

**Tip:** Students are the face of your tax clinic so ensure you choose wisely when recruiting. Consider whether you will interview students for your CTE project.

## Educational design

You will therefore need to consider how a CTE project fits in with the wider curriculum. A tax education project could either be run as an extracurricular activity or could be brought within the curriculum and be made credit bearing.

In Australia, some clinics offer the tax clinics as a credit-bearing unit, but the students still wish to continue to participate in the clinic afterwards as a volunteer. This has worked well in Australia, as the more experienced students can then guide the new students.

Intracurricular clinics can be difficult if a curriculum is already crowded, or if the curriculum is driven by professional accreditation requirements. As students are receiving credit for the work that they do, then this overcomes criticisms that extracurricular pro bono work is effectively free student labour.

Extracurricular clinics provide a greater level of flexibility and can work alongside a crowded curriculum. However, while students will gain a benefit from participating in the clinic (such as greater employability from having the project on their CV), there remains a question whether this is an adequate and appropriate reward for all of their time.

If you bring in your project as an assessed, credit-bearing course (intracurricular), then it is important to reflect on the following:

- What are the learning outcomes you want from your course? A tax clinic is often not just about learning substantive rules but developing a whole range of soft skills (such as group work, communication and problem solving). Bloom's taxonomy is useful for reflecting on how these learning outcomes can be drafted to help the students measure their progress. For example, one of the learning outcomes for the STC is: 'Identify key facts in a given case and critically review their relevance to applicable tax legislation and guidance'.

- Consider how you are going to assess the students in the project. Depending on the model of the clinic, there are a range of assessment methods at your disposal:
  - Presentation/poster
  - Reflective journal
  - Participation
  - Evidence portfolio
  - Reflective essay.

This is not an exhaustive list. It may be the case that this is a very new form of assessment for your students. Thought should be given to assessment literacy and how that assessment will be moderated within your institution.

Whether the project is intra- or extracurricular, you may need to think of the following:

- Student workshops to train the students in what is possibly a very new style of learning
- Developing templates to guide the students in filling out forms or drafting letters. If you opt to take a more non-directive approach, then you may rely on templates less.<sup>12</sup>

A well-designed CTE project will provide students with the opportunities to develop and learn. Broader experiences can also be embedded within the clinic, for example, including student volunteers in professional taxation conferences so they can network with taxation professionals and hear speakers on topical taxation matters; arranging visits to the taxation authority's offices; and having an occasional social event for the students to celebrate and recognise their achievements.

**Tip:** No matter the educational design of your clinic, wherever possible immerse students into the taxation profession within your country, look for opportunities constantly.

## **Integration into community (client recruitment)**

As well as education design, it is necessary to think about how the project will be promoted within the community if there is an external facing element.

12 See Chapter 15.

This could include direct marketing – such as printing and distributing leaflets, engaging with local press or running advertising campaigns on social media. It could also be forging links with local charities who work with potential clients, such as food banks, homeless charities and debt charities. It may be that you have to explain how your project can benefit their clients; tax advice can often be perceived as a problem for rich people, or those who have the means to pay for advice.

Having links with local charities means that you can set up a client referral process. It may also be the case that local firms or practitioners would be happy to refer surplus pro bono work to you as well.

The burden of publicity and marketing often reduces over time. As the reputation of the CTE project increases, word-of-mouth awareness increases and approaches by community organisations and individuals often become more prevalent.

**Tip:** Ensure that you promote the tax clinic and its services – have a leaflet (physical or digital) to distribute easily. The more people who know about it, the more word will spread.

### 3.5 Concluding remarks

Designing and introducing a tax education project can seem a daunting task. This chapter provides a starting point for some of the things you would need to think about when introducing a tax education project at your own institution or organisation. Tax education projects do not need to be a live client or one-to-one client project: simulated or education-focused projects may be less resource intensive and a good starting point for diversifying tax teaching or improving tax education in your local community.

The chapters that follow in the remainder of Part I begin to outline the rationale and importance of introducing a CTE project. While tax can often be perceived as a problem for the rich (especially when we discuss tax planning and tax avoidance), there is a clear need and demand for both pro bono tax advice and for greater levels of tax literacy in our communities.

### 3.6 Key reading

David Krathwohl, 'A Revision of Bloom's Taxonomy: An Overview', *Theory into Practice* 41 (2002): 212.

# Chapter 4

## Rationale

### *Tax support for low-income individuals*

*Tina Riches\**

#### 4.1 Key findings

The UK has a unique source of support for low-income individuals. The UK tax charities have extensive experience over thirty years of working with vulnerable people on their tax issues. Although some of this experience is reflected on the tax charities' websites and also the website of the Low Incomes Tax Reform Group, there is otherwise a scarcity of research and reference material in the public domain.<sup>1</sup> The experience of the charities' staff and volunteers is reflected throughout the discussion of this chapter, offering a unique insight into the tax issues that low-income individuals face. Overall, using the UK as a case study, this chapter demonstrates the need for pro bono tax advice – and highlights that tax issues are not exclusively for the wealthy.

#### 4.2 Introduction

This chapter looks at the development of the charities TaxAid and Tax Help for Older People (Tax Help), together known as 'the tax charities'. They are the only UK charities dedicated to providing free independent tax advice to vulnerable people on low incomes who need help to cope with the UK tax system and yet cannot afford to pay for the help they need.

TaxAid also supports two new university tax clinics, which are beginning to make impressive inroads into supporting people in their local communities with tax issues. While tax charities and universities can work well together to provide free advice to local communities, this chapter also looks at why

\* Tina Riches, former National Tax Partner, Smith & Williamson – with thanks to my colleagues from the tax charities, Valerie Boggs, CEO, Stephen Banyard, Trustee Chair, TaxAid, Penny Hamilton, Trustee Chair, Tax Help and Gail Mackie, former Advice Manager, who each contributed to this chapter, although any errors or inconsistencies are down to me.

<sup>1</sup> TaxAid website: <<https://taxaid.org.uk/>> accessed 20 December 2021; TaxHelp website: <<https://taxvol.org.uk/>> accessed 20 December 2021; LITRG website: <[www.litrg.org.uk/](http://www.litrg.org.uk/)> accessed 20 December 2021.

people need this help, the types of issues people face and the support available, together with some international context.

Similar issues can be reflected in other jurisdictions, an increasing number of which have clinics that provide tax support, although the presence of tax charities is rare – but then charities are a typically British attempt at finding solutions to an array of social problems – making the UK scenario an interesting case study for those considering something similar in other jurisdictions.

### 4.3 Historical context

Until a few decades ago, there were very few sources of help on personal tax issues:

- The UK tax authority, formerly the Inland Revenue, now incorporated into HM Revenue and Customs (HMRC)
- A tax adviser or accountant
- An employer
- Family and friends.

Vulnerable people often find it stressful to open mail from HMRC (this condition is often referred to as ‘brown envelope anxiety’<sup>2</sup>) and even more difficult to approach the tax authority and explain their problem. There is often an underlying fear of HMRC, due to its perceived use of powers and impenetrability. Sometimes the individual is unable to explain their problem, perhaps due to learning difficulties or poverty – no money means no phone. Sometimes individuals need an independent person to represent them.

In the tax charities’ experience, most HMRC staff are trained to deal with the majority of people and cases. HMRC’s Charter (which outlines HMRC’s commitments to behaviours and values) states that it ‘will give you extra support if you need it’ by referring people to its Extra Support Team (EST).<sup>3</sup> The EST is effective in resolving relatively straightforward tax issues for those individuals who have been identified as vulnerable. However, the onus

2 Articles on brown envelope anxiety: Suzanne Bearne, ‘I Lived in Fear of Brown Envelopes: Being Chased by the Taxman’ (*The Guardian*, 26 May 2017), <[www.theguardian.com/small-business-network/2017/may/26/fear-brown-envelopes-being-chased-taxman](http://www.theguardian.com/small-business-network/2017/may/26/fear-brown-envelopes-being-chased-taxman)> accessed 1 August 2022; ‘Brown Envelope Anxiety’ (*Management Accountant*, 5 August 2021), <<https://tinyurl.com/BrownEAnx>> accessed 1 August 2022.

3 HMRC, ‘The HMRC Charter’ (November 2021), <[www.gov.uk/government/publications/hmrc-charter/the-hmrc-charter](http://www.gov.uk/government/publications/hmrc-charter/the-hmrc-charter)> accessed 24 June 2022; for more information on the Extra Support Team, see <[www.gov.uk/get-help-hmrc-extra-support](http://www.gov.uk/get-help-hmrc-extra-support)> accessed 20 December 2021.

is on the individual to ask for that help; and these individuals can find it difficult to identify, understand and explain their special needs to HMRC. This means that those needing specialised help can fall through the cracks.

Tax advisers are usually too expensive for people on low incomes, and they may lack sufficient skills or experience to deal with vulnerable people. Employers, family and friends cannot necessarily provide reliable help – and confidentiality is an issue. Until the early 1990s, there was therefore a dearth of vital tax help for these vulnerable people in the UK (apart from a limited amount of pro bono support given by local tax professionals at Citizens Advice Bureaux). Citizens Advice, as it is now called, is a network of independent charities offering confidential advice and support to citizens on a wide range of consumer rights, pension guidance and legal support.<sup>4</sup> They do not tend to provide support for tax difficulties.

David Brodie OBE, an accountant, founded TaxAid in December 1992, seeing the need for free and independent tax advice for those who could not afford to pay for it. David once told me that the need for the service was highlighted by the steady stream of letters to Members of Parliament (MPs) from distraught citizens who could not get their tax issues sorted.

There was evidence that people:

- Were being made bankrupt unnecessarily due to estimated tax demands
- Had been overpaying tax for years because they didn't understand the rules
- Did not know how to access their rights of appeal, particularly regarding penalties, or
- Were running small businesses in serious difficulty, often in tax debt.

In December 1998, the Low Incomes Tax Reform Group (LITRG), a committee of the Chartered Institute of Taxation (CIOT), published its first report, which highlighted the common tax issues of many elderly people.<sup>5</sup> These issues, often related to pension income and multiple sources of income, were compounded by a gap in the pro bono help available.

In the absence of any significant tax authority action to address the problems highlighted by the report, LITRG, then chaired by John Andrews OBE, initiated Tax Help in April 2001 as a one-year pilot, to provide free accessible and

4 Information about Citizens Advice: <<https://citizensadvice.org.uk/about-us/contact-us/contact-us/contact-us/>> accessed 1 August 2022.

5 Low Incomes Tax Reform Group, 'Older People on Low Incomes: The Case for a Friendlier Tax System' (December 1998), <[www.litr.org.uk/sites/default/files/1\\_67\\_Dec98report.pdf](http://www.litr.org.uk/sites/default/files/1_67_Dec98report.pdf)> accessed 20 December 2021.

independent tax advice for older, vulnerable and unrepresented people on lower incomes – people who could not afford to pay for advice. Funding initially came from the CIOT and the Nuffield Foundation, helped by volunteers.

There is a clear division of remit between the two charities in their current form. While both deal with those on low incomes, their differing remits are outlined below:

- Tax Help deals with older people, usually over sixty, whose affairs can be complicated, for example by the receipt of pensions. Historically, it has not dealt with the self-employed (although this is changing as the working age increases) nor some specialist areas such as disguised remuneration.
- TaxAid deals with any other individuals – people under pension age, together with taxpayers of any age who are in business or need help in some limited specialist areas.

Over the years the two charities have increasingly worked closely together on the operational side; they now fundraise together through their Bridge the Gap campaign,<sup>6</sup> which also raises awareness of the work that both charities do. The importance of sustainable funding for tax charities, tax clinics and clinical tax education projects is discussed by Sams in [Chapter 7](#).

Funding increasingly comes from a variety of sources, for example: organisations, and individuals in the tax profession (including donations from the majority of the top ten accountancy firms); income for tax advisory services to the clients of some large pension providers; grants from the tax professional bodies (the CIOT and the Association of Taxation Technicians (ATT)), the Worshipful Company of Tax Advisers (WCOTA – a modern livery company); and trusts and foundations. A varied funding network helps the charities remain independent.

Of course, none of this would be possible without the support of the charities' patrons, ambassadors, trustees, staff, secondees and volunteers, and the significant input from HMRC itself, in terms of both financial support and working with the charities, not only on individual cases but also in consultation on improvements to the tax system.

## 4.4 The tax charities – what they really do

The need for UK pro bono tax advice has grown significantly since the charities' formation, due to changes in how people earn their income and the tax

6 Bridge the Gap <[www.bridge-the-gap.org/](http://www.bridge-the-gap.org/)> accessed 20 December 2021.



treatment of this income, as will be highlighted presently. However, their fundamental purpose remains the same: to help vulnerable people on low incomes when they get into difficulties with their tax affairs.

They only help taxpayers not already represented by a tax adviser and who cannot afford professional advice. Those taxpayers helped tend to be at the most disadvantaged end of unrepresented taxpayers on low incomes. Volunteers give their time and expertise free of charge to benefit the community; most of them are currently practising or retired tax professionals, including retired HMRC staff.

Given their unique experience in advising those on low incomes, the charities inform HMRC about instances where the tax system is particularly unfair, inefficient or reduces incentives to work. As the tax system (both legislation and operations) becomes more complex, this consultation role expands. The charities retain their invaluable close links with LITRG, which in turn exists to give a voice to unrepresented vulnerable people and campaigns to achieve improvement and change tax policy.<sup>7</sup>

## **TaxAid**

TaxAid runs a national helpline, and prior to the pandemic provided face-to-face (F2F) services in London, Manchester, Birmingham and Newcastle upon Tyne, in addition to giving advice via email. Many nationwide roles are fulfilled by volunteer tax professionals.

TaxAid also trains high street advice agencies to recognise tax problems, deal with the first step and appropriately refer clients to TaxAid (or Tax Help).

## **Tax Help for Older People**

Tax Help operates across the UK from its office based near Bridport, Dorset, with a team of staff along with a national network of over 400 tax volunteers across the UK. Tax Help runs a national helpline, mainly run by staff based at Bridport. The majority of the calls resolve the issues raised by individuals, while those that require more technical input are referred to volunteers or occasionally to specialist staff at TaxAid.

## **Tax clinics**

In a more recent UK development, TaxAid trained some students and supervisors volunteering at the first UK university tax clinic in Lancaster in late

7 For a greater discussion of impact on policy, see [Chapter 11](#).

2019. Following its success, the Scottish Tax Clinic opened at Edinburgh Law School in 2021, becoming extremely busy within a fortnight of opening, demonstrating the need for local tax support for vulnerable people around the country.

The clinics carry out similar work to the tax charities and are provided with initial training and ongoing support by the tax charities. It is hoped that the number of university tax clinics will grow. If these clinics can be developed around the country, this can only be to the benefit of those on low incomes with difficult tax issues. This development brings the UK more into line with the USA, which has a long history of tax clinics,<sup>8</sup> and Australia with its government funded National Tax Clinic Program.<sup>9</sup> A number of these clinics are discussed throughout this book.

## 4.5 The tax charities moving forward

As set out in TaxAid's annual report for the year to 31 March 2018, the trustees' chairman, Stephen Banyard, reported that:

Over the 25 years, together with our sister charity, Tax Help for Older People, we have helped over 250,000 people. The need for people on low incomes to have access to independent tax advice has if anything grown since TaxAid was founded – there is now a harsher economic environment for people who are vulnerable and on low incomes; and many more now have to use more complex parts of the tax regime, for example because of the growth in self-employed and agency status work.<sup>10</sup>

The report highlighted the need for the charities to work together, while efficiently expanding their operations. Merely seeking more volunteers, who would all need managing, with associated costs, was not viable. So, the charities began to explore different operating models, particularly where volunteers come with their own supervision and finance. Now under the leadership of CEO Valerie Boggs and ultimate steering of their respective trustees, the tax

8 Keith Fogg, 'Taxation with Representation: The Creation and Development of Low-Income Taxpayer Clinics', *Tax Law* 67, no. 3 (2013): 3–65.

9 Australian National Tax Clinic Program: <[www.ato.gov.au/General/Gen/National-Tax-Clinic-program/#:~:text=The%20National%20Tax%20Clinic%20program,for%2Dprofit%20organisations%20and%20charities](http://www.ato.gov.au/General/Gen/National-Tax-Clinic-program/#:~:text=The%20National%20Tax%20Clinic%20program,for%2Dprofit%20organisations%20and%20charities)> accessed 23 June 2022. See also Chapter 2 for a discussion on the history of tax clinics.

10 TaxAid UK, 'Annual Report and Financial Statements for the Year Ended 31 March 2018' (2018), <<https://taxaid.org.uk/wp-content/uploads/2018/11/TaxAid-accounts-2017-2018-Dry-signatures.pdf>> accessed 20 December 2021.

charities are taking some significant steps forward to increase the number of people who can be helped; steps include:

- Working closer together and adopting new technology to reduce their cost model and so extend the number of people they can help
- Volunteering arrangements with some of the large firms under which their staff can volunteer and the firm provides a level of supervision
- A few secondments of six months to a year of large firms' people embedded into the charity to support parts of the change programme
- Development of university tax clinics
- Reaching out to other organisations that have some shared aims, such as:
  - Membership organisations whose members may also have contact with low-income vulnerable people
  - Health and poverty organisations – given that for many of the people who approach the tax charities tax is not their only problem
- Exploring ways of working with HMRC, other charities and the software industry to better enable those on low incomes to be prepared for HMRC's Making Tax Digital for income tax self-assessment (MTD4ITSA) programme, coming into force in 2026 (delayed from 2024)
- Developing and broadening the charities' funding bases to support a greater number of people, to help maintain the charities' independence and their ability to provide independent advice and to make the funding base itself more resilient.

These are all actions that increase access to pro bono tax advice and that might be recreated in other jurisdictions.

## 4.6 Access to the tax charities

Access to the tax charities demonstrates the infrastructure and resources needed to provide pro bono tax advice to local communities (see also [Chapter 3](#) where resources are discussed in more detail). Initial access to the charities by an individual requiring help is usually through the phone lines, where a triage service maximises efficiency; occasionally initial contact is by email. Staff or volunteers answering the phones at the charities will have had training around the types of tax issues callers commonly have, to enable the key issues to be identified swiftly; for example, where a caller contacts the charities about a penalty notice the call handler can usually determine swiftly why the penalty was issued, and so what other work is required.

Staff and volunteers also have training in helping vulnerable people, including spotting mental health issues and having an awareness of other common underlying non-tax issues, so that the help offered can be tailored to the client. Over 20 per cent of the individuals who contact TaxAid have mental health issues.

If the tax issue cannot be sorted in a single phone call, the caller may be asked to seek out other specific information and call back or send the information in. Occasionally, more direct assistance is required and in such cases a meeting may be required, either at one of the charities' offices (outside the COVID-19 pandemic), at a volunteer's office around the UK or by a telephone appointment.

The change in HMRC's service offering has increased the need for access to the tax charities. Until a couple of decades ago, most large towns and cities had a tax authority office where citizens could drop in with tax problems and seek help. Since then, these offices have been progressively closed, with the last major push over the last few years.<sup>11</sup> Many people were comfortable in moving to alternative contact methods, such as online access or telephone, providing there was a speedy response, but many vulnerable people on low incomes struggle with these. The office closures prompted HMRC to set up its EST, mentioned earlier. Sometimes the tax charities refer individuals to the EST (the charities have a direct route into EST), recommending to the client how to get the best help from HMRC. However, it remains difficult for individuals to access the EST directly.

As the charities have developed, they have been working on enhancing their profile to increase accessibility. Part of this has been through an increase in the use of social media, which worked well during the COVID-19 pandemic lockdowns, when TaxAid offered help to callers on the availability of the UK's Self-Employment Income Support Scheme,<sup>12</sup> available to self-employed people whose income had been hit by the pandemic.

Other ways that the charities are using to enhance their profiles to help ensure those needing their help find it include:

- Improving links with Citizens Advice and other high street advice centres – resulting in an increase in referrals to the tax charities' websites – and direct referrals to both TaxAid and Tax Help (visits to

11 Penny Sukhraj, 'HMRC Office Closures and Regional Centres' (30 September 2020), <[http://data.parliament.uk/DepositedPapers/Files/DEP2020-0609/HMRC\\_Office\\_closures\\_and\\_regional\\_centre\\_opening\\_dates.pdf](http://data.parliament.uk/DepositedPapers/Files/DEP2020-0609/HMRC_Office_closures_and_regional_centre_opening_dates.pdf)> accessed 20 June 2023.

12 HMRC, 'Check If You Can Claim a Grant through the Self-Employment Income Support Scheme', <[www.gov.uk/guidance/claim-a-grant-through-the-coronavirus-covid-19-self-employment-income-support-scheme](http://www.gov.uk/guidance/claim-a-grant-through-the-coronavirus-covid-19-self-employment-income-support-scheme)> accessed 20 December 2021.

Citizen Advice offices have already started, leading to more referrals, especially as they recently removed tax advice from their website and direct their agents to go to the charities' websites)

- Liaising with other charities that have contact with vulnerable people, such as those dealing with the non-tax issues mentioned below (links have been made to a couple of large debt charities, leading to some referrals each way)
- Reaching out (through professional conferences, and so on) to suppliers of tax and related services, such as bookkeepers, who can refer to the charities people with tax issues that the service provider cannot take on due to the person being unable to afford the fees (for example, in December 2021 a group of staff and volunteers attended the Accounting Web Live 2021 exhibition and met a range of service providers).

Creating a network of community stakeholders who can help refer clients is an important element of the work of the tax charities and would be important for anyone creating a project to provide pro bono tax advice to their local community.

## **4.7 A rationale for low-income taxpayer support: common tax issues faced by those on a low income**

The Bridge the Gap campaign website stresses that 'if tax were simpler, if people better understood their responsibilities, if HMRC always got it right first time, then the tax charities would not be needed'.<sup>13</sup> This point is reiterated by Kayis-Kumar et al., who discuss low levels of tax understanding in [Chapter 5](#).

There now follows a discussion of some of the more common tax issues that people on low incomes may face in the UK. Issues are often as much to do with the operation of the tax system as the detail of legislation. This collection of issues should not be taken as definitive as more come and go with the seasons. While these issues are often UK-specific, they provide a useful comparison point for other jurisdictions that might be beginning to explore some of the obstacles that their tax system presents to low-income individuals.

13 Bridge the Gap: <[www.bridge-the-gap.org.uk/Campaign.html](http://www.bridge-the-gap.org.uk/Campaign.html)> accessed 20 December 2021.

Tax issues are not always the sole obstacle an individual faces. Non-tax issues can also contribute to the underlying reasons why vulnerable people have problems with their tax. These non-tax issues are pervasive and cross jurisdictional borders: they are worth considering wherever you are based in the world.

## **Non-tax issues**

It is important to recognise that, for many of the people who contact the tax charities, tax is just one of their life problems. It is often the last straw added to many life problems, which are often the reason the tax issue arose in the first place. Many of the people who call the charities, in addition to having a low income, may also have one or more of these issues:

- Poverty – even to the extent of food shortages
- Debt
- Health issues – both mental and physical, both short term and long term
- Low levels of education or language difficulties
- Learning difficulties, leading to issues with memory, reading, maths and problem solving
- Homelessness, often coupled with addiction
- Bereavement
- Loss of business
- Broken family, sometimes due to abuse
- An abusive employment relationship.

The experience at TaxAid is that individuals will often highlight these issues when talking to an adviser, who, with the individual's agreement, can make a referral to other agencies, such as a mental health charity. Importantly, this wider understanding helps the adviser to tailor the help to the individual, so they can not only help the person sort the current tax issue, but also to try to identify why it arose in the first place and help put measures in place to prevent a reoccurrence.

## **Tax complexity**

While the length of the tax code may not correlate exactly with its complexity, it is seen as a reasonable proxy. When I first entered the tax world around forty years ago, UK tax legislation was set out in a direct taxes handbook, which could be held in one hand, and a slim volume for indirect taxes.

Over the following three decades the legislation expanded to four weighty direct tax handbooks.<sup>14</sup> Despite the valiant efforts of the UK Government's Office of Tax Simplification,<sup>15</sup> this growth has continued rapidly.

Tax legislation has become longer and more complex for a variety of reasons. One is to counter tax avoidance. In the past, some tax advisers developed their business around selling tax avoidance schemes, which has driven governments in the UK and around the world to introduce copious legislative changes to attempt to block their effect.

Another reason for complexity is that the tax system serves a number of purposes as well as raising money – for example to promote innovation or to advance environmental issues.

An additional impetus to complexity in the UK is that, by law, we are required to have an annual Budget and Finance Act to confirm the continuance of income tax. Income Tax was originally a temporary tax set up in 1799 to help finance the military efforts in the Napoleonic Wars. Although this requirement has been adjusted, over 220 years later the government of the day is still effectively required to have the theatre of an annual Budget, watched by journalists and citizens up and down the UK, and an annual Finance Act.<sup>16</sup> This presents an opportunity – and an expectation – for regular changes.

Individuals with tax advisers will generally be kept up to date by their adviser. Employers may deal with most aspects of the tax affairs of individuals in a single and stable employment. The remainder of the population have little help to fall back on and they, including many on low incomes, struggle to understand how our complex tax system works and keep up to date with relevant changes.<sup>17</sup>

14 Tina Riches: 'When I first started in tax over 20 years ago the yellow book basically fitted in one hand, and a slimline orange book could fit in your pocket. Now we've got four volumes of the yellow book and a hefty orange book – and the pages are thinner', quoted in Tim Swain, 'George Osborne's Tax Book Example' (*Full Facts*, 20 May 2010), <<https://fullfact.org/news/george-osbornes-tax-book-example/>> accessed 20 December 2021.

15 Office for Tax Simplification, 'Length of Tax Legislation as a Measure of Complexity' (2012), <[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/603470/OTS\\_length\\_of\\_legislation\\_paper\\_published\\_Apr12.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/603470/OTS_length_of_legislation_paper_published_Apr12.pdf)> accessed 24 June 2022. Note that the Office of Tax Simplification was decommissioned in September 2022: <<https://commonslibrary.parliament.uk/research-briefings/cbp-9624/>> accessed 1 October 2022; <[www.gov.uk/government/news/government-announces-closure-of-office-of-tax-simplification](http://www.gov.uk/government/news/government-announces-closure-of-office-of-tax-simplification)> accessed 1 October 2022.

16 UK Parliament, 'Income Tax Abolished and Reintroduced', <[www.parliament.uk/about/living-heritage/transformingsociety/private-lives/taxation/overview/incometaxabolished/](http://www.parliament.uk/about/living-heritage/transformingsociety/private-lives/taxation/overview/incometaxabolished/)> accessed 27 June 2022.

17 Deloitte, 'The Tax Education Gap – Is It Time to Talk Tax?' <[www2.deloitte.com/uk/en/pages/tax/articles/tax-education-gap.html](http://www2.deloitte.com/uk/en/pages/tax/articles/tax-education-gap.html)> accessed 27 June 2022. See also Kayis-Kumar et al., Chapter 5.

## Expansion of self-employment

The tax charities now support thousands of people in self-employment. The Office for National Statistics (ONS) report on self-employment at the start of the COVID-19 pandemic highlights that between the year 2000 and the end of 2019, the number of self-employed people in the UK rose from 3.2 million to more than 5 million, an increase of 56 per cent.<sup>18</sup> The ONS report also concludes that on average self-employed people are older than employees, with 10 per cent aged 65 or over, compared to 3 per cent for employees.

The Institute for Fiscal Studies (IFS) has also reported that the average solo self-employed individual (rather than someone in a partnership) had median earnings of 30 per cent less than for employees and this gap has widened.<sup>19</sup>

The IFS report also concluded that many individuals move to solo self-employment from unemployment (23 per cent) or inactivity (31 per cent), which means that there are often low levels of skills or experience. This ties in with the drive to move people away from being reliant on Universal Credit, the main UK welfare benefit.

The tax charities now see far more self-employed vulnerable people, many of whom are much more vulnerable than in the early days of TaxAid, when self-employment was more a planned business venture. This corresponds with the evidence in the above reports.

This means that many self-employed people face a combination of issues: being older, on a lower income, often with low education levels, potentially having previously been unemployed or economically inactive and, unless they can afford to pay for an adviser, they need to become their own accountant and tax adviser, mastering new skills and understanding tax rules and other statutory obligations. This precarious combination can be too heavy a burden. Many of them do not even consider they are running a business; it is just how they work and earn money from day to day.

## COVID-19

The above IFS report also explains how debt worsened in the pandemic. Those in debt without savings struggle to pay their tax bills as tax is often

18 Office for National Statistics, 'Coronavirus and Self-Employment in the UK' (April 2020), <[www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/articles/coronavirusandselfemploymentintheuk/2020-04-24](http://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/articles/coronavirusandselfemploymentintheuk/2020-04-24)> accessed 20 December 2021.

19 Giulia Giupponi and Xiaowei Xu, 'What Does the Rise of Self-Employment Tell Us about the UK Labour Market?' (*Institute for Fiscal Studies*, 19 November 2020), <<https://ifs.org.uk/publications/15182>> accessed 20 December 2021.



trumped by the need to pay for food and rent. This has probably hit the self-employed the worse. In Spring 2020, the proportion behind with bills was reported as rising from 2 per cent to 13 per cent and those reporting financial difficulties rose from 16 per cent to 25 per cent.

There appears to be a connection between these debt increases and the fact that many self-employed were ineligible for government support through the Self-Employment Income Support Scheme. During the pandemic the tax charities opened a dedicated helpline so that people could easily check if relief was available to them. The tax charities have therefore been responsive to broader, external pressures, such as those created by the COVID-19 pandemic.

### **Late registration and tax returns**

Lack of knowledge around the tax obligations connected to self-employment is all too common. There seems to be a disconnect between some UK government departments, in that one dealing with Universal Credit can encourage someone to become self-employed, yet the individual is often completely unaware of the need to meet the tax obligations checked by another department.

One requirement for most people in self-employment, as well as many other taxpayers, is to register for and complete a self-assessment tax return. This requirement to register is not obvious to a number of those who contact the tax charities. This can mean that once they find out about this, they have already missed the deadline for registration (5 October after the tax year end of 5 April in the UK) and sometimes the tax return deadline of 31 October for paper returns and 31 January for digital returns. HMRC has been considering accelerating the registration deadline, which could have the effect of increasing the number of penalties, rather than improving compliance.

### **Other changes in how people are paid**

Similarly, the tax charities support a large and growing number of people in multiple precarious employments, agency work and gig economy workers. Many roles have zero hours contracts, so the workers often need to hold down more than one job, or even a combination of employment and self-employment, to make sufficient income. A combination of roles can give rise to more complex tax positions, especially where the income from each role fluctuates, which is common for those in zero hours contracts.<sup>20</sup>

20 Judith Freedman, 'Tax Administration Shaping Tax Reform: Does Employment Status Matter for Tax?' (2021) *Tax Journal*, available at <[www.taxjournal.com/articles-tax](http://www.taxjournal.com/articles-tax)>

## **Incorrect PAYE codes**

One common issue encountered by gig economy workers is where the individual has not had the right amount of personal allowance, where this has not been allocated appropriately to their income.

A right to earn the first £12,570 (in 2022/23) of pay free of income tax is easy to implement where someone has a sole source of income, whether employed or self-employed, or if the income from one source exceeds the allowance, so this can be set against only that main income. However, in other cases, the code needs to be split across different sources.

HMRC's PAYE (pay as you earn) system now attempts to do this but is based upon estimates of income. Where these fluctuate, a person may not have utilised all their allowance, hence overpaying tax. The charities see individuals who have been overpaying tax for years because they did not understand the rules.

A worse yet not uncommon situation is where multiple personal allowances are used by more than one employer of the individual. At TaxAid, one client had eleven gig economy jobs with more than one full personal allowance allocated across the jobs, giving rise to a significant underpayment. In theory HMRC's system picks these up when doing end of year reconciliations, but where someone has moved residence or other changes have occurred, the system may not link the employments. Such unwitting underpayments, once exposed, can have a devastating impact on individuals.

## **Pension drawdown**

Other individuals have been caught out when they are persuaded to withdraw their pensions from safe wrappers and 'reinvest' it in another 'fund', which transpires to be a scam. Not only do they usually lose the funds, but they trigger an unexpected tax charge on the withdrawal – a tragic combination, particularly for vulnerable pensioners with little savings for retirement.

## **Proliferation of umbrella companies and disguised remuneration schemes**

LITRG research has concluded that there are about 500 umbrella companies in the UK employing around 600,000 employees, which is around 50 per cent

of those working through agencies.<sup>21</sup> Some umbrella companies run reputable businesses, relieving their employees, who are required by the end user to operate through a company, from much of the administrative burden.

However, some umbrella companies specialise in running disguised remuneration tax avoidance schemes that employees unwittingly join, often receiving some pay without tax and National Insurance Contributions (NICs) being deducted by the employer who might describe this pay as a loan. This usually results in appalling consequences for the individual employees, who may have two unwelcome surprises:

- HMRC pursuing them for unpaid tax in the form of a loan charge, an unusual and complex piece of legislation that applies a retroactive tax charge. See the LITRG website for more detail.<sup>22</sup>
- Being pursued by the ‘lender’ for repayment of the loan. Although there are legal counter arguments against such loan recalls, the practice continues.<sup>23</sup>

HMRC has issued warnings about such employment structures, but people on low incomes continue to trip into them – some cases taking months or years to resolve, with more still coming to the surface. The loan charge legislation has failed to discourage unscrupulous promoters from entering these schemes. Discussions with government on these issues continue.

## Penalties

HMRC’s extensive powers are designed to encourage a high level of compliance, including penalties for:

- Late notification
- Late return
- Late payment
- Incorrect return.

Penalties can soon mount up if the taxpayer delays in getting in touch with HMRC. For example, where an individual with taxable income of, say, £20,000, a level that covers little more than basic accommodation and food in London,

21 LITRG, ‘Labour Market Intermediaries’ (2021), <[www.litrg.org.uk/sites/default/files/files/LITRG-Labour-Market-Intermediaries-Report-2021.pdf](http://www.litrg.org.uk/sites/default/files/files/LITRG-Labour-Market-Intermediaries-Report-2021.pdf)> accessed 20 December 2021.

22 LITRG, ‘Help on the Loan Charge’, <[www.litrg.org.uk/latest-news/news/210817-help-for-those-with-unfinished-loan-charge-business](http://www.litrg.org.uk/latest-news/news/210817-help-for-those-with-unfinished-loan-charge-business)> accessed 20 December 2021.

23 LITRG, ‘Contractor Loan/Loan Recall Issue – FAQs’ (May 2021), <[www.litrg.org.uk/latest-news/news/210525-contractor-loan-loan-recall-issue-faqs](http://www.litrg.org.uk/latest-news/news/210525-contractor-loan-loan-recall-issue-faqs)> accessed 20 December 2021.

submits a return a few months late, their tax and NICs bill of just over £2,400 would also have accumulated penalties of about £1,200 added on.

Most individuals making profits realise they may have to pay some tax, although many selling goods on online platforms do not. Yet more do not know how to calculate the income and/or pay the tax. It is then very easy to end up with penalties. Once a noncompliant person has been identified, HMRC's compliance activity and practices on debt collection rapidly engage. This can appear extremely harsh for those on low incomes who often have no savings. The tax charities can step in and try to get the penalties waived or reduced where the failure was a genuine mistake.

## **Bankruptcy**

In extreme cases where noncompliance continues, HMRC can threaten bankruptcy. These cases frequently arise because the individual cannot afford to settle the tax (often estimated by HMRC) and penalties, and does not know where to go for help. The tax charities do not advise on the bankruptcy itself but are able to help get the person's tax affairs in order (and often, the debt itself is much reduced in the process). They then refer the case to a debt adviser.

For some individuals, bankruptcy may be the best option. The tax charities see people with few assets, who live in rented accommodation and do not work in an area where bankruptcy is likely to affect their employability. They have little to lose from bankruptcy and often much to gain from wiping out the liability. The key to avoiding these problems is obtaining assistance early on in the process, but this requires people to know where to turn.

## **Digital exemption and assisted digital**

HMRC, as with many government departments and businesses, is moving towards a predominantly digital-only interaction with taxpayers. This will have impacts on many taxpayers (and particularly marginalised taxpayers), something that is explored in detail by Deborah Wood in [Chapter 12](#).

Through its MTD4ITSA initiative, HMRC intends to require many individuals (including the self-employed with a turnover over £10,000) to report their income quarterly online from 2026 (Budget 2023 deferred this from 2024), although the increase in the initial MTD4ITSA turnover threshold to £50,000 will exclude some of these people from the first tranche of taxpayers. Initially this is due to include the self-employed with a turnover in excess of £50,000 (was £10,000). This may work satisfactorily for individuals with

adequate digital skills. However, Lloyds Bank's 2021 research indicates that the proportion of the population with no or only a partial set of digital skills, and therefore unable to interact online, has increased from 19 per cent in 2019 to 20 per cent of the population in 2021.<sup>24</sup> More worrying is that 12 per cent of the self-employed, which is over half a million people, have inadequate digital skills to interact online.

In addition, many of the self-employed will need to develop skills in accurately using online bookkeeping software. Much work will therefore need to be done before and after 2026 to ensure those who cannot yet use digital channels without help and are not exempted by HMRC have access to and complete suitable training. In 2017 I gave evidence to the House of Lords Economic Affairs Committee for its report on Making Tax Digital.<sup>25</sup> There, I stressed that even fee-paying clients needed much hand holding during the first couple of years of a move to a new digital system, especially through the first complete cycle. This will surely be the case for vulnerable people: while the tax charities are keen to help, they do not have the resources at present to help everyone.

## Working with HMRC to resolve generic tax issues

The tax charities work constructively and closely with HMRC. Representatives from the tax charities frequently attend various HMRC fora so that issues can be highlighted, and solutions sought, where possible. The tax charities also have a close working relationship with LITRG, contributing to LITRG experience of cases to inform LITRG's extensive reports and guidance, and also its work with HMRC. Occasionally the charities spearhead or become involved in campaigns – a prominent and successful one was getting the same bereavement rights for both men and women.<sup>26</sup>

24 Lloyds Bank, 'Essential Digital Skills Data Tables', <[www.lloydsbank.com/banking-with-us/whats-happening/consumer-digital-index/essential-digital-skills.html](http://www.lloydsbank.com/banking-with-us/whats-happening/consumer-digital-index/essential-digital-skills.html)> accessed 20 December 2021. For a further discussion of digital exclusion, see Chapter 12.

25 Select Committee on Economic Affairs, *Corrected Oral Evidence: Finance Bill Sub-Committee* (2017, HL, Q19–34), available at <<http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/finance-bill-subcommittee/draft-finance-bill-2017/oral/47196.html#:~:text=a%20lot%20of,-hand%20holding,-during%20the%20first>> accessed 2 August 2022; Economic Affairs Committee, *Draft Finance Bill 2017: Making Tax Digital for Business* (HL, 2016–17, 137), available at <<https://publications.parliament.uk/pa/ld201617/ldselect/ldeconaf/137/137.pdf>> accessed 20 December 2021.

26 House of Commons Library, 'Widow's Bereavement Allowance' (2009), <<https://researchbriefings.files.parliament.uk/documents/SN01478/SN01478.pdf>> accessed 31 December 2021, 1.

## 4.8 An international call to action

The UK tax system can be seen by many on low incomes as ever-changing, complex and sometimes harsh. Yet complexity is not confined to the UK. Some of these issues resonate around the world.

Potential reasons why the UK tax system (and those outside the UK) have such a detrimental impact on vulnerable taxpayers include:

- Low levels of education in this area, despite citizens being expected to have an understanding. The UK school curricula are already bursting at the seams. Adding basic tax education to this seems unlikely in the foreseeable future but would better prepare people for adulthood and the digital world ahead.
- Active state encouragement to move into self-employment without providing the necessary support.
- A general lack of knowledge about the free accessible advice that the UK tax charities and the university clinics can provide, particularly before problems escalate.

In the meantime, the UK tax charities are doing all they can to provide a safety net for those on low incomes, including continuing to encourage and support the development of a network of tax clinics. Taking a wider perspective, it is important from a humanitarian point of view that appropriate safety nets are set up and developed in other countries.

## 4.9 Concluding remarks

By drawing on the extensive experience of the tax charities, this chapter has explored some of the common tax issues faced by low-income taxpayers. There is a strong need for pro bono tax advice to help support those who would otherwise be unable to afford professional advice.

Additional ways forward include:

1. Better guidance that is more accessible to more people
2. Education for all about basic tax obligations and debt and how to seek help
3. Ensuring new tax policy equality assessments in impact assessments are improved to consider the impact on those on low incomes
4. Acceptance by government that some umbrella companies still force people on low incomes into disguised remuneration schemes; going

forward, this would mean pursuing the promoters rather than the victims

5. Removing some of the 'sludge' in the tax system;<sup>27</sup> a simpler system, with fewer reliefs and exceptions, albeit potentially slightly less fair but with a better safety net of state benefits for those on low income, could be a better way forward
6. Universal free advice, readily available, to those who cannot afford to pay for tax advice and who are unable to sort their tax affairs with HMRC
7. Improvements in HMRC services to those on low income, including EST access and improvement
8. Adequate funding for the tax charities, not just for services provision but to enable them to advertise those services and raise their profile
9. Funding and support to develop more university tax clinics around the UK and around the world.

Many of these are difficult to achieve in the short term, particularly in the current economic circumstances. I would therefore urge the government and the tax industry to support tax charities and other low-income tax projects to perform their vital role; and encourage other jurisdictions to explore the support they offer to low-income taxpayers.

27 Richard Thaler, 'On Sludge', <[www.youtube.com/watch?v=Ky68sLibi6g](https://www.youtube.com/watch?v=Ky68sLibi6g)> accessed 2 August 2022; see also Cass Sunstein, *Sludge: Bureaucratic Burdens and Why We Should Eliminate Them* (MIT Press, 2021).

# Chapter 5

## Rationale

### *Tax and the poverty interface*

*Ann Kayis-Kumar, Lily Pan, Michael Walpole, Bradley Hastings and Jack Noone\**

#### 5.1 Key findings

Taxpayers do not always understand their tax obligations and the appeal routes that are open to them. Indeed, low tax understanding (also referred to as tax literacy) is a global issue. This is particularly the case for low-income taxpayers. Clinical tax education projects can help bridge this gap for financially vulnerable clients. Research in these clinics can also help us to better understand the systemic barriers experienced by financially vulnerable taxpayers.

#### 5.2 Introduction

Assisting financially vulnerable clients, through referrals from the social impact ecosystem and including financial counsellors, affords a unique degree of visibility on issues faced by these otherwise marginalised taxpayers. This visibility enables the identification of systemic tax issues that have both tax justice and social justice implications.

Not least of these issues is that long-term overdue tax returns can prevent taxpayers' access to the full range of welfare benefits in Australia, leaving many marginalised taxpayers unable to afford the necessities, including food, accommodation and transport. This presents an access to tax justice issue because those with long-term overdue tax returns are more likely to come from socioeconomically disadvantaged communities. Further, many clients also need assistance with serious hardship applications, debt relief and waivers. It becomes incredibly difficult for these financially vulnerable clients (who are often struggling with many other issues) to make such applications without the knowledge and expertise of a tax professional. Indeed, many would not even know that such options are available to them.

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This chapter explores the role of pro bono tax clinics in tackling critical social issues through grassroots research with a focus on poverty, inequality, well-being and justice. In doing so, this chapter explores through a case study approach whether tax-focussed social programmes such as free tax clinics can improve financial, social and psychological outcomes for disadvantaged groups in society, and it explores the rationale for introducing such projects in society and via the higher education experience.

### 5.3 Canvassing the tax and wider social issues addressed by the National Tax Clinic Program

It has been noted that ‘tax justice ... is in fact a social justice issue’ and that ‘failing to understand the connection between tax work and social justice has negative consequences’.<sup>1</sup> It has become evident from numerous studies that the existing unmet need for tax advice, alongside existing barriers to accessibility, which include financial illiteracy, reveals underlying social justice issues that extend beyond the domain of tax itself. Furthermore, unaddressed systemic tax issues contribute to existing social injustice experienced by individuals, particularly those who are financially vulnerable, as they are often consequently limited from accessing important resources such as welfare services. Accordingly, the existing need for tax advice not only elucidates but contributes to existing tax justice and thereby social justice issues in Australia. These lessons from Australia can be applied all around the world.

#### Tax and financial literacy

A systemic issue recurrent within the cohort of financially vulnerable individuals is insufficient tax literacy to complete tax returns accurately.<sup>2</sup> Lower

1 Ann Kayis-Kumar, Gordon Mackenzie and Michael Walpole, ‘Interprofessional Collaborative Practice in Pro Bono Tax Clinics: A Case Study Approach’, *Journal of Australian Taxation* 22, no. 2 (2020): 50; Ann Kayis-Kumar and Jack Noone, ‘Measuring the Social Impact of University-Based Pro Bono Tax Clinics: Co-Creating a Framework for Evidence-Based Evaluation’, (*Tax and Transfer Policy Institute*, 3 October 2019), <[www.austaxpolicy.com/measuring-the-social-impact-of-university-based-pro-bono-tax-clinics-co-creating-a-framework-for-evidence-based-evaluation/](http://www.austaxpolicy.com/measuring-the-social-impact-of-university-based-pro-bono-tax-clinics-co-creating-a-framework-for-evidence-based-evaluation/)> (‘Measuring the Social Impact of University-Based Pro Bono Tax Clinics’) accessed 29 July 2022.

2 See generally Toni Chardon, Brett Freudenberg and Mark Brimble, ‘Tax Literacy in Australia: Not Knowing Your Deduction from Your Offset’, *Australian Tax Forum* 31 (2016): 321; Brett Freudenberg et al., ‘Tax Literacy of Australian Small Business’, *Journal of Australian Taxation* 18, no. 2 (2017): 21; Toni Chardon, Mark Brimble and Brett Freudenberg, ‘Tax and Superannuation Literacy: Australian and New Zealand Perspectives’, *New Zealand Journal of Tax Law and Policy* 22, no. 4 (2016): 327.

levels of financial literacy have been found in the following groups: those with lower levels of education, those not working or in unskilled work, those with lower incomes, those with lower savings levels, females, single people and at both the younger and older extremes of the age profile.<sup>3</sup>

The Australian experience is not unique; research by Deloitte has found relatively low levels of tax education in the United Kingdom and that this had an adverse impact on perceptions of fairness of the tax system.<sup>4</sup> This effect of lower tax literacy leading to lower tax morale has some (although not definite in terms of statistical significance) support in other UK research.<sup>5</sup> Certainly there are signs that the Australian tax system is so complex it is better negotiated with the use of a tax agent or other tax professional. In Australia, around 74 per cent of taxpayers use a tax professional to help them meet their tax obligations. The proportion of individuals not in business (and thus presumably with relatively simple tax affairs) is 68 per cent. In the case of small businesses, 95 per cent of them use a tax agent to lodge their return.<sup>6</sup> These levels of use of professionals by small business and ordinary income taxpayers suggest that clients such as those of the Tax Clinics, who cannot afford the services of a tax agent, are operating at a considerable disadvantage to others in terms of their understanding of their tax obligations and rights, especially as regards meeting their lodgement obligations.

This problem has wide-reaching social justice implications because access to welfare benefits is contingent upon completion of tax returns. These benefits include childcare, social payments and government support services that are crucial to assisting individuals already experiencing a host of social issues.<sup>7</sup> This situation is made even more acute in the circumstances of COVID-19, where people with outstanding tax returns were prevented from access to financial relief packages.<sup>8</sup> It is also difficult for clients, particularly those who are financially vulnerable, to understand tax issues such as serious hardship

3 Chardon, Freudenberg and Brimble, 'Tax and Superannuation Literacy', 327.

4 David Whittaker, 'The Tax Education Gap Tax Knowledge and Attitudes to Tax in the UK' (Deloitte LLP, 2019), <[www2.deloitte.com/content/dam/Deloitte/uk/Documents/tax/deloitte-uk-tax-education-gap-explanatory-note.pdf](http://www2.deloitte.com/content/dam/Deloitte/uk/Documents/tax/deloitte-uk-tax-education-gap-explanatory-note.pdf)> accessed 12 July 2022.

5 See Phyllis Alexander and Merima Balavac, 'Improving Tax Literacy and Tax Morale of Young Adults' (Report, 2018), <<https://eprints.bournemouth.ac.uk/35081/1/Improving%20Tax%20Literacy%20and%20Tax%20Morale%20of%20Young%20People%20%28Final%20Report%20for%20the%20CIOT%29.pdf>> accessed 26 September 2023.

6 Submission 15 'Australian Taxation Office Submission Inquiry into Taxpayer Engagement with the Tax System', February 2017, at page 3, <[www.aph.gov.au/DocumentStore.ashx?id=68170f97-c786-4a65-ab79-d32cf1d5d3ed&subId=463931](http://www.aph.gov.au/DocumentStore.ashx?id=68170f97-c786-4a65-ab79-d32cf1d5d3ed&subId=463931)> accessed 12 July 2022.

7 Kevin O'Rourke, Ann Kayis-Kumar and Michael Walpole, 'Serious Hardship Relief: In Need of a Serious Rethink?' *Sydney Law Review* 43, no. 1 (2021): 1.

8 Ibid.

applications, debt relief and waivers as they often require the knowledge and expertise of a tax professional.<sup>9</sup>

## The unmet need for tax advice in Australia

There is a great unmet need for independent tax advice in Australia. Prior research has found that over a third of financially vulnerable people per year have a tax problem for which they are unable to access independent professional tax advice.<sup>10</sup> This means that around 36,000–48,000 financially vulnerable people seen by financial counsellors each year are unable to access independent professional tax advice (being 30.1–40.6 per cent of the 120,000 clients with in-person appointments per year).<sup>11</sup> Importantly, this is an underestimate of the total unmet need across Australia as the calculation is limited by the segment of the population that is aware of financial counsellors and can obtain their assistance. Not everyone who needs a financial counsellor will know that financial counsellors can help them. This means that between 745,000 and 1,004,000 financially vulnerable people are unable to access professional independent tax advice (with 9.9 per cent of adults across Australia experiencing severe or high financial stress).<sup>12</sup> Of significant concern is that this figure is likely to grow, with ever-increasing shocks to the Australian economy (including drought, bushfires, floods and COVID-19) putting further financial pressure on those already vulnerable.

It has also been estimated that there is a significant and growing need for pro bono tax advice.<sup>13</sup> Financial counsellors have observed that the unmet need for tax advice has been increasing over time, with relevant themes associated with declining levels of literacy in society, implications of the ‘gig economy’ and proliferation of Australian Business Numbers (ABNs), low levels of awareness of tax obligations, sheer complexity of the tax system, compliance burden associated with the Goods and Service Tax (GST) and the somewhat punitive nature of the tax and transfer system.<sup>14</sup> However, studies

9 Kayis-Kumar, Mackenzie and Walpole, ‘Interprofessional Collaborative Practice in Pro Bono Tax Clinics’.

10 Ann Kayis-Kumar et al., ‘Accounting for Financial Wellbeing: Quantifying the Unmet Need for Pro Bono Tax Advice’, *Australian Tax Review* 51, no. 3 (2022): 228–57.

11 Financial Counselling Australia, ‘A Survey: The Unmet Need for Financial Counselling’ (*Financial Counselling Australia*, December 2018), <[www.financialcounsellingaustralia.org.au/docs/a-survey-the-unmet-need-for-financial-counselling](http://www.financialcounsellingaustralia.org.au/docs/a-survey-the-unmet-need-for-financial-counselling)> accessed 29 July 2022.

12 UNSW Centre for Social Impact, *Financial Resilience in Australia 2018* (Report, 2018), 41, <<https://assets.csi.edu.au/assets/research/Financial-Resilience-in-Australia-2018-Report.pdf>> accessed 26 September 2023.

13 Kayis-Kumar et al., ‘Accounting for Financial Wellbeing: Quantifying the Unmet Need for Pro Bono Tax Advice’, 5.

14 Ibid.

have demonstrated that tax debts and tax stress, and thereby the need for tax advice, transcend socioeconomic boundaries.<sup>15</sup>

In a study completed by Kayis-Kumar et al., it was found that socioeconomic groups were not a determinant of whether individuals or small businesses needed tax advice.<sup>16</sup> Financial stress is experienced across different levels of income, age and other factors.<sup>17</sup> However, people from lower socioeconomic communities are less likely to be able to afford independent tax advice and support.<sup>18</sup>

Often, registered tax agents are deterred from assisting the cohort of financially vulnerable clients out of fear that the client is too far in debt to pay the agent's fees. This may also be due to fears that the Australian Tax Office (ATO) will tighten lodgement deadlines for a practice's clients if some clients are often tardy with their returns.<sup>19</sup> This enhances existing difficulties faced by financially vulnerable people and small businesses to access tax services.<sup>20</sup> Additionally, financial counsellors are not able to complete or lodge tax returns as they are not registered tax agents.<sup>21</sup> This is problematic given that those with the fewest socioeconomic resources are the ones who would benefit most from the provision of free tax advice but face the most barriers to accessing such services.<sup>22</sup>

## 5.4 Introducing the UNSW Tax and Business Advisory Clinic

In 2018, Curtin University ran a pilot programme for free tax clinics. The federal government selected an additional nine universities to participate in the pilot programme, including UNSW (University of New South Wales) Sydney.<sup>23</sup> While each clinic adopts different delivery models, they

15 Ibid. 4.

16 Ibid. 4–5.

17 Ibid. 11.

18 Ibid. 4–5.

19 'How a Free Tax Clinic Is Rescuing the Overwhelmed', (*The Power to Persuade*, 8 October 2019) <[www.powertopersuade.org.au/blog/how-a-free-tax-clinic-is-rescuing-the-overwhelmed/8/10/2019](http://www.powertopersuade.org.au/blog/how-a-free-tax-clinic-is-rescuing-the-overwhelmed/8/10/2019)> accessed 29 July 2022.

20 O'Rourke, Kayis-Kumar and Walpole, 'Serious Hardship Relief: In Need of a Serious Rethink?'

21 Kayis-Kumar et al., 'Accounting for Financial Wellbeing: Quantifying the Unmet Need for Pro Bono Tax Advice', 5.

22 Ibid. 5.

23 See [Chapter 2](#) for a more detailed history.

are required to provide four key services to the ‘unrepresented taxpayer’: advice, representation, education and advocacy.<sup>24</sup> Tax clinics provide free, confidential and independent advice regarding tax matters, representing taxpayers and advocating on their behalf to the ATO.<sup>25</sup>

The UNSW Tax and Business Advisory Clinic is, therefore, one such service offering free tax advice to financially vulnerable individuals and microbusinesses. This clinic will be the subject of this chapter’s case study, as a real-life example of how university tax clinics can facilitate positive social impact, with implications that reach beyond tax justice issues.

The UNSW Tax and Business Advisory Clinic, which is operated by UNSW Business School’s School of Accounting Auditing and Taxation, provides tax and accounting advisory services (primarily completing long-term overdue individual tax returns and Business Activity Statements) and business coaching to microbusinesses in financial distress. Frontline staff are registered tax agents. It is the first tax clinic nationwide to be integrated into the financial counselling sector, establishing strong links to obtain warm referrals from the financial counselling profession.<sup>26</sup> The clinic offers a range of appointment types depending on client circumstances and location including:

- Telephone appointments (across New South Wales (NSW) including rural and remote communities as far as 800 kilometres north, 390 kilometres south and 685 kilometres west)
- Outreach locations (including the Central Coast and the Illawarra)
- On-campus (at UNSW’s ‘Nucleus: Student Hub’).<sup>27</sup>

In terms of personnel, the school employs three registered tax agents as clinic supervisors, each for only one day per week, to guide and mentor students involved in the clinic. Clinic supervisors are the only people who give tax advice to clients (as part of a tax agent service). Accordingly, the clinic relies heavily on the assistance of student volunteers from the UNSW Business School and/or UNSW Faculty of Law at both undergraduate and postgraduate level. Their role is to take instructions, attend client interviews, draft correspondence, assist with education seminars and conduct

24 Belinda Parkes, ‘Free Tax Clinics Offer Support to Financially Vulnerable’, (*In the Black*, 1 September 2021) <[www.intheblack.com/articles/2021/09/01/free-tax-clinics-offer-support-financially-vulnerable](http://www.intheblack.com/articles/2021/09/01/free-tax-clinics-offer-support-financially-vulnerable)> accessed 29 July 2022.

25 Kayis-Kumar et al., ‘Accounting for Financial Wellbeing: Quantifying the Unmet Need for Pro Bono Tax Advice’, 7.

26 Kayis-Kumar, Mackenzie and Walpole, ‘Interprofessional Collaborative Practice in Pro Bono Tax Clinics: A Case Study Approach’, 52.

27 Ibid. 60.

relevant research.<sup>28</sup> The school employs an administrative assistant as clinic officer, who makes client appointments and assists with general clinic operations. They also engage pro bono tax professionals to assist clinic supervisors with client matters.<sup>29</sup>

It has become evident from this experience that there is a strong connection between mental health problems and tax problems, which stems from broader debt problems.<sup>30</sup> The client cohort of UNSW Tax and Business Advisory Clinic present with rates of mental health issues, domestic violence and financial abuse that are up to three times higher than the general population.<sup>31</sup> Two-thirds of clients report mental health issues and all who reported they experienced economic abuse also reported experiencing domestic and family violence.<sup>32</sup> When clients were asked the question 'Have you ever been affected by family or domestic violence?' 56 per cent of respondents reported affirmingly.<sup>33</sup> While this poses a small sample size, this figure is well above statistics reported for the general population, being one in 6 or 17 per cent of women.<sup>34</sup> The clinic's clients are often experiencing the financial implications of 'mental health issues, financial abuse, natural disasters, gambling addictions, substance abuse, an inability to afford food and medical care, and the risks of financial despair leading to self-harm'.<sup>35</sup>

A common issue for this cohort is unresolved tax lodgements (the submission of tax returns to the tax authority), which 88 per cent of clients experienced.<sup>36</sup> On average, individuals are seven years behind on their tax returns and, of those operating micro or family businesses, 72 per cent are behind on twenty business activity statements.<sup>37</sup> Around 80 per cent of the clinic's

28 Ibid.

29 Ibid. 60–61.

30 Ann Kayis-Kumar, 'Tax Justice as Social Justice: Are Financially Vulnerable People and Small Businesses Falling through the Cracks?' (*Accountants Daily*, 26 June 2020) <[www.accountantsdaily.com.au/columns/14542-tax-justice-as-social-justice-are-financially-vulnerable-people-and-small-businesses-falling-through-the-cracks](http://www.accountantsdaily.com.au/columns/14542-tax-justice-as-social-justice-are-financially-vulnerable-people-and-small-businesses-falling-through-the-cracks)> accessed 29 July 2022.

31 UNSW Tax Clinic Annual Report 2020, 2021, 2022 <<https://www.unsw.edu.au/business/our-schools/accounting-auditing-taxation/about-us/unsw-clinic/publications-resources>>.

32 Australian Institute of Health and Welfare, 'Family, Domestic and Sexual Violence in Australia' (2018) <[www.aihw.gov.au/reports/domestic-violence/family-domestic-sexual-violence-in-australia-2018/summary](http://www.aihw.gov.au/reports/domestic-violence/family-domestic-sexual-violence-in-australia-2018/summary)> accessed 29 July 2022, 3.

33 Ann Kayis-Kumar et al., 'Let's Talk about Tax: Identifying and Supporting Women Experiencing Economic Abuse', Durham University, presented at 112th Annual Conference of the Society of Legal Scholars Conference, Durham University, 31 August 2021.

34 Ibid.

35 Kayis-Kumar, 'Tax Justice as Social Justice'.

36 UNSW Tax Clinic Annual Report 2020.

37 Ibid.

clients run small businesses (often as small traders) and typically have substantial tax debts (averaging approximately \$80,000) that arise due to multiple years of overdue tax returns and business activity statements.<sup>38</sup>

## 5.5 Benefit of tax clinics: Australia and internationally

### UNSW Tax and Business Advisory Clinic research

Tax clinics are well-placed to fill the gap between free tax assistance and independent professional tax advice.<sup>39</sup> While free tax assistance, in the form of ATO's Tax Help programme caters to a genuine community need, its assistance is limited to the preparation of simple tax returns for low-income people. Unfortunately, many small businesses and low-income individuals with ABNs engaged in the 'gig' economy are not eligible for this programme.<sup>40</sup> This includes Uber drivers and food delivery couriers who are 'falling through the cracks' as they face higher compliance burdens.<sup>41</sup>

However, there is evidence that the benefit of tax clinic services such as UNSW Tax and Business Advisory Clinic extends far beyond the provision of tax advice itself. Clients have reported that they feel less anxious and have experienced a reduction in financial distress.<sup>42</sup> Importantly, they also note that removing the obstacle of incomplete tax returns has allowed them to access critical welfare services: 'Before I contacted the Tax Clinic, I felt like the world was spinning in the wrong direction and my anxiety was through the roof. After they helped me, I'm so thankful and grateful.'<sup>43</sup>

In surveys completed following the provision of services, 82 per cent of clients reported that they either agreed or strongly agreed to feeling less anxious. In the short term, pro bono tax advice can help to reduce stress and worry associated with tax arrears (for example, debt collection activities).<sup>44</sup> Where tax arrears exist, tax advisers can assist by negotiating serviceable debt repayment schedules to ensure that the client's overall financial wellbeing

38 Kayis-Kumar, Mackenzie and Walpole. 'Interprofessional Collaborative Practice in Pro Bono Tax Clinics: A Case Study Approach', 61; Annual Report 2022 <<https://www.unsw.edu.au/business/our-schools/accounting-auditing-taxation/about-us/unsw-clinic/publications-resources>>.

39 Ibid. 52.

40 Ibid.

41 'How a Free Tax Clinic Is Rescuing the Overwhelmed'.

42 UNSW Tax Clinic Annual Report 2020, 2021, 2022.

43 Ibid.

44 Kayis-Kumar et al., 'Accounting for Financial Wellbeing', 8.

is less affected.<sup>45</sup> This improves the client's financial wellbeing, which is composed of three dimensions: (1) being able to meet one's expenses; (2) being in control of one's financial situation; and (3) being free from financial worry/stress.<sup>46</sup>

An example of one such service involves a client referred to the UNSW Tax and Business Advisory Clinic by a financial counsellor:

The client had been diagnosed with schizophrenia and had a long-term drug addiction. He had multiple casual jobs over several years but would often get fired as a result of his drug addiction. Recently his partner abruptly left him with their young son, which prompted him to change his lifestyle, getting Council-funded housing and trying to get work to support himself and his young son. He came into the clinic with over 10 years of outstanding tax returns and [sic] as he had only worked casually over that period. He left the tax clinic with around \$6,500 in refunds of tax overpaid. He put it all directly to buying whitegoods, bedding, and other necessities – and treated his son with a trip to the aquarium for the first time.

It has become evident that while tax issues are what brings clients through the door, the clinic model feeds back into the social services sector to support other unmet needs, such as struggles to afford basic resources, including food and transport.<sup>47</sup> Clients are also often experiencing other circumstances beyond their control, such as health problems, mental or physical, relationship breakdowns or external shocks such as the pandemic.<sup>48</sup> In particular, the clinic's clients are composed of a high proportion of women experiencing domestic violence and has an overrepresentation of Indigenous clients and culturally and linguistically diverse clients.<sup>49</sup>

Clinics also seek to empower clients with the knowledge and confidence to address their future tax needs.<sup>50</sup> This also includes providing free community education to increase the tax literacy of Australians and grassroots research to advocate for tax reforms grounded in tax justice.<sup>51</sup>

45 Ibid.

46 Ibid. 26.

47 Parkes, 'Free Tax Clinics Offer Support to Financially Vulnerable'.

48 Ibid.

49 Ibid.

50 Kayis-Kumar et al., 'Accounting for Financial Wellbeing', 8.

51 Kayis-Kumar and Noone, 'Measuring the Social Impact of University-Based Pro Bono Tax Clinics'.



## Opportunities for further research

As discussed in depth in [Chapter 18](#), tax clinics are well positioned to undertake further research to understand barriers that continue to inhibit individuals from accessing these services, as well as reasons that have enabled those seeking services to bypass existing barriers.<sup>52</sup> Clinics can also contribute to studies that solidify the relationship between those who are financially vulnerable and can benefit from the provision of pro bono tax advice, and the experience of deeper social issues such as mental health issues or domestic and family violence. This also applies to understanding the wider implications and benefits for society that tax clinics such as UNSW Tax and Business Advisory Clinic can provide.<sup>53</sup>

Research from the clinic can also highlight ‘malfunctions’ or ‘hotspots’ within the existing tax administration that may alert the ATO to areas to be addressed or possibly improved. This is because such information will be coming directly from the ‘coalface’ of tax practice, providing the most current insight into issues experienced by financially vulnerable individuals. In other jurisdictions, such as the United States and the United Kingdom, tax clinics have worked in collaboration with government tax bodies to improve the tax administration system for financially vulnerable people. For example, the Low-Income Taxpayer Clinics (LITCs) in the US have demonstrated their firsthand insight into the effect of Inland Revenue Services (IRS) policies and procedures by utilising their ‘Systemic Advocacy Management System’ to report potential systemic issues.<sup>54</sup> Following this, analysts conduct research to determine the extent of the issue and work with various IRS business units to propose and implement solutions. This also occurs through litigating cases in the tax court and other federal courts. The success of the tax clinic system in the US is evident, with the first tax clinic being created in 1974.<sup>55</sup> Since then tax clinics have experienced ‘explosive growth and maturity’,<sup>56</sup> with around ten times the number of initial clinics operating now.<sup>57</sup>

Likewise, the Low Incomes Tax Reform Group in the UK engages in campaigning work such as ‘putting forward the perspective of those who cannot afford to pay for advice’ to tax and benefit consultative groups.<sup>58</sup>

52 Kayis-Kumar et al., ‘Accounting for Financial Wellbeing’, 26.

53 Ibid. 28.

54 Low Income Taxpayer Clinics, 2022 Program Report (Report, 2022), <<https://www.irs.gov/pub/irs-pdf/p5066.pdf>>, 32, accessed 26 September 2023.

55 Keith Fogg, ‘Taxation with Representation: The Creation and Development of Low-Income Taxpayer Clinics’, *Tax Lawyer* 67, no. 1 (2013): 1.

56 Ibid.

57 Ibid.

58 ‘About Us’, *Low Incomes Tax Reform Group*, <[www.litr.org.uk/about-us](http://www.litr.org.uk/about-us)> accessed 29 July 2022.

In other tax clinics within the Australian jurisdiction itself, research has revealed certain systemic issues. For example, academics at the Australian National University (ANU) Tax Clinic observed that systemic issues included a lack of computer literacy and internet access, problems with MyGov (an Australian government internet site that provides a central and ostensibly simple and secure access to government services online), limited tax knowledge and a desire for reassurance as to the accuracy of tax returns.<sup>59</sup> Knowledge gaps included limited understanding of what constituted a financial year and whether they were entitled to superannuation. Similar research can be conducted by the UNSW Tax and Business Advisory Clinic which contributes to improving or curing existing malfunctions within the tax administration.

## 5.6 Concluding remarks

The provision of pro bono tax advice services by tax clinics presents a unique opportunity to observe and thereby identify the wide range of social issues experienced by financially vulnerable clients. While often emerging as tax-related issues in nature, their manifestation often has greater tax justice and social justice implications. This explicates the deeper intersections between the need for financial counselling or access to tax services and those experiencing certain circumstances such as mental health issues or domestic and family violence.

Clinics, both domestically and internationally, such as UNSW Tax and Business Advisory Clinic are well-positioned to conduct further research in this area. Ultimately, this may assist in the improvement of tax administration within each jurisdiction, with the primary body being the ATO in Australia.

<sup>59</sup> Ben Raines and Sonali Walpola, '2019 National Tax Clinic Project: The ANU Tax Clinic' *Journal of Australian Taxation* 22, no. 2 (2020): 193, 202–4.



## **Part II**

# **Tax clinics and our communities**



# Chapter 6

## Engagement in the community

*Amy Lawton, Annette Morgan, David Massey and  
Donovan Castelyn\**

### 6.1 Key findings

Not all clinical tax education (CTE) projects need to have a community-facing element. Simulated projects, an example of which is covered in [Chapter 14](#), can also provide an invaluable opportunity for students to develop broader skills and bring the subject of tax alive.

Where there is a community-facing element to a CTE project, careful consideration of the stakeholders needs to take place. A tax clinic needs clients and integrating a service into the community is an important step in making a live clinic sustainable.

### 6.2 Introduction

When the North West Tax Clinic was launched in early 2020, attempts were made to reach out to local charities to identify referral pathways into the clinic. Both staff and students made phone calls to foodbanks, homeless charities and debt charities. A surprising reaction to the clinic services was: 'We help people with little or no money, why should we need to refer them to a tax clinic? Thank you for your call but we do not think we will need your services.' There was an assumption that tax problems were for the rich and that when we think of tax, we think of tax planning and tax avoidance.

Yet both Riches and Karis-Kumar et al. have highlighted that this is not the case.<sup>1</sup> Tax and poverty are closely interconnected and what emerges is a myriad of issues that specifically impact those on low incomes. High levels of complexity and low levels of understanding mean that individuals are often behind (or have not engaged at all) with their tax obligations.

\* Amy Lawton, Senior Lecturer in Tax Law, University of Edinburgh. Founder of the Scottish Tax Clinic, co-founder of the North West Tax Clinic; Annette Morgan, Lecturer, Curtin Law School, co-founder Curtin Tax Clinic; David Massey, former lecturer in taxation, University of Central Lancashire, co-founder North West Tax Clinic; Donovan Castelyn, Senior Industry Fellow, Senior Lecturer, University of Tasmania, co-founder Curtin Tax Clinic.

1 Chapters 4 and 5.

Tax clinics are one way to positively bridge the gap between tax complexity, low levels of understanding and our community. Yet, tax clinics can take many forms: they can support compliance, advocate for change or educate.<sup>2</sup>

Not all clinics will work with clients – such as simulated clinics – and will not engage with local communities. It is therefore important to consider the purpose and mission of the clinical tax project you wish to introduce. This chapter and the chapters that follow specifically explore a community-facing element of CTE.

## 6.3 The external stakeholders in CTE

Working with live clients or public education projects both introduce a community element to a project. This has both advantages and disadvantages: (+) your project will engage with and support the local community of your institution/ organisation; (–) time and resources are needed to integrate a clinical tax project into the community.

### Supporting your local community

It can be difficult and intimidating to engage with a tax system, especially as someone on a low income. As Riches highlights in [Chapter 4](#), being a low-income individual often intersects with wider vulnerability markers, meaning that those a low-income taxpayer clinic would help are some of the most marginalised taxpayers in our communities.

Positive impacts that a clinical project can have include:

- Resolving specific taxpayer issues – such as submitting (or filing) tax returns or representing them in their tax dispute
- Educating individuals or groups on the tax system and their tax obligations
- Identifying common difficulties faced by taxpayers and advocating for policy change.

A clinic does not have to engage with all of these activities, but an activity may lead to multiple positive impacts. For example, a clinic that focuses on compliance work will resolve taxpayer issues by submitting tax returns but could also educate and empower that individual by walking them through the process and clearly explaining the rules.

<sup>2</sup> See [Chapter 3](#), Section 3.4, for a table outlining different models and the respective chapters they are discussed in.

Beyond the community benefits, external engagement is now seen as a positive, and sometimes a strategic priority, in the higher education sector. In the UK, for example, the Knowledge Exchange Framework provides a structure to measure knowledge exchange in universities. Knowledge exchange is defined as follows: 'Higher Education Institutions, such as universities, teach students and undertake research that creates new and useful knowledge. But they also work with many different types of partner to ensure that this knowledge can be used for the benefit of the economy and society – this is known as knowledge exchange.'<sup>3</sup>

In Australia, a number of institutions now have knowledge exchange and enterprise units to support knowledge exchange. This is known under different labels in different jurisdictions, such as knowledge transfer in Ireland,<sup>4</sup> but the principle that universities should not sit on knowledge is a growing trend. Knowledge exchange is not a university-unique priority: organisations around the world are engaging with it.<sup>5</sup>

This means that the activities (and any subsequent research, especially if published in professional or community outputs)<sup>6</sup> of a clinical tax project could count as knowledge exchange. This would add strength to a business case for introducing a clinical tax project with client or public education work. Even if knowledge exchange is not formally a strategic priority in your jurisdiction, a client tax clinic has lots of measurable outputs, such as:

- Number of clients served and their demographics (which may help in research on how your tax system impacts taxpayers).
- Number and type of action taken in clinic. This could include, for example, the number of tax returns submitted, guidance letters drafted or appeals submitted. It could also include the number of educational workshops put on by an educational project.
- The financial benefits of your project. This could include:
  - Any actual money saved through, for example, successful appeals or just by getting the tax submissions right
  - A time-equivalent in pro bono hours. Your volunteers and students will all be giving their time; this could be expressed in hours or in a monetary equivalent (for example, sector average hourly rates).

3 Knowledge Exchange Framework, <<https://kef.ac.uk/about>> accessed 3 August 2022.

4 Irish Universities Association, <[www.iua.ie/for-researchers/knowledge-transfer/](http://www.iua.ie/for-researchers/knowledge-transfer/)> accessed 3 August 2022.

5 See <[www.worldbank.org/en/programs/paset/brief/knowledge-exchange](http://www.worldbank.org/en/programs/paset/brief/knowledge-exchange)> accessed 3 August 2022.

6 See Chapter 18, which outlines a research roadmap for clinical tax education.



## Becoming part of the local community

The benefits of working with our local communities are clear. However, a fully integrated tax clinic service does not materialise overnight. The North West Tax Clinic did not have any clients for its first month, providing important learning opportunities and demonstrating that just setting up a free tax clinic does not mean that your local community will be aware of the service.<sup>7</sup>

As discussed in [Chapter 3](#) ('How to set up a tax clinic'), setting up a clinic takes time and resources. In many ways, engaging with live clients and public education is a far greater undertaking as it requires marketing, professional indemnity insurance and greater infrastructure (such as appointment rooms or phone lines). This comes with a cost that would need to be covered by your institution or external funding.

## 6.4 Concluding remarks

The chapters that follow in Part II all consider the community-facing aspect of clinical tax projects. This includes the importance of listening to the community that your project will be serving (Sams, [Chapter 7](#)). This will allow you to tailor your project and adapt as you learn more about the individuals you are helping.

Some of the community benefits of these projects are also explored in more detail. The educational benefits of working with the community are discussed by Basse and Oluwtofumi, who explore how a tax club in Nigeria has helped to improve tax awareness. Drumbl discusses the Washington and Lee University Tax Clinic, which, unlike many clinics that provide support to individual taxpayers, engages in educational outreach projects with schools. Similarly, Prasetyo and Khusnaini also discuss how workshops on book-keeping and marketing are helping individuals to navigate the Indonesian tax system and improving taxpayer compliance.

Broader positive impacts are explored by Fogg, who discusses how tax clinics can influence tax policy through litigation, involvement in policy proposals and by commenting on systemic problems with tax administration. Finally, Wood considers some of the most marginalised taxpayers in jurisdictions: those in prison. Wood explores how tax clinics can help support the most marginalised groups in society.

<sup>7</sup> For an account of the North West Tax Clinic and its difficulties in recruiting clients, see Amy Lawton, 'Lemons to Lemonade: Experiential Learning by Trial and Error', *The Law Teacher* 55 (2021): 511.

# Chapter 7

## Listening to our communities

### *The Community Tax Law Project as an example of a low-income taxpayer community-focused service provider*

*David Sams\**

#### 7.1 Key findings

If your clinic has a community-facing element, it is important to listen to the needs of your community. Use these needs to shape the activities of your clinical tax education project rather than guessing what you think your community needs. Looking at the Community Tax Law Project in the United States (US), this chapter will consider ways you can gauge and assess the needs of your community. This will allow you to design a community-focused clinic. This chapter also builds on [Chapter 3](#) to discuss infrastructure and funding for a clinical tax education project: sustainable funding is critical for a successful tax clinic.

#### 7.2 Introduction

The Community Tax Law Project (CTLP) began as a means to address a gap in the access for justice for taxpayers in the metropolitan area of Richmond, Virginia.<sup>1</sup> CTLP's founder, Nina Olson, noticed that many taxpayers with issues with the Internal Revenue Service (IRS) or the Virginia Department of Taxation were unable to retain legal counsel due to limited financial means.<sup>2</sup>

\* David Sams served as the Executive Director of the Community Tax Law Project from 2017 through 2022. He currently serves as CTLP's Administrative Advisor.

1 The Community Tax Law Project was created in 1992 and has been continually helping thousands of low-income Virginians with their federal and state tax issues for over thirty years. For more information on CTLP, please see <[www.ctlp.org](http://www.ctlp.org)> accessed 28 July 2022.

2 Nina Olson is the founder of the Community Tax Law Project in Richmond, Virginia, then went on to serve as the National Taxpayer Advocate of the United States, an independent organisation within the Internal Revenue Service (IRS) from 2001 to 2019. Upon leaving the IRS, Nina Olson founded the Center for Taxpayer Rights. More information on Nina Olson

In other words, Nina was seeing a need in her community, and to fill that gap in justice, she created CTLP and ultimately the Low-Income Taxpayer Clinic (LITC) system in the US.<sup>3</sup> Nina was listening to her community and seeking out a way to fill this need, in the same way a food bank addresses food needs or a domestic violence shelter is created to provide a safe harbour for victims of abuse. In this spirit, CTLP and many other LITCs continue to listen to their community's needs and work tirelessly to address these issues and provide the community support needed regarding tax issues. Despite many decades of experience, the staff of CTLP remain very careful not to tell the communities we serve what they need, while knowing what solutions would be the most successful.

For example, CTLP has been working for many years alongside our regional social services department of the local government, providing monthly tax education classes. Our presentation for this class has a lot of basic tax information, but we are always looking to address specific needs of the taxpayers in the class. The wrong approach would be to assume that a person living in a neighbourhood that is mainly government subsidised would most likely have tax issues related to credits for their children. A better approach would be to take time and ask the persons attending this class why they are attending the class, what they think about the tax system, what frustrates them the most about filing their taxes and, most importantly, whether they have a specific issue they would like us to cover in this class. The latter is the approach that CTLP attempts to undertake in all our community interactions, which has proved to render CTLP a vibrant and effective organisation that is beneficial for the communities we serve.

This chapter will break down CTLP's approach further. It is not a blueprint on how to run an LITC. Rather, the chapter will provide some thoughts for you to take to your clinic or your pro bono practice that will hopefully allow you to provide the most effective tax assistance to those in the most need of your service. The chapter outlines very important components of a great community organisation, namely the mission as well as community understanding and support. It also discusses more tangible elements, such as office infrastructure and finances.

and the Center for Taxpayer Rights can be found at [www.taxpayer-rights.org](http://www.taxpayer-rights.org). For an in-depth history of Nina Olson's impact on LITC work, see Keith Fogg, 'Every Taxpayer Counts: Nina Olson's Impact on Low-Income Taxpayer Clinics', *Pitt. Tax. R.* 18, no. 53 (2020).

3 Keith Fogg, 'Taxation with Representation: The Creation and Development of Low-Income Taxpayer Clinics', *Tax Lawyer* 67, no. 1 (2013): 3.

### 7.3 What does a community-focused tax clinic look like?

Like the taxpayers we serve, true community-focused tax clinics are not all the same. There are some common aspects to all LITCs, but each clinic will look and behave differently based on the community they serve, their staff and their resources. For example, in the US, the various clinics of the IRS LITC programme fall into three basic types,<sup>4</sup> namely clinics housed or associated with academic institutions, clinics housed in larger multiservice legal-aid organisations, and standalone clinics.<sup>5</sup>

In contrast, the LITCs that are operating in other nations, such as Australia and the United Kingdom, are mostly housed in university systems, with a unique exception in the UK where two national tax charities provide free tax advice to those who cannot afford it.<sup>6</sup> In Australia, the scope of services these clinics provide is not restricted to individuals, as clinics also assist with a wide variety of potential clients such as small businesses and charities. In the UK, two standalone clinics are housed in similar university settings, but focus only on individual tax concerns.

While the three different types of US LITC clinics operate slightly differently, they are all promoting the common mission of providing access to justice for low-income taxpayers in the US. However, each of the US clinics has their own unique approach based on the communities they serve and the resources they have available. For example, academic clinics have a secondary requirement to provide a clinical-based learning experience to the students involved with the clinic.<sup>7</sup> Furthermore, the professor in charge of the academic clinic may also have a research requirement that their clinic work must address. In contrast, a clinic located within a larger legal-aid environment may be able to add a bankruptcy tool to their tax services to provide a different approach to certain tax issues.<sup>8</sup> Within the legal-aid setting, taxpayers may have access to a range of legal services that complement the tax work, providing a client with a sort of ‘one-stop shop’ for many of their legal troubles.

4 For general information on the US LITC Program, see: <[www.irs.gov/advocate/low-income-taxpayer-clinics](http://www.irs.gov/advocate/low-income-taxpayer-clinics)> accessed 28 July 2022.

5 Fogg, ‘Taxation with Representation’.

6 For more information about TaxAid see <<https://taxaid.org.uk/>> accessed 28 July 2022; see also [Chapter 4](#).

7 See [Chapter 13](#), where an outline of key clinical legal education pedagogies is provided.

8 Legal Services of Northern Virginia has the ability to assist their clients with both bankruptcy and their tax issues providing an additional layer of services that can be used to address a client’s tax issues, see <[www.lsnv.org/what-we-do/litc/](http://www.lsnv.org/what-we-do/litc/)> accessed 28 July 2022.

CTLP falls into the standalone clinic category, as a nonprofit organisation that is not tied to a law school or legal aid. The work and operations of CTLP will be used as the source of many of the examples in this chapter, as the clinic operates as an outwardly focused community-based organisation that has a rich history and varied programmatic services. However, CTLP is only one example of a US LITC, so this chapter will focus on examples through the lens of CTLP that may be applied to most clinics. Over the last thirty years, CTLP has worked with a myriad of populations throughout the Commonwealth of Virginia, absorbing itself into the fabric of the communities the clinic serves. A conscious effort is made to interact, listen and understand the different groups CTLP serves.

Hearing the immediate needs of the clinic clients serves a number of purposes. First, and most importantly, direct communication with clients allows a clinic to hear of an issue shortly after it begins to affect the taxpayer population at risk. Using a recent example, through a strong community partnership, CTLP was made aware of a major mistake a large number of recent refugees had made on their tax returns, shortly after the 2021 tax filing deadline. This community of refugees all received poor information from a tax return preparer, which spread quickly through social media channels. CTLP and other clinics were able to quickly react to this issue and take the necessary corrective measures. Secondly, with ongoing communication, a clinic can assess whether their programmes are meeting the needs of a specific community, allowing a clinic to adjust, increase or eliminate efforts as community needs change. For example, based on community feedback, CTLP now provides a number of small business tax educational sessions to Virginia's Hispanic and Latino communities to address the large number of self-employed taxpayers in these communities.

Constant communication with individuals in communities a clinic serves allows the tax clinic to adjust and react appropriately to provide the most effective tax programmes in real time rather than waiting for the taxing authority to announce potential problems.

Direct community communication is not easy and requires an immense effort by the staff and volunteers, but the staff of CTLP manage to conduct outreach and education efforts in the communities many times per week in addition to the case work conducted for existing clients. It is not uncommon for CTLP to provide tax-based literacy education for persons in a job-readiness programme in the morning and be present for an outreach event in a predominantly Hispanic neighbourhood in the afternoon or evening.

The staff of CTLP will be the first to admit that not all of these events provide immediate results, but over time, the results are positive, as many community partners who were met and supported at these events contact CTLP

when they have a member of their community struggling with a tax issue. Most importantly, all of these community events provide an opportunity for dialogue and a strengthening of community trust. As outlined in the examples, CTLP has been able to address tax problems much more quickly and successfully because of our community outreach, which is the main goal of our efforts.

## **Mission driven**

Probably one of the most important aspects of all LITC work is to remain mission driven. If your clinic does not already have a mission statement, then you have some work to do. However, it does not need to be fancy, just effective. For example, the effective clinic mission of TaxAid is as follows: 'TaxAid is a charity that helps people on low incomes when they get into difficulties with their tax affairs.'<sup>9</sup> While this is just one example, TaxAid's mission statement could be modified to become the guidepost of any clinic.

A good mission statement is one that provides an organisation with an effective tool to assess whether an action is going to help their intended community in the manner intended. Literally any action of an organisation could be analysed against the mission statement to see if that action makes sense to the clinic: from the purchase of office supplies to the decision to start serving a new subgroup of your geographic community.

Without going into a full discussion of what makes a good mission statement, no mission statement is much worse than not having a clear mission at all. There are many reasons to have a formal mission statement, but the point of a mission statement that is most relevant here is how it helps your clinic serve the community.

With a clear mission statement, clinicians have a rubric for making decisions that allow all work to be focused clearly on assisting your communities with their tax issues. For example, during the COVID-19 pandemic, CTLP was faced with many requests from community partners to assist with tax problems that had normally been addressed by other agencies. With these other agencies closed or severely diminished in capacity, CTLP was being pushed and pulled in many directions. During weekly (or sometimes daily) staff meetings, CTLP's staff were able to quickly and accurately filter these decisions through a mission statement analysis. This allowed CTLP to keep addressing the needs of our community without jeopardising the overall integrity of the

9 While not outlined specifically as a 'Mission Statement', TaxAid provides this statement as the first sentence of the 'About TaxAid' section of their website: <<https://taxaid.org.uk/about>> accessed 28 July 2022.

clinic. Without a clear and strong mission to guide your clinic, every decision will unduly burden your staff and slow your work down.

## **Community understanding and support**

To truly make an impact in the economic lives of the taxpayer communities you serve, a successful tax clinic needs to focus simultaneously on two different yet symbiotic efforts. These efforts inform each other to further strengthen the community focus of a clinic. The efforts I am referring to are community understanding and community support. A clinic does not serve a community in the most effective manner without a good, focused effort in both connected areas.

To begin, your clinic should understand the communities it serves. This understanding can begin with basic demographic information, but it cannot end there without missing valuable information. A trip to the area can be informative, but even then, this is an isolated and disconnected effort. True understanding of a community is best obtained by a prolonged authentic relationship with the persons within the community that focuses on building relationships rather than pure observation. CTLP has found that the most effective way to build these authentic long-lasting relationships is to directly support these communities in many ways.

Elaborating on one specific example of community support, CTLP has had a very long-lasting relationship with a local Latino support organisation.<sup>10</sup> While CTLP mainly provides tax legal assistance to the persons served by this organisation, our staff make a more concerted effort to support the population this organisation targets. Our staff regularly represent CTLP at many of their non-tax events, such as cultural events, leadership workshops and fundraising events. This may seem counterintuitive for the tax clinic to be showing up at community events that are unrelated to the main mission of the clinic. However, the trust that is built up by this continued authentic support is tremendous, and this organisation and the people they help utilise the services of CTLP without as much reservation as they would if we gave a 'tax talk' once a year. Furthermore, the continued relationship CTLP has had with this organisation has allowed for a much richer community understanding, allowing us to better advocate and represent this community when it relates to their tax issues.

As mentioned, the intertwining of community understanding and support can lead to trust. However, trust is earned and cannot be expected. The persons of communities that have been ignored or underserved for many

<sup>10</sup> For more information on the Sacred Heart Center: <<https://shcrichmond.org/en/about/>> accessed 28 July 2022.

years can become distrustful of anyone, let alone lawyers and accountants, promising to solve their problems. These persons have seen a myriad of ‘do-gooders’ come in and out of their lives promising results, only to be replaced each month by a new face with the same rhetoric. Tax clinicians will have an uphill battle to overcome this, but it can be done if your efforts are authentic and continue over time.

As a tax professional or tax clinic administrator, you can overcome these negative expectations and earn the trust of the taxpayers of the communities you serve, but tax clinic professionals need to be willing to put in the time and sincere effort. In the sections that follow, a framework for addressing populations with diverse demographic backgrounds and geographic locations will be discussed juxtaposed against the all-important resource limitations. Every clinic will have budgetary constraints that will surely provide realistic goals for reaching certain groups, especially when the population a clinic is trying to reach is in a remote location. Thankfully, due to the forced virtual lifestyle the global pandemic has imposed, online communications tools may make reaching distant populations more affordable than ever expected.

## **7.4 What populations are you going to serve?**

### **Geographic scope: where do your potential clients live, work, pray or play?**

Depending on where your clinic is located and the proximity to other organisations providing similar assistance, your clinic first needs to clearly define what geographic area you will be serving. With a clear similarity to a mission statement, a clearly defined geographic scope can make many decisions very simple.

Providing the person in your clinic tasked with conducting client intakes with a list or map of the area you serve can shorten unnecessary conversations with taxpayers as to who you cannot or should not be serving. For some clinics serving an entire area such as a county or a state or even a nation, this is somewhat easy. In the US, this can be somewhat challenging, especially in states where there are a number of clinics in a densely populated area. For example, there are eight tax clinics in New York City and surrounding areas, let alone the rest of New York state.<sup>11</sup> In Virginia, there are two other clinics in addition to CTLP. However, CTLP is allowed, based on our grant application,

11 For a comprehensive list of US LITCs see IRS Publication 4134 (2022), <[www.irs.gov/pub/irs-pdf/p4134.pdf](http://www.irs.gov/pub/irs-pdf/p4134.pdf)> accessed 28 July 2022.



to take cases from anywhere in the state. This would be confusing if the three Virginia clinics were not in communication with each other. Thankfully, the three clinics have defined their geographic areas and, more importantly, respect those boundaries. If someone calls CTLP from an area covered by the other clinics, we simply refer them to the correct clinic.

Geographic concerns of clinic scope are not limited to US LITCs. For example, the UK has only two standalone tax clinics covering the entire group of nations. Using a more specific example, the Scottish Tax Clinic is tasked with covering the entire geographic area of the country and its population of over five million people with only around twelve students and ten supervisors.<sup>12</sup> To compound the geographic challenges facing the Scottish Tax Clinic, Scotland has countless remote communities that have large low-income populations. In contrast, the Australian LITC system is much more robust, with ten clinics spread throughout the various territories, which provides each clinic with a much more manageable chance of reaching the communities they serve.

### **Demographic scope: how do your clients live, work, pray or play?**

Now that you have located the populations within your scope of influence, you need to take the next step and find out more about what makes them unique culturally. Recalling the need for cultural understanding and support discussed earlier in this chapter, an effective clinic needs to have a good cultural understanding of the communities it serves. For some communities, this requires just showing up and talking to people to find out more about them and how they choose to live their lives. Other communities require a much more nuanced approach that may require a trusted partner, especially if there is a language barrier.<sup>13</sup>

In the university setting, a clinic may face internal bureaucratic impediments to clinic operation. For example, internal ethics review boards may need to provide approval before a clinic begins working with taxpayers in a certain manner, especially if the work of the clinic has a research aspect. Approval from an internal review board may take several months, stalling

12 For more information on the Scottish Tax Clinic: <[www.law.ed.ac.uk/news-events/news/university-edinburgh-law-school-launches-its-first-tax-law-clinic](http://www.law.ed.ac.uk/news-events/news/university-edinburgh-law-school-launches-its-first-tax-law-clinic)> accessed 28 July 2022; Kapil Sunman, 'Tax Clinic at Edinburgh Law School First in Scotland' (*Scottish Legal News*, 23 September 2021), <[www.scottishlegal.com/articles/tax-clinic-at-edinburgh-law-school-first-in-scotland](http://www.scottishlegal.com/articles/tax-clinic-at-edinburgh-law-school-first-in-scotland)> accessed 28 July 2022.

13 This may require ethics approval for university-based clinics. See [Chapter 18](#), which considers the research roadmap for tax clinics and consult your institution's research ethics policy.

the clinic's efforts, at least initially. However, in all cases, access to justice for taxpayers requires our clinics to make the necessary alliances to bridge cultural barriers. As with all community work, this takes time, but trust can be built with authentic efforts. Furthermore, building strong meaningful community relationships can lead to positive policy efforts by either the clinic or the communities the clinic serves. Working together to provide real-life examples of the impacts of the tax system on certain subpopulations can bolster any changes necessary to move the needle towards a more equitable tax system.

CTLP works with a number of refugee resettlement agencies to best serve the different populations that have arrived in Virginia as refugees.<sup>14</sup> As the various refugee populations change over time, CTLP relies on strong relationships with the resettlement agencies to gain understanding of the current refugee population demographics and to even gain very specific understanding of cultural differences that may affect tax reporting decisions. For example, in the US, one choice of tax filing status is Head of Household,<sup>15</sup> which is generally chosen only if you are not married but look after a dependent in your household. Some very traditional refugee populations chose this filing status over the appropriate joint status for legally married couples, which was very confusing to us at CTLP because it is more tax advantageous to choose the joint status.<sup>16</sup> Upon reaching out to our partners in the refugee resettlement space for more information, we began to understand that choosing the joint status would put husband and wife on an equal footing, removing the husband as the true 'head of household', bringing disrespect on the family from their community.

Without this connection, we would still be trying unsuccessfully to convince some families to file their taxes with a focus purely on finances rather than a combination of culture and finances. As much as possible and always refusing to support morally repugnant legal positions, CTLP attempts to support cultural requests when providing our services and also advocating for similar efforts within the taxing authority systems. Furthermore, partnering with additional support groups may be necessary to bridge the cultural gap inherent in our tax systems.

14 For more information on the refugee resettlement work of the International Rescue Committee: <[www.rescue.org/](http://www.rescue.org/)> accessed 28 July 2022; Commonwealth Catholic Charities: <[www.ccofva.org/resettlement-services](http://www.ccofva.org/resettlement-services)> accessed 28 July 2022.

15 For the definition of the filing status 'Head of Household' see: United States: Internal Revenue Code, section 2(b).

16 For a further description of the advantages of choosing the filing status 'Married Filing Jointly': United States: IRS Publication 501 (28 January 2022), 'Dependents, Standard Deduction, and Filing Information', 5-9.

## Resources and limitations

You may be wondering how you can make all of these important cultural connections while juggling all of the other requirements you have for running your clinic. All of this community engagement sounds fantastic, but how do you find the time? Furthermore, time is not the only resource needed for community outreach: you will want brochures, business cards, as well as the basics such as somewhere to physically meet your potential clients. To use a cliché, Rome was not built in one day, so neither will a tax clinic be.

To begin, a clinic should reach out to similar clinics in your nation, if they exist, or internationally, if you are attempting to create the first clinic in your country. A good number of international clinics attended the US LITC programme Annual Grantee Conference, which is a conference attended by clinicians from all of the US LITCs in their formative years.<sup>17</sup> Additionally, the Center for Taxpayer Rights hosts their International Conference on Taxpayer Rights yearly, which intentionally includes a number of talks focused on the work of low-income taxpayers.<sup>18</sup>

Any new or established tax clinic should conduct regular needs assessments, which should include the personnel needed as well as the tangible items (such as computers and office supplies). If you identify needs that you cannot fulfil yourself, ask those you know – including colleagues and your institution – and expand outwards. A few years ago, CTLP was looking to create a more robust office space for our interns, so they could all be in one area with equivalent office equipment. Through a simple ask to our board of directors, we received offers of multiple tables, chairs and filing cabinets. However, this ask does not have to be to directors working at large law firms. A simple social media appeal could provide you with what you need, especially volunteers.

Building a volunteer base is extremely rewarding but also time consuming. A well-functioning volunteer programme can provide much of the human resources needed to accomplish the tasks of a robust community-focused tax clinic. Moreover, these volunteers can provide you with a wide variety of skills from direct pro bono legal assistance to marketing and fundraising.

However, it is not as simple as a quick Tweet or request for help on social media. CTLP ran a successful volunteer programme for many years, but it took time to build this programme and make it work well. In fact, CTLP continues to tweak and refine this programme to adapt to our changing

17 United States: IRS Publication 3319, 'Low Income Taxpayer Clinics 2023 Grant Application Package Guidelines' (2022), section VI.C.iii.

18 For more information on the Center for Taxpayer Rights International Conference on Taxpayer Rights: <<https://taxpayer-rights.org/international-conference/>> accessed 28 July 2022.

needs. At one point, CTLP had a pro bono panel of over sixty tax professionals, but only around thirty of these lawyers and accountants were active each year. This left a number of volunteers without any cases to work on: something that does not provide the volunteer with a very meaningful experience. To address this issue, CTLP made the decision to scale back the number of tax professionals to a number more in line with our case needs, while also adding additional student interns to round out the programme.

### **Learn from failures**

Not every community effort works – at first.<sup>19</sup> For example, CTLP decided to focus more directly on veterans of the armed services. We reached out to organisations specialising in veterans' affairs, creating exciting new community partners. We secured funding from private and government sources. We created brochures and presentations outlining the tax issues facing veterans. Finally, we spent one year conducting as much outreach and education in the veteran community as possible. We did a great job – or so our community partners said. Sadly, when reviewing the case numbers at the end of that year, we found that we had served a similar number of veterans as the previous preceding years.

What had happened? We did everything correctly from a community-based approach. We listened to the community, we showed up repeatedly and authentically, and we gave the community what they had asked. What we had failed to do was understand our own prior efforts as well as the overarching effect of our efforts with other communities: we did not look at the bigger picture. In fact, we were already effectively reaching the veteran community because that community is cross-sectional with other communities CTLP serves well. It was not wasted time, as we now have some very strong community partners that focus on issues facing veterans. However, we now know to consider overlaps with other communities when CTLP considers reaching out to a new one.

## **7.4 What do these populations need or want?**

One of the biggest mistakes any person, not just a low-income taxpayer clinician, can make when their goal is to help someone is to assume that they know what the person needs. For example, CTLP asked their Hispanic outreach coordinator to spend a weekend visiting migrant agricultural workers on the coast of Virginia. Prior to heading off on this trip, the attorneys of

<sup>19</sup> For another example of a clinical tax learning journey that began with difficulties, see Amy Lawton, 'Lemons to Lemonade: Experiential Learning by Trial and Error', *The Law Teacher* 55 (2021): 511.

CTLTP created a brochure addressing the tax issues we thought the migrant workers were experiencing. The brochure addressed issues such as who has to file their taxes in the US, how to get a taxpayer identification number, which dependents could be claimed, and a number of other issues we assumed they would be interested in.

When CTLTP's staff member returned to the office, they reported that the farmworkers were not at all interested in the brochure. Rather, they had two questions. First, and most importantly, they wanted to have someone explain what the different sections of their pay stub mean, and second, they wanted to know who would help them file their taxes. CTLTP had no idea what these taxpayers wanted from us and clearly had it wrong. We had not visited this community to hear their needs prior to our visit.

In response, CTLTP created a brochure that can be used to understand a basic pay stub and began working with the IRS Volunteer Income Tax Assistance programme to bring free tax return preparation to the farms. Furthermore, and to ensure we were properly meeting the needs of this community, we collaborated with a number of organisations to conduct a comprehensive needs assessment. This research demonstrated that tax preparation was the highest concern and that these taxpayers would be very reluctant to take any action that would jeopardise their good standing with their employer. Without meeting these taxpayers face to face and listening to their wants and needs, CTLTP would not have been able to create a successful programme that now helps hundreds of farmworkers with their tax problems.

## **7.5 What specifically does your clinic require to meet these needs and wants?**

### **Infrastructure: are bricks and mortar a thing of the past?**

In recent memory, an office had to have the basic office items, such as desks, chairs, computers, printers, photocopiers, filing cabinets and maybe even a water cooler to gossip around. There is a question as to whether a tax clinic needs these things anymore. At this point, I would argue that a tax clinic needs some of these, most importantly a computer and a phone, but I think that there is a valid argument that these items do not need to be in one place. CTLTP currently has a bricks and mortar office with desks, computers and phones (thankfully no water cooler), but we functioned very well in a remote version of our office in the early months of the 2020 pandemic.<sup>20</sup>

20 See [Chapter 3](#) for a broader consideration of how to set up a tax clinic; see [Chapter 17](#) for a discussion of virtual clinics and students.

In fact, CTLP is exploring 'flex' options where, instead of having one main office, we have a number of shared office spaces throughout the Commonwealth of Virginia. These offices would be strategically placed to address the geographic needs of the communities we serve. We have seen that we can afford three 'flex' offices for the same expense as we are currently paying for one large central office. Whether this is an option for every tax clinic depends on the communities served and the geographical areas covered. The majority of CTLP's clients were able to adjust to virtual communication quite successfully during the pandemic. However, you may find that the populations you serve will not trust you unless they can meet you face to face.

Experimenting with new versions of the 'office' may lead to a better understanding of the way your clinic interacts with the taxpayers it serves. Ultimately, there is no longer one correct way to approach this infrastructure question. Rather, the correct office environment is the one that reaches the most low-income taxpayers in an impactful and cost-effective manner.

### **Community partners: you cannot reach everyone by yourself**

Every tax clinic that comes into existence has some sort of community partnership they can create. I cannot think of a single exception to this statement, no matter how remote your clinic is or specific your client base may be. There is always someone else providing services to the taxpayers you are seeking to help. On the other hand, I will agree that no tax clinic has the same set of community partners as the next.

CTLP serves the entire Commonwealth of Virginia, from the former coal-mining rural southeast to the shipping industry of the Tidewater area of the state. As each of these communities is different from the next, so are the community partners that CTLP uses to reach the taxpayers in need in these areas. Some communities congregate around their churches while others seek out help from the government. Unless the organisation is morally objectionable, CTLP will form a partnership with that group to meet our mission of providing access to justice. To serve the migrant farm worker populations, CTLP has communicated with *tienda* owners,<sup>21</sup> as this is a central neutral location where migrant farm workers congregate at least weekly, usually on Sunday afternoons. In contrast, to reach low-income African American

21 A *tienda* is a small to medium shop that provides basic goods and groceries. In the US, *tiendas* in Hispanic and Latino neighbourhoods provide many products that would be available in *tiendas* in Mexico and other South and Central American nations. Furthermore, many US *tiendas* provide services such as mobile phones and money wiring services to allow communication and money transfer with, and to, family members in Mexico and other nations.

taxpayers in the east end of the city of Richmond, CTLP partners with a combination of government agencies and private community resource centres in order to reach these communities.

### **Social capital: the who, what and when of building your clinic family**

As alluded to, you can build an effective sustainable tax clinic on your own, but you can build an even more effective tax clinic with some help. Indeed, taking a group approach will make the entire experience infinitely more effective and enjoyable. Social capital has been defined as relationships that can make your organisation more effective.<sup>22</sup> When you add more people into your organisation, your social network expands exponentially, which, in turn, exponentially grows your availability of resources, both human and tangible. Returning to the example above, the social network CTLP's board of directors provides has allowed for CTLP to quickly ask for donations of tangible goods to meet our infrastructure needs.

Who you have in your tax clinic's social network really depends on the needs of your tax clinic. If you are in the beginning stages of creating a clinic, you should probably look to the people who are going to assist you in dealing with the red tape of opening a clinic. This may include the director of the local legal services office, who may be open to housing your clinic, or it may include a tax professor at the local university who sees value in providing a clinical experience for their students. Each meeting with a potential addition to your social network should be met with open-mindedness, regardless of any preconceived notions of what the relationship might look like.

For example, in an arranged meeting with the president of the local association of public accountants, one might hope to find some volunteers for a clinic through their membership. When you actually meet with this person, you find out that, in addition to providing you access to potential volunteers, this person also owns a number of office buildings and is willing to provide you with free office space. Results like this only occur if you remain mission focused and let your social capital know of the needs of your clinic.

Returning to the idea of community understanding and community support, a tax clinic would be well served by applying these thoughts to the building of a social network in addition to the people in the communities you are serving. First, a clinic director can streamline effective networking for social capital by understanding the culture of other potential social groups. For

22 Laurence Prusak and Don Cohen, 'How to Invest in Social Capital' (*Harvard Business Review*, June 2001), <<https://hbr.org/2001/06/how-to-invest-in-social-capital>> accessed 28 July 2022.

example, CTLP fundraises extensively within our social networks, soliciting donations from individuals from many communities. The majority of our large donations come from tax attorneys, due to their specific understanding of the main legal work of CTLP. These tax lawyers understand what effort is needed to address a controversy with the IRS or the US Tax Court. However, CTLP also gets a considerable number of individual donations from people in the community who believe that everyone should have access to justice regardless of their income or their legal problem.

When soliciting funds from these groups, CTLP communicates differently about the work of CTLP. The tax professionals receive a letter describing a tax controversy CTLP has worked on successfully, with all the tax details. Whereas, the social justice donors receive a letter that focuses more on how justice was served and the family is now back on their feet financially. Both letters may have described the same tax controversy just using language that each social group could relate to more effectively.

Furthermore, a tax clinic should support the efforts of those in their social network as much as possible. Just as a clinic may show up to a low-income neighbourhood breakfast, just to show support and build relationships, the same clinic may attend a legal awards ceremony where one of their main pro bono attorneys is being honoured. As mentioned previously, there is no expectation that there will be a single discussion about tax at either of these events, but your pro bono supporter will remember that you attended their special event, making your tax clinic that much more special to them.

The idea of showing support to all involved in the tax clinic is a type of giving back to those that give to your clinic in a different way. There is not a lot that a low-income taxpayer clinician can give to a tax professional at a big firm other than their time and appreciation. CTLP has a very special patron who has supported CTLP in many ways for almost the entire thirty years of our existence. This special person gives more of their time, passion and money to CTLP than any other person. They do so similarly for a number of other organisations and foundations. CTLP makes a point of attending as many events related to this person as possible. This is well appreciated and their support for CTLP continues and grows. Without conscious social capital building, this would not have happened in such a fruitful manner.

### **Finances: the lights do not stay on with positive thoughts and well wishes**

While much was stated above about social capital building for a tax clinic, knowing the right people does not always pay the bills. Every clinic needs money. In the US, a number of the LITCs rely on volunteer time or having law



students assist the clinic under the supervision of a professor. However, even within these clinic models, funds are needed to pay for operational costs, salaries of related staff and professors, and other related costs. If a US clinic qualifies for a 'LITC Grant',<sup>23</sup> that clinic will receive funding up to \$100,000. Some other clinics, such as CTLP, also receive grants from other sources such as the state government or private foundations. The funding sources for your clinic will depend on your country, locality and affiliation. The UK national charity TaxAid is a good example of a low-income taxpayer assistance organisation that receives support from a number of private sector sources.<sup>24</sup> Unfortunately, regardless of your tax clinic design, the need for funds does not change.

A tax clinic can start with the people in their social circle. If a tax clinic is part of a university business school or law school, conversations should start with the person in charge of raising funds for the business school or law school. That person may be very excited about a new strategy for gaining additional funds that includes the work of a tax clinic. In this discussion, a clinician should highlight measurable successes that the clinic has had especially when assisting communities that the university has demonstrated an interest in helping. In many university settings, a particular donor may earmark or endow their donation to be spent in a particular way, such as funding a tax clinic. A little creativity mixed with a strong mission can go a long way towards leveraging your social capital to raise actual money for your clinic.

There is one important caveat to a general leveraging of social capital to raise funds. While the clients of your clinic are included in your social sphere, you should not consider asking or even accepting unsolicited donations from clients. Most clinics do not accept funds from current clients. There is an argument that this is not empowering to the client who wishes to give something back to the clinic that helped them. However, due to the low income of our clinics' clients, as well as the usual accompaniment of other financial issues, accepting donations from current clients does not fit with the sentiment of helping someone out of financial difficulty. If, a number of years later, a client donates to your clinic, that is a different conversation. Hopefully, your clinic was part of the solution that allowed that person to get back on their feet enough to give you a gift. In the meantime, a clinic would be best served by avoiding such situations.

23 More information on the US LITC Grant programme: <[www.irs.gov/advocate/low-income-taxpayer-clinics/information-for-potential-litc-grantees](http://www.irs.gov/advocate/low-income-taxpayer-clinics/information-for-potential-litc-grantees)> accessed 28 July 2022.

24 See the 'Supporters' section of TaxAid's website in the 'About TaxAid' section: <<https://taxaid.org.uk/about>> accessed 28 July 2022.

## **7.6 How do I fix the problem at the source? Yelling up the chain: advocacy as part of the clinic's mission?**

Most low-income taxpayer clinicians wish they could change all the maladies of their tax system that are consistently causing their client's difficulties. After all, this chapter recommends that you listen to the communities you serve to address needs.

A change in your tax laws or procedures could improve life for those struggling to make ends meet. Unfortunately, the tools to make these changes differ from country to country, and in the case of the US, from state to state. However, at CTLP, we use many tools to try to make those in charge of making the rules see the light and make a change. This section introduces some of the policy impacts your tax clinic might have, and these ideas are developed in [Chapter 11](#).

### **Community advocacy**

Community advocacy is the most grassroots approach to advocacy that a tax clinic can undertake on behalf of the communities they serve. This form of advocacy is essentially informed and directed by word of mouth.

For CTLP, this type of advocacy happens all of the time to whoever will listen. The idea is for the tax clinician to voice their wishes for change as often and widely as possible. This begins with your clients. You tell them what is wrong with the system and that is why they are being affected negatively by the tax system. Next, we move to the streets. At community events, we talk to people not only about the problems we see but also the potential for solutions. Sometimes, CTLP is even invited to speak with local officials and politicians, but the conversation does not change. We state what we are seeing as negative effects of the tax system on low-income taxpayers and propose solutions. Sadly, this method is slow, but it creates a groundswell of ideas for change.

### **Administrative advocacy**

In the US, the government often asks for comments on proposed laws, regulations and procedures. This is very true in the US tax system where the IRS or the Department of Treasury will ask for comments on either a proposed law or procedure in advance of implementation. Much of this input is directed through work of the American Bar Association Section of Taxation. Furthermore, the IRS has an internal issue reporting system

called the Systematic Advocacy Management System (SAMS) where a systematic issue can be brought to the attention of the IRS.<sup>25</sup> CTLP makes use of all these avenues as much as possible. The attorneys at CTLP are active in both submitting comments to the IRS, Treasury and using the SAMS system. Hopefully, the tax administrative body in your country or locality has a similar system that you can use to advocate for systematic changes, no matter how small.

## **Litigation as a venue for change**

In common law jurisdictions such as the US, an attorney can change the law by setting precedent via litigation. This is a lengthy process, as it requires the attorney appealing their case to as high a court of review as possible. Taking such action also requires that the facts of your client's case are exactly those that show the problem with the law you are looking to resolve. Finally, in the alignment of the litigation stars, your client has to be willing to work with you for the long haul. Despite all of these barriers and hurdles, low-income taxpayer clinics in the US have been able to show injustice in a number of areas of the law effecting change eventually at the legislative level.<sup>26</sup> As this type of legal work takes a number of very specific legal skills, this is a perfect time to leverage your social capital and work with pro bono attorneys in larger firms looking to work cases like these regardless of the legal costs.

## **Governmental advocacy**

The final type of advocacy that I will briefly mention is not possible for all clinics due to the nature of their business structure and the sources of their funding. However, this section considers legislative lobbying. This concept may be addressed under a different title in your country. However, generally in the US, lobbying is defined as an attempt to influence government action, either by written or oral communication.<sup>27</sup>

25 For more information on the IRS Systematic Advocacy Management System (SAMS): <[www.irs.gov/advocate/systemic-advocacy-management-system-sams](http://www.irs.gov/advocate/systemic-advocacy-management-system-sams)> accessed 28 July 2022.

26 Gordon Hickey, 'Pro Bono Work Helps Lead to IRS Change in Policy', *Virginia Lawyer* 60 (April 2012): 28. This article describes the efforts of a CTLP volunteer lawyer, Timothy Jacobs, whose efforts led to substantial changes in the IRS's policy surrounding innocent spouse relief from joint tax debt; see also [Chapter 11](#), which explores the potential policy impacts of a tax clinic.

27 National Conference of State Legislators, 'How States Define Lobbying and Lobbyist' (3 September 2021), <[www.ncsl.org/research/ethics/50-state-chart-lobby-definitions.aspx#:~:text=Lobbying%20means%20communicating%20directly%20with,influencing%20legislative%20or%20administrative%20action](http://www.ncsl.org/research/ethics/50-state-chart-lobby-definitions.aspx#:~:text=Lobbying%20means%20communicating%20directly%20with,influencing%20legislative%20or%20administrative%20action)> accessed 28 July 2022.

In the US, nonprofit entities are limited to the amount of direct lobbying that they may undertake before they lose their status as a not-for-profit entity.<sup>28</sup> Further limitations may be placed on the lobbying of clinics by funding sources. However, a small amount of lobbying is allowed and can be a great way for a tax clinic to make a big impact. There are major concerns with taking on this type of advocacy work, as it is very specialised, highly political, and, as mentioned previously, can result in a clinic violating the laws of the type of business entity it is arranged under.

Most large law firms have staff that specialise in this type of work, so a clinician could ask one of their tax related pro bono attorneys to inquire if the lobbying services of their firm would also be available. As with any proposed legislation, there is a very real risk that the legislation can have unforeseen results. While a solution to a tax problem affecting many of your clients may seem very clear to you, your proposed legislation could have ripple effects in other areas of the law that you are not familiar with.

Furthermore, a clinician should familiarise themselves with the political process in their area, as well as which politicians may be the best advocate for a proposed piece of law. Finally, a clinic should proceed with extreme caution when attempting this type of advocacy, and whenever possible, a clinic should consult with legal professionals who advise on lobbying prior to moving forward. Making a legislative change is a major accomplishment, especially when the legislation is tax focused. Armed with caution and the right support, this option is definitely worth attempting for a low-income clinic looking to make a lasting change in the lives of the taxpayers they serve.

## 7.7 Conclusion

The work of low-income taxpayer clinics is very important work. For many taxpayers in need, the services tax clinics offer provide the bridge between that taxpayer and financial freedom, at least in part. In the most precarious situation, tax clinic work can prevent homelessness. In many cases, the taxpayer will be able to sleep a little better knowing someone is on their side.

Because our work is so important, it is vital that we, as clinicians, do everything we can to reach every taxpayer in need and fight for their rights as taxpayers in the best manner possible. Your fight may be with the taxing authority in your area, it may be with an employer who has made an error, or it may even be with your state legislator who refuses to fight for a law that

<sup>28</sup> For a further description of the lobbying limitation by a nonprofit: <[www.irs.gov/charities-non-profits/lobbying#:~:text=In%20general%2C%20no%20organization%20may,loss%20of%20tax%2Dexempt%20status](http://www.irs.gov/charities-non-profits/lobbying#:~:text=In%20general%2C%20no%20organization%20may,loss%20of%20tax%2Dexempt%20status)> accessed 28 July 2022.

only helps low-income individuals. In each of these battlefields, you owe it to the taxpayers to fight the best fight you can, so that their voice can be heard.

However, you cannot fight adequately on any of these battlefields if you have not heard the voice of your client first. Take an hour out of your day and walk a mile in their shoes, on their streets, in their community halls, churches or houses of prayer. Listen to their gripes about the tax system, their financial issues, their personal issues, their housing issues or any issue that may be at the front of their mind that day. Then, come back and do it again and again until they know your face and maybe your name.

At that point, you are becoming a community member. You may not live in their neighbourhood, but you are putting in the time, which means something. Capitalise on that bond you have created, build your social capital, first with the community organisers then with the community at large. Your tax clinic will become part of the fabric of problem solvers, alongside the food pantry, the free health clinic, housing advocates and the many other groups providing great and necessary services for those who are in need of them, for those that ask for them. We dare you to become a community-focused tax clinician. Your communities deserve your help.

# Chapter 8

## Public education

### *The Tax Club UNILAG*

*Edidiong Bassey and Aduloju Oluwatofunmi\**

#### 8.1 Key findings

Tax education is critical to voluntary tax compliance. In Nigeria, a recurring problem has been its low level of tax compliance as evidenced by its tax-to-GDP ratio of 6 per cent below the International Monetary Fund (IMF) recommendation of 15 per cent. Tax education is seen as a possible route, among others, to address this. Any form of tax education in Nigeria is grossly inadequate if younger people are not centre stage, not just because instilling a sense of civic duty is easier at a younger age but because more than 60 per cent of Nigeria's population is currently under the age of twenty-four.

Against this backdrop, a tax club at the University of Lagos was developed with three goals: 1) to increase youth tax literacy; 2) to educate the wider public about tax using a range of initiatives; and 3) to provide networking opportunities for members with individuals from the private and public spheres. This tax club has had some successes, notably the establishment of dozens of other tax clubs in universities all across the country and even partnerships with secondary schools, the development of innovative approaches to increase youth tax literacy, partnerships with various public and private institutions and more coverage of tax matters by the press.

#### 8.2 The context of the Tax Club UNILAG

A number of major challenges besieges the Nigerian tax environment, like many other developing countries. It has a large informal sector that doesn't pay taxes,<sup>1</sup> fiscal policies centred almost exclusively around natural resources

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<sup>1</sup> Sixty-five per cent of Nigeria's GDP is from the informal sector: Nnabuife Ezimma K., Okoli Ifeanyi E. Nuel and Anugwu Clara Chika, 'Informal Sector and Nigerian Economic Prospects: The Covid-19 Experience', *European Journal of Business and Management Research* 5, no. 4 (2020): 1.

as its source of income,<sup>2</sup> a low tax-to-GDP ratio and low tax morale driven by, among other things, perceived grievances about the breach of the social contract by the government.<sup>3</sup>

Indeed, previous research has demonstrated the importance of tax education as one of three strands to improving tax compliance in such countries.<sup>4</sup> This is because tax education has the potential of empowering citizens as they know more about their rights and obligations. It is important that tax education not only builds morale but educates citizens about the kind of taxes they should pay. According to an academic survey,<sup>5</sup> 62 per cent of African citizens did not know what taxes they needed to pay. The link between low tax education and a higher likelihood of tax evasion has been reaffirmed in further studies in the Nigerian context.<sup>6</sup>

The Nigerian government is also cognisant of this fact, thus, with a view to widening the tax base, the Nigerian government have devoted time and resources to the advancement of tax education. For example, in February 2022, the Federal Inland Revenue Service (FIRS) signed a memorandum of understanding with telecommunication agencies such as the Nigeria Television Authority to create awareness nationwide on the importance of tax.<sup>7</sup> However, as the Organisation for Economic Co-operation and Development (OECD) report on tax education suggests, tax education should not only be a governmental priority, but also that nongovernmental actors have a role to play in tax education. In countries like Nigeria where trust in government is low, such actors may achieve more success as they may have a better reach or less animosity from the target population.<sup>8</sup>

2 Sarah Burns and Olly Owen, 'Nigeria: No Longer an Oil State?' (Oxford Martin School Working Paper 2019) <[www.oxfordmartin.ox.ac.uk/downloads/academic/Nigeria\\_Oil\\_WP\\_final\\_130819.pdf](http://www.oxfordmartin.ox.ac.uk/downloads/academic/Nigeria_Oil_WP_final_130819.pdf)> accessed 15 June 2022.

3 Ibid.; Neil McCulloch, Tom Moerenhout and Joonseok Yang, 'Building a Social Contract? Understanding Tax Morale in Nigeria', *The Journal of Developmental Studies* 57 (2021): 226.

4 Giulia Mascagni and Fabrizio Santoro, 'What Is the Role of Taxpayer Education in Africa?' (*ICTD African Tax Administration Paper*, 2018), <[www.ictd.ac/publication/what-is-the-role-of-taxpayer-education-in-africa/](http://www.ictd.ac/publication/what-is-the-role-of-taxpayer-education-in-africa/)> accessed 5 August 2022.

5 Rose Aiko and Carolyn Logan, 'Africa's Willing Taxpayers Thwarted by Opaque Tax Systems, Corruption: Policy Paper 7' (*Afrobarometer*, 2014) <[www.afrobarometer.org/wp-content/uploads/migrated/files/publications/Briefing%20paper/ab\\_r5\\_policypaperno7.pdf](http://www.afrobarometer.org/wp-content/uploads/migrated/files/publications/Briefing%20paper/ab_r5_policypaperno7.pdf)> accessed 5 August 2022.

6 Peter Okoeguale Ibadin and Embele Kemebradikemor, 'Tax Fraud in Nigeria: A Review of Causal Factors', *Journal of Taxation and Economic Development* 19, no. 1 (2020): 64.

7 Busola Aro, 'FIRS Signs MOU with NTA, FRCN to Commence Nationwide Tax Education' (*The Cable*, 8 February 2022), <[www.thecable.ng/firs-signs-mou-with-nta-frcn-to-commence-nationwide-tax-education](http://www.thecable.ng/firs-signs-mou-with-nta-frcn-to-commence-nationwide-tax-education)> accessed 26 May 2022.

8 OECD, *Building Tax Culture, Compliance and Citizenship: A Global Source Book on Taxpayer Education* (Second Edition, OECD Publishing 2021).

Within this space, the tax club represents one of the numerous innovations or platforms used for the advancement of tax education. The tax club is an association dedicated to the development of taxation, by improving youth tax literacy as well as empowering such youths to educate their wider population. Given the importance of tax education to tax compliance, the tax club plays a role in shaping the mentality and approach of the public towards taxation, particularly the younger generation, which constitutes around 60 per cent of the population<sup>9</sup>. It is then arguable that tax clubs perform a societal function as they shape the minds of young citizens to have a positive approach to taxation.

The concept of a tax club is not peculiar to Nigeria as tax clubs are an age-long structure within the tax space, existing as far back as the Texas Tax Club Movement (1924–1925) and the Chicago Tax Club.<sup>10</sup> Today, we have tax clubs all over the world; some exist as independent clubs in society while others exist with the traditional educational structures. In Nigeria, tax clubs exist largely within the traditional educational structures such as universities and other higher institutions. Students manage them – although they enjoy the guidance and mentorship of tax professionals who are either lecturers of taxation or tax practitioners: tax clubs are therefore innovative, nontraditional learning environments.

The first Nigerian tax club, based in the Faculty of Law at the University of Lagos, was formed by a group of forward-thinking individuals who saw the need to advance the tax education agenda to the younger generation (Tax Club UNILAG). Its membership cuts across law students, students of accounting, economics and other faculties in the university with a genuine interest in the field of taxation. The Tax Club UNILAG was created by tax students, who saw the low level of tax instruction in the curriculum as one of the impediments to voluntary tax compliance in the country,<sup>11</sup> transforming the idea of what was a mere tutorial group for tax law students into a full-blown club, with the support of Professor Abiola Sanni (SAN).

9 Jamie Anderson et al. 'National Survey and Segmentation of Smallholder Households in Nigeria' (CGAP, 2017), <<https://microdata.worldbank.org/index.php/catalog/2922/download/40974>> accessed 6 June 2022.

10 Isaac William Martin, 'The Social Origins of The Texas Tax Club Movement, 1924–1925', *Journal of Policy History* 25 (2013): 404; The Chicago Tax Club, organised in 1933, is a nonprofit association consisting of individual tax professionals employed by corporations and other businesses. The principal function of our organisation is providing educational and networking events, in order to assist members in identifying and resolving tax compliance, planning and audit issues relating to their employers.

11 The need for more tax instruction in the wider curriculum of universities to boost tax compliance has been extensively discussed, notably: Bojuwon Mustapha et al., 'Need Analysis of Tax Education for Non-Accounting Program: Evidence from Nigerian Universities', *International Business Education Journal* 14, no. 2 (2021): 61.



Several years down the line, the tax club has, directly and indirectly, led to the formation of similar club structures across a sizeable number of universities in Nigeria. It remains the foremost student-managed tax group in Nigeria. This chapter seeks to provide the detailed background behind the formation of the tax club and to use the tax club as a point of reference to provide an exposition into the role of tax clubs in the advancement of tax education in Nigeria.

### **8.3 The creation of Tax Club UNILAG**

The Tax Club UNILAG was formed in 2006 with the aim of deepening understanding of tax, propagating the concept of tax, and providing an opportunity to network with industry practitioners. In essence, it could serve as a means for students with an interest in tax to build upon that interest and prepare for a career in the field. The founding members of the club considered various names, such as the Tax Awareness Forum UNILAG, before settling on simply the 'the Tax Club'.

The club was formed in the 2005/6 academic session with twenty members and a vision to increase tax education, particularly among youths. Initially, it faced problems of apathy, lack of publicity and logistics. However, the club was able to find its footing by leveraging the support of various corporate organisations, the professional body of tax advisers, the Chartered Institute of Taxation, Nigeria (CITN) and a subnational tax authority, the Lagos State Internal Revenue Service (LIRS). This is in large part due to the strong support given to its founders, by Professor Sanni. Through this network, members were able to organise seminars and invite reputable tax experts, provide internships for members in the taxation industry, and send representatives to taxation conferences.

An important part of the club's history is that it was the first student association within the Faculty of Law, University of Lagos, outside of chambers. This meant that substantial effort had to be put into convincing individuals of the benefits of the club within the faculty. Some challenges were unique at the time, due to the novelty of a student organisation within the faculty.

### **8.4 An overview of the club's activities**

There follow a number of programmes that are often employed by the tax club for the advancement of their aim and objectives. These activities provide an insight into what a tax club can achieve, as well as to provide inspiration to others.

**Monday Memo:** the Monday memo represents a piece of tax information that is shared weekly to educate people on happenings in the tax world. Usually short, it takes the form of 'did you know' that then gives information on the state or provisions of a certain development in taxation.

**Tax Thursday:** The Tax Thursday is a social media campaign which happens every Thursday where members of the club talk about tax issues online, particularly on Twitter.<sup>12</sup> With the tweets and retweets using the hashtag Tax Thursday, members of the public discuss prevailing tax issues. In 2017, the effort of the tax club received recognition when the Nigerian Vice President publicly endorsed the Tax Thursday campaign.<sup>13</sup>

**Tax Club Journal:** Titled the Tax Anthology, the journal of the tax club represents the club's well-researched contribution to tax knowledge. It features contributions from various experts in the tax field and covers policy evaluation, policy review, field research, case reviews and, sometimes, reviews of existing tax literature.

**Blog Post:** In-depth insight and explanations on topics related to tax are shared on the Club's blog. This can range from hot topics in the world of taxation to explanations of basic concepts. The blog also helps to stay up to date on the latest happenings. The blog features contributions from members of the club and the university community in general.

**National Tax Debate:** The National Tax Debate is an annual event where representatives of different schools compete with words on one stage. With about twenty universities taking part, the National Tax Debate is one of the biggest tax competitions in tertiary institutions in the country. The multistage competition begins with an essay qualification stage, where schools are expected to submit entries that serve as the basis of qualification to take part in the actual debating competition. The twenty universities that participate in the National Tax Debate enter a team of four members, excluding researchers, and student coaches. Participants also have the opportunity to make recommendations that may be submitted to policymakers.

At the National Tax Debate 6.0 (October 2021), the final round of the debate was a blueprint presentation aimed at proposing a lasting solution to the challenges associated with the effective administration of value

12 The tax club's social media presence has diminished considerably since 2021.

13 Ifeoluwa Adeyemo, 'Tax Thursday: Nigerian Govt. Unveils Campaign in Abuja Streets' (*Premium Times Nigeria*, 6 July 2017), <[www.premiumtimesng.com/business/business-news/236047-tax-thursday-nigerian-govt-unveils-campaign-abuja-streets.html](http://www.premiumtimesng.com/business/business-news/236047-tax-thursday-nigerian-govt-unveils-campaign-abuja-streets.html)> accessed 29 May 2022.

added tax (VAT) in Nigeria. The Winning Team, Team H (The University of Lagos), had its policy recommendation forwarded to: the National Tax Policy Implementation Committee, the Nigerian Economic Summit Group, the National Economic Council, the Federal Ministry of Finance, the Senate President, and the Speaker of the House of Representatives. This allowed the students to influence and guide policy formation and implementation.

**Professor Abiola Sanni (SAN) Essay Competition:** This is an essay competition named after the founder of tax clubs in Nigeria that rewards participants for their writing prowess and knowledge of taxation. The winner receives a cash prize and is published in the tax journal, among other awards. The award ceremony takes place on the last day of the National Tax Debate.

**Tax walk:** This is an event during which members of the tax club embark on a public enlightenment walk to educate people on the importance of paying taxes. It serves as an informal way of getting through to people who do not have access to print media.

**Tax Masterclass:** Leading practitioners of taxation are invited to teach students the intricacies of tax. The programme is open to members and non-members of the tax club and provides them with an opportunity for certification.

**Tea and Taxes:** Tea and Taxes is a breakfast meeting of tax practitioners, lawyers, policymakers, administrators and members of the club. It presents a unique networking opportunity for members of the club.

**Youth Tax Summit:** The Youth Tax Summit is a national summit open to young people all over the country. It presents an opportunity for those individuals to evaluate different tax policy issues, ask questions and debate potential solutions. The last edition of the Youth Tax summit was in 2017 and took the place of the traditional National Tax Debate.

**The Tax Experience:** The tax experience is quite similar to the traditional excursion, however in this case, it is a work visit to selected firms to have a firsthand experience of the workspace and workings of tax practitioners, right there on the field. The last edition of the tax experience was in 2017, during which members visited the 'Big 4' accounting firms and Dangote Nigerian Ltd.

## 8.5 The importance of tax clubs

Studies suggest that the low level of tax education in Nigeria may play a stronger role than deterrence as a leading cause of the low level of tax

compliance in the country.<sup>14</sup> According to a survey conducted by the Nigeria Economic Support Group, only 12 per cent of participants received information from the government about taxation. This low rate shows that information to help educate people about tax is not being efficiently disseminated.<sup>15</sup> In light of this, it is very important to bridge the knowledge gap as it relates to taxation.

Research has been carried out on how an increased understanding of tax laws, policies and regulations can increase the tax compliance rate among citizens. In their research 'The Challenges Affecting Tax Collection in Nigerian Informal Economy: Case Study of Anambra State',<sup>16</sup> the authors identified how a low level of tax education plays a significant role in the low level of tax compliance in the informal sector, which constitutes a huge source of tax revenue. This, therefore, leads to an increased level of tax evasion. The Tax Club UNILAG, therefore, provides an important societal function through its grassroots education and tax awareness schemes for its critical audience, the university students and the wider public.

This is done through various innovative programmes within the immediate university community and the society at large. Owing to its numerous activities, the tax club has shown itself to be a very important partner in the drive toward tax education. Below are some of the numerous benefits of the different activities of the club:

- Taxation can often be seen as an unexciting topic and there has been an acknowledgement in the literature of the need to deploy innovative mechanisms to improve students' interest.<sup>17</sup> The members of the tax club achieve this through various innovative and entertaining activities to drive home the knowledge of taxation among the students, including innovative games that raise awareness on tax issues, conducting mini tax competitions and pop quizzes, which incite the increased interest in taxation in the students.

14 Oladipupo, Adesina Olugoke and Uyioghosa Obazee, 'Tax Knowledge, Penalties and Tax Compliance in Small and Medium Scale Enterprises in Nigeria', *iBusiness* 8, no. 1 (2016): 1; see also Ezimma K., Nuel and Chika, 'Informal Sector and Nigerian Economic Prospects'; Burns and Owen, 'Nigeria'; McCulloch, Moerenhout and Yang, 'Building a Social Contract?'

15 Paul Jegede, 'Why Is Tax Collection Low in Nigeria' (*The Republic*, 14 December 2020), <<https://republic.com.ng/december-20-january-21/why-is-tax-collection-low-nigeria/>> accessed 26 May 2022

16 Nobert Osemeké, David Nzekwu and Robert O. Okere, 'The Challenges Affecting Tax Collection in Nigerian Informal Economy: Case Study of Anambra State', *Journal of Accounting and Taxation* 12, no. 2 (2020): 61.

17 Barbara Apostolou and others, 'Accounting Education Literature Review (2010–2012)', *Journal of Accounting Education* 31 (2013): 107.

- Curricula can often be old and out of date, especially in the world of taxation where tax laws are updated regularly.<sup>18</sup> The tax club helps provide a more up-to-date perspective, through its journal publication, *Tax Anthology*. Contributions from reputable minds in taxation from academia, practice and government over the last five years have helped students to be fully informed.
- The club takes its public tax education responsibilities seriously and aims to stir up conversation on salient and trending tax issues with the public. This is done largely through the Tax Memo. This memo saw increased participation online especially through the pandemic, as this was an avenue to educate the public in real-time and close the knowledge gap. This has thus ensured that the club takes awareness of taxation beyond the physical gathering and also leverages technology and its expansive possibilities to increase tax education. Engagements on these short updates have indicated that there is a bridge in the knowledge gap that is existent. The Tax Memo has an estimated reach of over 5,000 people. This includes our members and our followers on various social media platforms.<sup>19</sup>
- In addition to its online efforts, to advance public tax education, the tax club through its tax walk reaches out to those who are harder to access by the governments' traditional tax education activities in rural communities and informal settlements. Members of the club try to break down the fundamentals of taxation for these groups in a more simplified manner, in the bid to pass on the knowledge of taxation while equally garnering interest in tax compliance. The club has taken this activity to various 'hard to tax' markets in Lagos, Nigeria, such as the Yaba Market, the Alade market and the community of Adeniran Ogunsanya. This is usually done with collaboration from tax authorities such as the LIRS and the FIRS. With this activity, the tax club gets to increase tax awareness in the informal sector by passing across the knowledge on how taxes are used, how important taxes are and how to calculate taxes when necessary. The tax walk also presents members of the club with an opportunity for firsthand interaction with taxpayers and tax administrators.
- Tax education leads to empowered citizens but that also means citizens can critique the weaknesses or inadequacies of current laws and make recommendations for reforms. This can be evidenced through

18 Jirinwayo Jude Odinkonigbo, 'Constitutional Impediments to the Effective Review of Tax Cases in Nigeria by a Specialized Tax Court: Lessons from the United States and Canada', *Journal of African Law* 65 (2020): 111.

19 Over 1,500 members, which includes the club alumni; and over 3,000 Twitter followers, over 3,600 Instagram followers and over 700 followers on LinkedIn.

its active contribution to the public consultation sessions organised by the Ministry of Finance for upcoming Finance Acts. However, this is best demonstrated through its Tax Debate, its signature event. This event is well attended by members of the university community and the general public, with participants consisting of students from various tertiary institutions across the country, with the sole aim of debating a series of well-curated tax-related topics, which leads up to the grand debate of the event where two of the excellent universities face each other head-on in addressing very salient topics within the scope of taxation. The event is not just restricted to the debate, as often the tax club hosts a wide range of industry experts who also educate the university community and the society at large on taxation.

Through these activities, the tax club is helping to close the knowledge gap that exists in both the educational system and the society at large.

## **8.6 Some challenges faced by the tax club**

Challenges faced by the tax club include the limited participation of non-tax students,<sup>20</sup> the difficulty in fostering interest in taxation, limited tax knowledge and bureaucracy. Each of these challenges can critically impede the progress of the Tax Club UNILAG, and its ability to achieve its goals and objectives, so extensive steps have been taken to combat them. These challenges are not jurisdictionally limited to the Tax Club UNILAG. As such, the challenges are outlined below to help readers design and plan any tax club activities that they may wish to introduce in their own institutions or organisations.

The limited participation of non-law students in the activities of the Tax Club UNILAG impedes its objectives. This should not be the case as taxation involves more than the legal discipline: accounting students and students of other relevant disciplines, such as economics, history and public policy, all have something to bring to taxation. The Tax Club UNILAG has made an effort to be inclusive. It considers the various disciplines that make up the taxation industry and seeks to achieve a blend of individuals from these various industries. Traditionally, the Tax Club UNILAG is dominated by law students, primarily because the club is situated in the Faculty of Law. Consequently, non-law students often limit their participation in the activities of the club. The tax club has been carrying out awareness programmes

20 Aside from accountants and lawyers, most other students have no form of tax education in their curriculum. There have been calls for this to change; Mustapha et al., 'Need Analysis of Tax Education for Non-Accounting Program'.

to attract students in other faculties, letting them know that it is important that everyone understands how the tax system works. In addition, during the course of admission of new members, priority is given to having more non-law student members.

Another challenge faced by the club is the difficulty of fostering interest in taxation in students. Many law students do not take taxation law as a course until their penultimate or final years of study. Even then, it is often an elective course, only taken by some students. Therefore, the Tax Club UNILAG is required to take on the responsibility of fostering an interest in taxation in students. If the club fails to do this and waits for the students to naturally choose the course as an elective, there would be little time for the students to contribute meaningfully to the club. On the other hand, while the Tax Club UNILAG tries to foster interest, taxation law often remains an elusive and abstract topic for many students. This is why the club has tried to be very creative and practical in its approach to tax education and enlightenment, as can be seen from its numerous activities over the years.

The limited tax knowledge is also a challenge for the Tax Club UNILAG. Despite the best efforts of the members of the executive of the Tax Club UNILAG, the fact remains that members of the tax club are students. Therefore, they often have no practical experience. At best, what they have is extensive knowledge of the theoretical aspect of taxation. This poses a problem, as the members of the tax club ought to be highly knowledgeable and well versed in tax matters if they are to serve as advocates of taxation in a very short time frame.

University bureaucracy and administration is another challenge that the Tax Club UNILAG faces. This is something that is likely to impact any institution looking to hold such a club. It is important for staff working in a tax club to be aware of any administrative requirements needed to set up a club: as the Tax Club UNILAG is resident in the university community, it often has to deal with administrative bureaucracy, especially when dealing with the much larger university management. This requires time management, patience and organisation.

There are also challenges faced by the Tax Club UNILAG in their relations with the wider public. These challenges affect the ability of the tax club to carry out programmes and communicate with the general populace. These challenges include low tax compliance, the low level of interest in taxation in the population, the change of executive heads of the tax agencies, a lack of collaboration between the different tax clubs, and the poor security of Nigeria.

There is a low compliance and interest in the tax system among Nigerians. The National Bureau of Statistics recently reported that only 13 per cent of

the workforce is in the tax net, despite a labour force of 77 million people at the end of 2015.<sup>21</sup> Out of this, only roughly ten million people are registered for personal income tax purposes, according to estimates by the Joint Tax Board. Lagos alone accounts for about 4.6 million people (46 per cent), while other states have an average of 153,000 people (1.5 per cent).<sup>22</sup> The finance minister was recently quoted as saying that the VAT compliance rate is around 12 per cent.<sup>23</sup> The situation for corporate income tax is not much better. Prior to the recent increase in corporate tax registration, the former finance minister claimed that 75 per cent of registered companies were not in the tax net and that 65 per cent of those who were in the tax net did not file returns or pay taxes. This equates to less than 9 per cent of all companies operating in Nigeria.<sup>24</sup>

Taxes are seen as a wrongful act; something that takes away income from individuals. This is particularly so as the people do not see the spending effects of the taxes around them. Therefore, members of the public often become suspicious when they observe the Tax Club UNILAG carry out its activities. They believe that such actions are financially motivated and would be to their detriment. Members are often asked directly 'who paid you to do this' and 'how much were you paid'. People liable to pay taxes also do not see how the payment of these taxes would correlate to a benefit for them,<sup>25</sup> and often consider the members of the club who advocate for a better tax payment culture as puppets of the government.

The change of the executive heads of the tax agencies can also affect tax clubs. Tax clubs, including the Tax Club UNILAG, will often go through considerable efforts to build relationships with various tax authorities. This takes time and effort, especially in developing trust and goodwill with the tax authorities and executive heads. However, where there is no proper transition process and heads of agencies are suddenly changed, it can affect the relationship with the agency as a whole. New occupants may choose a new approach and abandon the projects of old occupants. Therefore, it becomes necessary to build the relationship once more. Thankfully, this has not been

21 Ade Adefeko, 'A Case for a More Robust Approach to Boosting Nigeria's Tax Revenues' (*The Cable*, 3 April 2018), <[www.thecable.ng/case-robust-approach-boosting-nigerias-tax-revenues](http://www.thecable.ng/case-robust-approach-boosting-nigerias-tax-revenues)> accessed 26 May 2022.

22 Tunde Chris Ogediran, 'The Rich Must Pay' (*The Interview*, 12 May 2021), <<https://theinterview.ng/2021/05/12/the-rich-must-pay/>> accessed 26 May 2022.

23 Ayo Bankole Akintujoye, 'Nigeria's VAT Increase: Penny-Wise, Pound Foolish' (*The Cable*, 15 September 2019), <[www.thecable.ng/nigerias-vat-increase-penny-wise-pound-foolish](http://www.thecable.ng/nigerias-vat-increase-penny-wise-pound-foolish)> accessed 26 May 2022.

24 Taiwo Oyedele, 'Guess How Many Nigerians Pay Tax and How Our Government Spends the Money', <[www.pwc.com/ng/en/assets/pdf/tax-watch-june-2016.pdf](http://www.pwc.com/ng/en/assets/pdf/tax-watch-june-2016.pdf)> accessed 26 May 2022.

25 McCulloch, Moerenhout and Yang, 'Building a Social Contract?'



the case for the Tax Club UNILAG so far. This is thanks to the leadership of agencies, such as the LIRS and FIRS, who understand the importance of tax education, and recognise that the much-needed gains of effective tax education cannot be realised without their support, which is instrumental to the success of the different activities of the club.

There is also the issue of a lack of collaboration between the various tax clubs, all over the country, and this is a major challenge for the tax club system in Nigeria. Working together across several states and the various geo-political zones has proven difficult with the reputation of one tax club affecting that of other tax clubs. The Tax Club UNILAG has been stuck in situations where members of the club travelled across several states only to be left waiting by hosts of tax clubs in other schools. There are also issues of poor transparency which do not augur well for the relationships between tax clubs across various schools. It is therefore important for tax clubs to come together to achieve their goals and objectives; the primary one being to advance the knowledge and practice of tax among youth in Nigeria and by extension the wider population. This could be achieved by having a network of tax clubs in a jurisdiction.

Finally, the tax club needs to consider the security of its members; for instance, the ability of its members to move around the country effectively to further its activities. This was most recently observed in the annual tax quiz by the Chartered Institute of Taxation, Nigeria (CITN). The competition was to take place in Kaduna State, and due to the recent security situation in the state, the representative of the club had to pull out at the last minute. The geopolitical backdrop of a country can significantly affect the work that can be done by a tax club.

This represents an extensive rundown of the numerous challenges faced by the Tax Club UNILAG; however, the club believes that these challenges are not insurmountable.

## **8.7 Support for the use of tax clubs in education**

As discussed in [Chapter 7](#) in relation to tax clinics, tax education, enlightenment and advocacy require financing, mentorship, guidance, and different levels and layers of support. To achieve its aims, the Tax Club UNILAG requires as much support as possible, and fortunately, the club has been largely blessed in this regard, being the recipient of both institutional support and private support.

For the institutional support, this is where the tax agencies and law firms that specialise in taxation can play a role. This includes companies and

organisations who have taken the support of the tax club as part of their corporate social responsibilities. From these institutions, the tax club enjoys support ranging from finances to mentorship, internships, training and capacity building. The Tax Club UNILAG considers institutional support as necessary to effectively achieve its goals and objectives, especially given the multiple challenges faced by the tax club.

For institutional support, the tax agencies such as the FIRS, LIRS, and the Chartered Institute of Taxation (CITN) also play a role. These institutions help to conduct training and organise awareness programmes and competitions that help increase the interest and knowledge of taxation among the students. They can also guide the tax club to achieve its goals and objectives. These institutions also provide internship opportunities to members of the tax club to gain practical experiences. This helps increase knowledge and interest in taxation and the tax club and so helps improve the tax culture among Nigerians at large. These institutions also provide financial support to the tax club to carry out their major programmes such as the National Tax Debate that the Tax Club UNILAG organises annually. The FIRS Chairman, Mr Muhammad Nami, attended the National Tax Debate 6.0 organised by the Tax Club UNILAG. He demonstrated his support further by granting cash prizes to all four finalists in the competition.

Another layer of institutional support can be seen with the 'Big 4' accounting firms, consisting of Ernst and Young, KPMG, PWC and Deloitte. These institutions help conduct training and work in collaboration with the Tax Club UNILAG to promote the tax culture in Nigeria. These institutions also allow members of the club to intern at their organisations. They also provide mentorship and guidance for the club and its members.

Law firms and accounting firms also provide institutional support, particularly law firms that are already known for their expertise in taxation. These firms conduct training and master classes geared towards increasing the interest in taxation among the students. And they also take in students as interns to gain exposure to the taxation industry. These law firms help by contributing to the Tax Anthology, providing individuals to serve as judges in the various competitions organised by the club.

Aside from the institutional support, another huge support base for the club features private individuals. Some individuals are committed to tax education in Nigeria. They help with the provision of funds, to ensure that the Tax Club UNILAG achieves its goals and objectives, capacity building, training and seminars. They also help sponsor events and training programmes that help increase the interest in taxation among the students and promote the tax culture in Nigeria.

There is a need for a long-lasting relationship between the private sector and institutions to support the activities of the tax clubs. The tax club should be seen as an avenue through which these institutions can help improve taxpayer understanding and improve the tax culture in a country. These institutions should also be interested in investing in tax clubs to build the capacity of students, which will improve the calibre of students entering the tax profession. All of these things have a positive impact on the Nigerian economy.

## **8.8 Looking to the future**

There are now over thirty tax clubs across different states and universities in Nigeria, all inspired by the initial work of the Tax Club UNILAG and the leadership of Professor Sanni, who has constantly devoted time and effort toward the expansion of tax clubs in Nigeria. The aim is to have a tax club in every tertiary institution in Nigeria.

Another thing the Tax Club UNILAG seeks to achieve (and by extension the other tax clubs in Nigeria) is the expansion of the club membership base beyond the faculties of law, business administration and management science. As of today, across all tax clubs, these faculties house many of the club members.

Beyond internal and external expansion, the tax club also aims to expand in terms of collaboration. At the last count, the club had a solid relationship with the federal and host state tax authority and other key stakeholders within the public and private sectors. However, in recognition of the club's potential, the club seeks even further collaboration.

While the club has been in talks with the Ministry of Finance, Budget, and National Planning, in the build-up to the 2019 and 2020 Finance Act, by being a part of the stakeholder and public engagement sessions, the club aims to develop its position and reputation in tax. The aim is to position the club to serve as a think tank for the formation of progressive fiscal policies and serve as a machinery for the implementation of such policies. The club also seeks further collaboration with the Ministry of Education to gradually bring tax education to the national curriculum and ensure the sustenance of tax clubs all over our educational institutions.

Beyond national borders, the club aims to engage with the international community, such as: the Tax Justice Network, OECD, the African development bank, the African Continental Free Trade Area Secretariat, and the World Trade Organization (WTO). This will allow the club to include the voices of young people in Nigeria on global issues like transfer pricing, Base Erosion and Profit Shifting, and the taxation of the digital economy, for example.

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## 8.9 Concluding remarks

A country with 60 per cent of its population under the age of twenty-four needs to focus on improving the tax literacy of its youth, especially with a majority of the entire population demonstrating little knowledge of tax. This is critical as part of an arsenal of tools available to turn around Nigeria's low tax-to-GDP ratio, especially with evidence suggesting a link between higher tax knowledge and tax compliance.

Taxation can often be seen as an unexciting area and generally, people tend to stay away from tax issues unless they have to, but incorporating innovative tax education activities in the younger population before they become full-fledged taxpaying citizens could go a long way to improving tax morale. If African countries like Namibia, Lesotho and Djibouti can boast of a tax-to-GDP ratio of over 30 per cent, then why can't Nigeria? This is a journey, and effective tax education of its citizens is a part of it.

This chapter also provides inspiration for those considering a tax club beyond Nigeria. The Tax Club UNILAG has engaged in a wide range of tax activities to promote tax understanding and embed a culture of tax within local communities.

# Chapter 9

## Public education

### *Engaging with secondary education in schools*

*Michelle Lyon Drumbl\**

#### 9.1 Key findings

This chapter will consider the benefits of public education by considering educational outreach projects in secondary schools. [Chapter 8](#) discussed the importance of tax education for young people. Forging relationships with local schools (and, indeed, wider community organisations) is a worthwhile endeavour for any clinical tax education project. In addition to the benefits to university students (covered in more detail in Part III), the community benefits include stronger ties to the local community as well as a contribution to the financial literacy (and tax literacy) of taxpayers.

#### 9.2 Introduction

Law schools in the United States have a rich history of clinical education,<sup>1</sup> and clinical education continues to thrive in light of the American Bar Association's requirement to incorporate experiential education offerings into law school curriculums.<sup>2</sup>

\* Michelle Lyon Drumbl, Robert O. Bentley Professor of Law and Director, Tax Clinic, Washington and Lee University School of Law. I wish to thank and acknowledge Cole Bollman and Pierce Rigney, Washington and Lee Law Class of 2019, who led the effort for our Tax Clinic to partner with Rockbridge County High School teachers in educational outreach to secondary school students. Since then, Luke Graham, Emily Hoover, Patrick Wright, Lizzy Barbaree and Felix Yan worked to continue the partnership; I am grateful to each of these clinic students, all of whom are now practising lawyers, who helped inspire this chapter.

1 For a historical overview of clinical legal education in US law schools, see J. P. 'Sandy' Ogilvy, 'Celebrating CLEPR's 40th Anniversary: The Early Development of Clinical Legal Education and Legal Ethics Instruction in U.S. Law Schools', *Clinical Law Review* 16 (2009): 1; see also [Chapter 2](#).

2 See United States: Standard 303(a)(3), 2021–2 ABA Standards and Rules of Procedure for Approval of Law Schools (mandating that law schools require each student to complete at least 'one or more experiential course(s) totaling at least six credit hours'). An experiential course is defined to include 'a law clinic [that] provides substantial lawyering experience

As discussed by Castelyn and Morgan in [Chapter 2](#), tax-themed law school clinics date back to the 1970s, with most such clinics providing direct representation to taxpayers who have a controversy with the Internal Revenue Service (IRS).<sup>3</sup> Today a national network of low-income taxpayer clinics (LITC) proliferates, with more than thirty-five US law schools currently operating a clinic that participates in the LITC programme, a federal grant programme administered by the IRS Office of the Taxpayer Advocate.<sup>4</sup>

The stated mandate of the LITC programme is threefold: LITCs must provide pro bono representation to low-income taxpayers in their disputes with the IRS; LITCs must educate low-income taxpayers and taxpayers who speak English as a second language as to their rights and responsibilities as taxpayers; and LITCs must identify and advocate for issues that impact these taxpayers.<sup>5</sup>

This chapter will focus on the second of those mandates. Specifically, it will consider the benefits of connecting with secondary schools on educational outreach projects and will describe how one LITC has undertaken such a partnership.<sup>6</sup>

I am the founding director of the tax clinic at the Washington and Lee University School of Law. Our law school is small, with fewer than 400 students. The law school is the only graduate programme at one of the oldest universities in the United States.<sup>7</sup> Our university is located in rural Virginia in Lexington, a town of fewer than 10,000 people. The surrounding county, Rockbridge County, has a population of fewer than 25,000 and largely consists of hilly farmland and pastureland. The nearest city of 100,000 or larger is an hour's drive away.

In these regards, our tax clinic is unlike LITCs at most other US law schools. Many of those clinics are in urban settings and are accessible by public transportation, more easily lending themselves to audiences for educational programming. As Sams outlines in [Chapter 7](#), listening to the community a clinic serves is important. The rural setting and scattered population in our

that involves advising or representing one or more actual clients or serving as a third-party neutral', Standard 304(c).

3 See Keith Fogg, 'History of Low-Income Taxpayer Clinics', *The Tax Lawyer* 67 (2013): 1.

4 United States: IRS Publication 5066 'Low Income Taxpayer Clinics Program Report' (2021).

5 United States: IRS Publication 3319 'Low Income Taxpayer Clinics' (Rev. 4-2021).

6 In the United States, the term secondary school may include middle school and/or high school students; in this chapter I use the term secondary school and high school interchangeably to refer to US grades nine through twelve.

7 Founded in 1749, Washington and Lee University is the ninth oldest institution of higher education in the United States.

location makes it challenging to plan meaningful opportunities for our law students to engage with the public.

This chapter first briefly addresses the critical role that LITCs play as defenders of taxpayer rights. Expanding into the other stated missions of the IRS LITC programme, the chapter then describes how and why the Washington and Lee University School of Law Tax Clinic has partnered with teachers at neighbouring Rockbridge County High School to deliver educational outreach to secondary school students. It outlines the challenges and benefits of such an endeavour.

### 9.3 Tax clinics as defenders of taxpayer rights

The primary stated mission of an LITC is to provide direct representation to taxpayers in order to assist in resolving controversies with the IRS.<sup>8</sup> I have written elsewhere about how LITCs embody taxpayer rights, including the right to representation and the right to a fair and just tax system.<sup>9</sup> Because LITCs provide pro bono legal representation, they allow taxpayers to pursue cases even over nominal dollar amounts.

In a law school clinic setting, students can devote as much time as needed to research and advocacy on client cases because it is core to the educational mission of the curriculum. This is a luxury that private practitioners do not have, and the benefits flow to the greater good of taxpayer rights. Whereas in many cases it would not make sense to pursue a low-dollar claim if a cost-benefit analysis were applied, in a clinic setting the students can disregard time and cost. I have supervised students who have spent more than twenty hours on a matter in which less than \$1,000 was at stake for our client. The ability to pursue these cases means that the IRS is held accountable to apply the law correctly, no matter what dollar sum is at stake. Clients are empowered, and our students reap a meaningful educational experience.

It is rewarding to supervise law students as they work cases for their clients. Prior to their time in the clinic, many law students have never spoken directly to a client or called a government agency on the phone. The students develop legal practice skills experience, and at the same time also finetune or develop skills around empathy and client communication. It can be an emotional experience for students to deliver positive or negative news to their clients.

8 See United States: IRC § 7526(b)(1)(A)(ii)(I).

9 Michelle Lyon Drumb, 'Tax Attorneys as Defenders of Taxpayer Rights', *Temple Law Review* 91 (2019): 813, 818.

As mentioned, a secondary mission of the clinic is to provide educational outreach to low-income taxpayers (and taxpayers who speak English as a second language) as to their rights and responsibilities as taxpayers. I require each clinic student to undertake an advocacy project, either individually or with a group. The advocacy project can take the form of a presentation to the public or to a local organisation; alternatively, students can research tax topics of their choice and create informational brochures, web pages or YouTube videos.

As a pedagogical choice, there are important reasons to devote time to advocacy projects through which law students can educate the public. Researching a subject matter and presenting it – whether directly to the public or via a written medium – empowers law students to master the material at a higher level of comprehension. This is a practical skills-based outcome, but there are less tangible benefits to the law students that make it a compelling pedagogical pursuit. Consider as an example the global Street Law programme,<sup>10</sup> which provides law students an opportunity to teach high school students ‘about law, the legal system, and the fundamental principles of democracy’.<sup>11</sup> Proponents of this well-known programme describe it as ‘an opportunity to develop the consciousness and other qualities necessary for social justice lawyering’.<sup>12</sup>

As a practical matter in my own experience, an advocacy project in the tax clinic provides an outlet for students to fulfil required clinic hours during times that their clients’ cases are relatively quiet; this fills gaps during the week as students wait on responses from the IRS or their clients in representation matters.

During the fifteen years that the Washington and Lee University LITC has been operational, students and I have experimented with many different types of advocacy and outreach projects. Some of our planned events have been admittedly ineffective or low impact, particularly when the topic matter is too general or not aimed at a specific audience. Overwhelmingly, I have found that most people are only interested in tax help when a problem is immediate – people are busy, and thus unlikely to choose to spend their

10 <<https://streetlaw.org/>> accessed 30 August 2022.

11 <<https://streetlaw.org/our-work/strategic-initiatives/law-school-programs/>> accessed 30 August 2022.

12 Elizabeth MacDowell, ‘Law on the Street: Legal Narrative and the Street Law Classroom’, *Rutgers Race & L. Rev.* 9 (2008): 285, 291; Sean G. Arthurs, ‘Street Law: Creating Tomorrow’s Citizens Today’, *Lewis & Clark L. Rev.* 19, no. 4 (2015): 925 (describing the ‘civic ignorance’ of high school students and the history of the Street Law programme’s origins at Georgetown University Law Center).



free time attending an information session solely to enhance their understanding of a subject matter.

Each year I mind map with my students about how best to entice an audience with the information we have to offer the public. More than once, students have designed a continuing legal education programme for lawyers; that proved to be an effective way to draw an audience because lawyers are required to obtain a certain number of those education programme credits annually. Some years we have partnered with specific community organisations to make them aware of tax consequences, benefits or pitfalls relevant to a particular population served by that organisation. For example, we reached out to the local women's shelter and provided training on tax topics of particular relevance to women who are in transition out of domestic relationships.

Other times, we have sought a captive audience of taxpayers. One year we partnered with the human resources office of a local employer and presented information about income tax credits available to low-income families. That programme was well-attended, but it seemed redundant to return to the same group in future years.

In 2018, two of my clinic students suggested partnering with the local high school in their advocacy project. They shared with me their view that, as teenagers, high school students are an ideal age at which to introduce a basic knowledge of tax; they and other clinic students remarked that they wished their own high school education had included more instruction on personal finances. This anecdotal evidence resonates with studies of financial literacy and young people,<sup>13</sup> which has in part served as the impetus for states requiring a personal finance course in high school.<sup>14</sup> After having represented a variety of clinic clients who made simple mistakes with their taxes, these clinic students felt it made sense to direct our educational outreach to young people because at that age group those individuals were about to enter, or had very recently entered, the workforce. Thus, they

13 In a survey exploring views on personal finance matters of Americans aged 18–26 years old, 40 per cent of respondents expressed that they wished they had learned in school how to do taxes. Only 15 per cent of those respondents aged 18–21 years old reported that they did their own taxes, while 44 per cent of those aged 22–26 years old reported doing so: Bank of America/USA Today Better Money Habit Report, 'Young Americans & Money' (Fall 2016), <[https://about.bankofamerica.com/assets/pdf/BOA\\_BMH\\_2016-REPORT-v5.pdf](https://about.bankofamerica.com/assets/pdf/BOA_BMH_2016-REPORT-v5.pdf)> accessed 30 August 2022.

14 An empirical study of three states mandating personal finance classes in public schools found a correlation with higher relative credit scores and lower relative delinquency rates: Alexandra Brown et al., 'State Mandated Financial Education and the Credit Behavior of Young Adults' (FEDS Working Paper No. 2014–68, 25 August 2014), available at SSRN: <<https://ssrn.com/abstract=2498087>> accessed 30 August 2022.

posited that if we could introduce these concepts and make the teenagers aware of common pitfalls before they entered the work force, we might help prevent them from making costly errors. An added benefit to this project is that each year will bring us a fresh audience in the form of a new class of students. The students also felt the tax clinic could establish itself as a known resource for high school teachers and guidance counsellors, both for educational outreach and also to refer individuals to us for controversy representation.

To date, the partnership with the local high school has been my favourite outreach project. Notwithstanding the challenges posed by the COVID-19 pandemic, we have continued the partnership four years in a row, and I intend to make it a regular part of my students' tax clinic experience going forward.

The next section describes how our clinic first pursued the opportunity, what the educational presentation looks like, and the benefits of this partnership.

## 9.4 Partnering with secondary education

### What it looks like

Our clinic is located within a ten-minute drive of Rockbridge County High School, a large public high school that serves residents of Lexington City and surrounding Rockbridge County. It is a secondary school, serving grades nine through twelve, which in the United States is generally ages fourteen to eighteen. There are approximately 950 students enrolled in the high school, and it serves a wide socioeconomic demographic. While many students who graduate from the high school will continue with postsecondary education, many of the graduates will not, and some portion of the students do not complete high school.<sup>15</sup> Rockbridge County High School students can choose to pursue a standard diploma or an advanced studies diploma, with those intending to enrol in a university generally electing the latter. All students, regardless of which diploma track they elect, are required to take a course in economics and personal finance in order to graduate.

This required course in economics and personal finance provides an excellent point of collaboration for the clinic to offer educational outreach on tax issues. The students have already received an introduction to some of the topics that we might touch on in our presentation, and the subject matter is a natural fit.

15 <[www.towncharts.com/Virginia/Education/Rockbridge-County-VA-Education-data.html](http://www.towncharts.com/Virginia/Education/Rockbridge-County-VA-Education-data.html)> accessed 30 August 2022.

The first group of tax clinic students who presented at the high school designed a template presentation that subsequent clinic students have followed. The topics and precise level of details covered can be changed from year to year, either to incorporate feedback from the high school students and teachers or to incorporate changes in the tax law. The topics we have covered in the years we have done this outreach touched on three major themes: 1) an introduction to the income tax system; 2) an introduction to the most common federal income tax forms; and 3) an introduction to tax concepts that young people are most likely to encounter as they enter the workforce.

On the first point, the law students started the presentation with a simple query: 'what are taxes, and why can the government tax us?' Taking nothing for granted in talking to teenagers, the presentation covered the history and the power of the federal government to tax income and explained the role of the IRS. The law students explained that 'paying taxes is an obligation that all Americans share' and they provided examples of government services and public benefits that are funded by taxes. They explained the income thresholds for filing; while most high school students are not likely to earn enough money to owe federal income tax, those who are not categorised as an employee might have to pay self-employment tax. The presentation highlighted why it is worth determining whether a refund is due, explaining that families in particular may be due refundable credits even if no income tax is owed. The law students also emphasised the consequences of failing to file a return, filing the return late or not paying the tax due. In our clinic's controversy representation, we work with a lot of clients who owe additional penalties and interest for running afoul of the filing deadline or overlooking their obligation to file or pay. The clinic students wanted to impress upon new workplace entrants the importance of respecting those obligations and deadlines, as well as the related financial consequences for not doing so. The law students believed that educating taxpayers on such basic points at an early age could help prevent problems later in life.

This first theme of topics segues nicely to the second. The law students explained the various income tax forms that workers and income recipients must fill out, and they communicated that these information reporting forms are also sent to the IRS. Again, this point was inspired by our work with clients; a surprising number of independent contractors who receive a year-end Form 1099 reporting the total amount of payments they received for the year do not understand that the IRS also receives this information.

The law students displayed a sample Form W-4, which is the Employee Withholding Allowance Certificate that employers are required to have new employees complete so that the employer can determine how much money to withhold and remit to the IRS from each pay cheque (payslip or

salary payment) on behalf of the employee. They used this moment to ask whether any of the high school students had filled out this form in connection with a summer job. Many had, and this engaged the audience more in the conversation. The law students explained the importance of proper wage withholding so that one does not end up owing a balance due when filing an income tax return the next year. Next, they displayed Form W-2, the Wage and Tax Statement, which is the year-end information report received by anyone who earned wages as an employee the prior year. They explained how to use the information from each box to complete an individual income tax return. Pivoting from employment to self-employment, the law students showed the information forms that report taxpayer details and income for nonemployees.

In the third segment of the presentation, the students explained commonly encountered tax concepts. They displayed examples of income tax brackets, using the numbers to explain marginal rates and the concept of progressive taxation. On this point, they emphasised that one generally is never worse off for earning more money because the actual rate of taxation is blended. They explained filing statuses, which included a description of how in the United States a married couple may elect to be taxed as a unit. They introduced the high school students to the concept of a standard deduction for all filers and explained how the United States uses its revenue system to distribute social benefits to low-income taxpayers and taxpayers with children.

The presentation concluded with answers to some commonly asked questions: How are tips handled? Is over-withholding a good idea? How do I know how much money to set aside to pay taxes if I am self-employed? What are the ways I can file a return? What records should I keep? Time was preserved in each class for a question-and-answer session, with the high school students sometimes asking the law students for advice about school and career choices.

## **How the partnership was established**

For law students, the research and design of the substantive presentation was perhaps the easiest portion of the advocacy project. The harder part, and one that comes less naturally perhaps, came first: reaching out to the school and to teachers to forge a partnership. It is very helpful that our state, Virginia, mandates a required course in economics and personal finance as a graduation requirement. As of 2020, twenty-one US states require a personal finance course, while twenty-five states require an economics [course](#).<sup>16</sup>

16 <[www.councilforeconed.org/wp-content/uploads/2020/02/2020-Survey-of-the-States.pdf](http://www.councilforeconed.org/wp-content/uploads/2020/02/2020-Survey-of-the-States.pdf)> accessed 30 August 2022.

Generally such courses teach financial literacy on topics such as budgeting and borrowing. While they typically may not include detailed coverage of income taxes, the course provides a natural link for the subject; hence it is relatively easy to persuade teachers of the value of our guest lecture on the subject. The teachers at Rockbridge County High School have also welcomed the idea of outside speakers in their class.

The clinic students who initiated the partnership first reached out to the high school principal to propose the idea. Even at this early stage, the students provided a draft slide presentation and an outline of the content that they proposed to cover. Persuaded of the value of such a presentation, the principal connected the clinic students with each of the three instructors who taught economics and personal finance. Early planning was essential, because the teachers wanted to find a time in the school year that fits well with their lesson plans.

Establishing and building this relationship between the tax clinic and the high school took several weeks of email communication, and then several more rounds of email exchanges to schedule the visits. The clinic students were patient and persistent, and ultimately were able to schedule times to present to each economics and personal finance class offered at the high school. Because the first year of our presentations was well designed and went smoothly, the teachers welcomed such a collaboration in future years, but still there were challenges.

One challenge is the inevitable turnover on both sides of the partnership. Students enrol in the tax clinic for a full academic year, meaning there is institutional continuity, but no personal continuity from year to year. At the high school as well there is turnover, both as to administrators and to the economics and personal finance teachers. Another challenge is that not all law students have the desire or the personality to navigate or enjoy such a partnership. The lead student on the project must possess a natural degree of confidence and initiative, as well as an interest in teaching to a general audience. Students who do not feel as comfortable presenting to an audience may be intimidated at the idea, but the project can also be an excellent opportunity to hone those skills before entering the legal profession.

Of course, the COVID-19 pandemic presented unexpected challenges. The first year of our partnership was spring 2019. Inspired by what they heard of that experience, the next academic year's clinic students worked to put everything in place for similar presentations in the spring of 2020. They were able to visit a limited number of classes in February and early March 2020 before the public health situation forced the schools to close down and go virtual, abruptly ending the collaboration for the year.

By spring 2021, the high school was open in person to students but closed to visitors; undaunted, the law students worked with the high school teachers to create a video format of the presentation that the students could watch on their own. This virtual format necessitated a pedagogical shift that was mirrored across all educational formats; to ensure that the high school students would engage with the material, the clinic students designed a quiz for the high school students to complete so that the teachers could evaluate it as a homework assignment. Having undertaken this shift also demonstrates that the programme can be expanded beyond the local, in-person model; while we returned to in-person presentations in 2022, we now know that our clinic and others can offer such online programming to high schools located in more remote regions that lack the access to in-person options.

### **Benefits of the community partnership**

This partnership has a number of intrinsic advantages, including strengthening the university's ties to the local community as well as providing mentorship and public service opportunities to the law students. The law students benefit from the opportunity to master substantive law and present it in front of an audience, and they gain experience fielding spontaneous questions. They have to carefully consider which questions to answer or when to say they do not know the answer. All of these skills are important for lawyers.

Of course, the community benefits as well. The public school teachers generally appreciate and welcome volunteers in their classrooms as well as the opportunities for curricular enrichment presented from a different perspective. While it would be hard to quantify the degree to which a single programme can enhance financial literacy, every new exposure to the subject can provide possible benefits to the high schoolers.

Because the law students are close in age to even the youngest high school students (on average not more than ten to fifteen years older), they have an easier time developing a conversational rapport with the high school students than I would. As the parent of a high school student myself, I would most likely be viewed by the high school students as a parent rather than a relatable mentor. This is a positive example of peer learning that provides fresh opportunities for exchange between two age bands of students. The law students opened their presentation with the caveat that 'there are no stupid or dumb questions' and encouraged the high school students to interrupt at any time with questions. The law students effectively engaged the younger students with humour and openness. They asked those high school students who have had a summer job or part-time job to share their experiences with their classmates.

By ending each class session with an open-ended question-and-answer session, the high school students were presented with the informal chance to ask the law students practical questions about applying to college as well as what it is like to go to law school. This led to additional connections between the high school and the law school; for example, one teacher invited the law students to come to the high school's Future Business Leaders of America club meeting.

In short, the partnership has proved to be a wonderful way for law students to serve as role models, and for the high school students to connect with young adults they otherwise would not have had a chance to meet. For some high school students, this may be their only opportunity to interact in person with a law student, and it may help them imagine the possibility of pursuing a law degree themselves. The legal profession is keen to diversify and expand access to the profession, and this is one example of outreach that might resonate with teenagers as they consider their own future.

## **9.5 Conclusion**

Collaborating with secondary schools has resulted in benefits both expected and unforeseen, and I am very grateful to the clinic students who initiated this project. By continuing it annually, I hope we will contribute locally to an increased tax morale and a public awareness of why taxes matter. Perhaps for some individuals we will prevent tax problems that would have otherwise occurred. As defenders of taxpayer rights, these are also important functions for an LITC.

# Chapter 10

## Taxpayer resolution

### *Improving taxpayer compliance in Indonesia*

*Kristian Agung Prasetyo and Khusnaini\**

#### 10.1 Key findings

Most of Indonesia's national income is from taxes. The notable part of this is the significantly small contribution of individual taxpayers, perhaps due to the low level of voluntary compliance. In a way to improve compliance, Polytechnique of State Finance STAN and the Indonesian Tax Office collaborated to initiate a community-based tax clinic for small-business owners. This chapter will discuss the initiative commonly known as *UMKM Sahabat Pajak/USP* (Friends of Tax/FoT). The strategy chosen for this initiative was to focus on taxpayers' needs, which might not directly involve taxation. This resulted in a series of workshops/trainings on bookkeeping, marketing or branding. The general aim was to aid FoT members to grow their businesses. The argument was that once their businesses grow, they would be willing to voluntarily pay their taxes.

Further, measures to improve taxpayer compliance can be more successful if they are conducted by fellow colleagues within the business community compared to when the measures are introduced by the tax office or tax authority. This effectively transformed FoT members to be volunteer tax agents for the community. Currently, FoT members have sufficiently maintained their own network of tax and business support for colleagues and enjoy a relatively healthy relationship with the tax office. Recent research suggests that FoT members have significantly lower social distance compared to those who do not belong to FoT.

#### 10.2 Introduction

This chapter reports tax clinic initiative in Indonesia as a part of a collaborative project between Polytechnique of State Finance STAN (STAN) and the Directorate General of Taxes (DGT). Both institutions are under

\* Polytechnique of State Finance STAN.



the Indonesian Ministry of Finance. The tax clinic project stems from a joint research project between National Taxation Training Centre and Polytechnique of State Finance in 2014. The aim of the research project was to study efforts that might be useful in improving tax compliance of small-business owners in South Tangerang. The location was specifically chosen due to its proximity with the DGT head office and the STAN campus. There was also a branch office of the DGT located in the area, which made coordination between the parties involved in the project easier. The project has grown into what is now known as the FoT community. FoT now has become a large community-based tax clinic assisting its members in meeting their tax-related obligations. The initiative outlined in this chapter provides a good example of how a tax clinic can benefit community members as well as improve their overall compliance with taxation rules.

This chapter documents the FoT initiative from its inception in 2014 until late 2020 based on two previous research projects conducted by the authors independently. The research involves interviews with several individuals conducted as part of this research (Table 10.1). The interviewees will be referred to by pseudonyms throughout this chapter to maintain their anonymity.

To provide readers with a context behind this tax project, this chapter starts with a short introduction to the Indonesian taxation system and its current revenue performance. It will then describe the birth of FoT as part of a concerted effort in improving taxpayer compliance; the lessons from FoT can be taken forward to other jurisdictions to help support greater taxpayer compliance.

**Table 10.1:** Details of interviewees<sup>1</sup>

<i>No</i>	<i>Interviewees</i>	<i>Interview Location</i>	<i>Interviewee's Position</i>
1	Taxpayer 1	Experiment venue, Serpong	Small-business owner
2	Taxpayer 2	Experiment venue, Serpong	Small-business owner
3	Taxman 1	Tax office, Pondok Aren	Tax official
4	Taxpayer 3	Exhibition venue, Bintaro	Small-business owner
5	Taxpayer 4	Exhibition venue, Bintaro	Small-business owner

### 10.3 Taxation in Indonesia in a nutshell

The foundation of taxation in Indonesia is found in the constitution. Article 23A of the Indonesian constitution provides that: *'Pajak dan pungutan lain*

<sup>1</sup> The two research projects from which this chapter was written passed a rigorous research proposal examination conducted by the Financial Education and Training Agency (FETA) of the Indonesian Ministry of Finance in collaboration with Universitas Indonesia.

*yang bersifat memaksa untuk keperluan negara diatur dengan undang-undang'* (All taxes and other levies for the needs of the state of a compulsory nature shall be regulated by law). This article generally says that the Indonesian government must not impose financial burden on its constituents without the consent of their representatives in the parliament. This materialises in the enactment of several tax laws such as, among others, the income tax law, value added tax (VAT) law, and the law on general administrative provisions (*Ketentuan Umum dan Tata Cara Perpajakan/KUP*). Tax is defined in article 1, number 1 of the KUP law as:

*kontribusi wajib kepada negara yang terutang oleh orang pribadi atau badan yang bersifat memaksa berdasarkan Undang-Undang, dengan tidak mendapatkan imbalan secara langsung dan digunakan untuk keperluan negara bagi sebesar-besarnya kemakmuran rakyat*

(compulsory contribution to the state payable by individuals or other legal entities that is legally enforceable under the law, without direct benefits and is used to finance the state's expenses for the maximum benefits of the people).

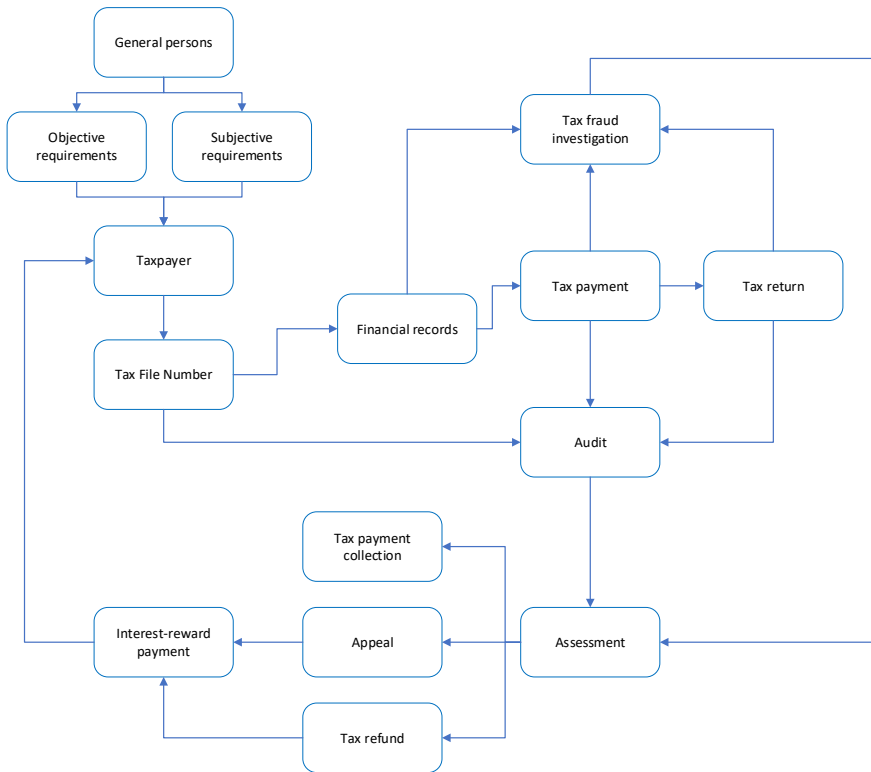
The term compulsory means that a measure of collection from those obliged to pay is required. In this context, as shown in Figure 10.1, the Indonesian taxation system generally follows the self-assessment system.

In essence, the self-assessment system starts with those who are required to be registered as a taxpayer to voluntarily obtain a *Nomor Pokok Wajib Pajak* (a Tax File Number). Once registered, they calculate their tax payable, remit the payment to the bank, and annually lodge a tax return to the tax office. The tax office may then audit those returns based on certain criteria and could issue their own assessment. This results in either a further tax collection, if taxpayers underpaid their tax, or a refund, if there is an overpayment.<sup>2</sup> The taxpayer may disagree with the auditor's assessment and can request an appeal. If the appeal is successful, a certain amount of interest may also be paid by the government to the taxpayer, in addition to a tax refund, if it is found during appeal that there is an overpayment. The following sections provide a more detailed explanation.

## Registration

As seen in Figure 10.1, a person who satisfies subjective and objective requirements, as found in the income tax law, must register themselves as a taxpayer.

2 By law, a refund request can only be granted after an audit.



**Figure 10.1:** Self-assessment system as applied in Indonesia. Source: Author.

This includes length of stay or company incorporation in Indonesia<sup>3</sup> or a foreign entity who has a permanent business place in Indonesia.<sup>4</sup> A person who is legally required to register as a taxpayer but deliberately fails to do so can be penalised.<sup>5</sup>

## Bookkeeping

Once a person is registered, that person is required to calculate, pay their tax and then report it to the tax office.<sup>6</sup> To be able to do so, they need to maintain the necessary financial records.<sup>7</sup> Those with an annual turnover

3 Indonesia: Income Tax Law 36/2008, s 2(3).

4 Ibid., s 2(5).

5 Indonesia: General Tax Administration Law 28/2007, s 39(1).

6 Ibid., s 3(1).

7 Ibid., s 28(1).

not higher than IDR 4.8 billion (~USD 335,000) are only required to maintain simple financial records as opposed to a full financial statements.<sup>8</sup> Most FoT members fall under this category. A taxpayer who is required to maintain honest financial records but deliberately fails to do so may be subject to either criminal or monetary penalties.

## Payment

Taxpayers use information obtained from financial records to calculate and pay tax payable. The minister of finance has set various dates that determine the maximum period of tax payment. For example, monthly prepayment of income tax must be made no later than the fifteenth day after a taxable period ends.<sup>9</sup> Another example can be found in article 2A Minister of Finance Regulation No PMK-80/PMK.03/2010 where a VAT payment must be made before the VAT return is lodged. In addition, if a taxpayer at the end of a financial year lodges an income tax return stating underpayment, that underpayment must be paid before the tax return is lodged, which is usually due by either 31 March or 30 April.<sup>10</sup> A payment made after these dates attracts penalty interest of 2 per cent per month.<sup>11</sup>

## Reporting

Once payments have been made, taxpayers lodge a signed tax return either annually (for income tax) or monthly (for VAT).<sup>12</sup> If the tax office finds evidence that a particular taxpayer has not calculated and paid their tax payable in accordance with the applicable rules, the law grants the tax office the authority to calculate the correct amount of tax payable.<sup>13</sup> The tax office has five years to issue a Notice of Tax Underpayment Assessment in such a case.<sup>14</sup> Once the five-year period has elapsed, the temporary assessment becomes permanent if the tax office does not issue any assessment<sup>15</sup> unless there is a criminal verdict issued by the court.<sup>16</sup>

8 Indonesia: Minister of Finance Regulation No PMK 197/PMK.03/2007 on bookkeeping regulation for individual taxpayers.

9 Indonesia: Minister of Finance Regulation No PMK-80/PMK.03/2010 on tax payments.

10 Indonesia: General Tax Administration Law 28/2007, s 9(2).

11 *Ibid.*, s 28(1), s 9(2)(a) and s (9(2)(b).

12 *Ibid.*, 28/2007, s 4(1).

13 *Ibid.*, s 12(3).

14 *Ibid.*, s 13(1).

15 *Ibid.*, s 13(4).

16 *Ibid.*, s 13(5).

Article 3 paragraph (3) KUP law provides that for income taxation, a tax return must be lodged no later than three months (for individual taxpayers) or four months after the end of a financial year (for other than individual taxpayers). As Indonesia's financial year runs from 1 January to 31 December, individuals therefore must lodge their return no later than 31 March or, for other than individual taxpayers, 30 April.

## **Audits and penalties**

For those who fail to comply with reporting requirements, certain financial penalties apply.<sup>17</sup> This includes penalties for late lodgement, penalty for failing to lodge a tax return, or penalty for reporting incorrect financial conditions. It is also possible for a taxpayer to overpay their taxes. In this case, that taxpayer may request a refund.<sup>18</sup> The tax office will then conduct an audit to determine if that claim is correct.<sup>19</sup> If it is, a tax overpayment assessment letter will be issued once the audit has been completed.<sup>20</sup> This audit must be completed within twelve months<sup>21</sup> and the overpayment refund must be made no later than one month after the audit has been completed.<sup>22</sup>

An audit can also be aimed at examining taxpayer compliance.<sup>23</sup> Here, auditors check the accuracy of information contained in tax returns, financial records or tax payments. If an audit produces a result that a tax is underpaid, then a Notice of Tax Underpayment Assessment is issued. A taxpayer, however, may challenge that assessment through an objection process. If the taxpayer finds that the result of the first process is unfavourable, an appeal may be lodged in the tax court.<sup>24</sup> In case of a tax crime, the procedure generally follows the criminal law prosecution process, administered by a district court with the potential to proceed to the Supreme Court. It should be noted however that to be eligible for an appeal, a taxpayer must pay the tax payable up to the amount that is agreed by that taxpayer.<sup>25</sup>

17 Ibid., s 7(1).

18 Ibid., s 11(1).

19 Ibid., s 17B(1).

20 Ibid., s 17(1).

21 Ibid., s 17B(1).

22 Ibid., s 11(3).

23 Ibid., s 29(1).

24 Ibid., s 27(1).

25 Ibid., s 25(3a).

## 10.4 Revenue and taxpayer compliance

Taxation – which follows the basic tenets outlined previously – is the largest source of revenue in Indonesia. In 2020 for instance, according to the 2020 Auditor General’s report, nearly 81 per cent of Indonesia’s income is from a tax-related source. As the Indonesian government’s budget increases continuously, so, too, does the tax revenue target. In 2013 for example, tax revenue target reached more than IDR 1,000 trillion (~USD 77 billion). In 2022, it was agreed that tax revenue target should increase to IDR 1,510 trillion (~USD 105.6 billion).<sup>26</sup>

It is, however, important to note that the DGT, based on the government-audited financial statements released by the auditor’s office, has not been able to meet its revenue targets since 2009.<sup>27</sup> This is problematic in view of the fact that tax revenue is the largest source of national income.<sup>28</sup> The audited financial statements also reveal that the individual taxpayers’ contribution towards total tax revenue is significantly lower than that of corporations (Figure 10.2). This suggests that there may still be plenty of opportunities to optimise tax revenue from individual taxpayers, particularly small-business owners in Indonesia.

In addition to Figure 10.2, we can also see the difficulties in meeting tax revenue using the tax-to-GDP ratio. Data obtained from the World Bank database shows that there is a decreasing trend in Indonesia’s said ratio (Figure 10.3). It is important to note from this figure that despite the continuous increase in GDP, Indonesia interestingly suffered from a steady downward movement of tax-to-GDP ratio for the last decade. It appears that the DGT does not seem to be able to realise tax revenue from the ever-increasing tax base.

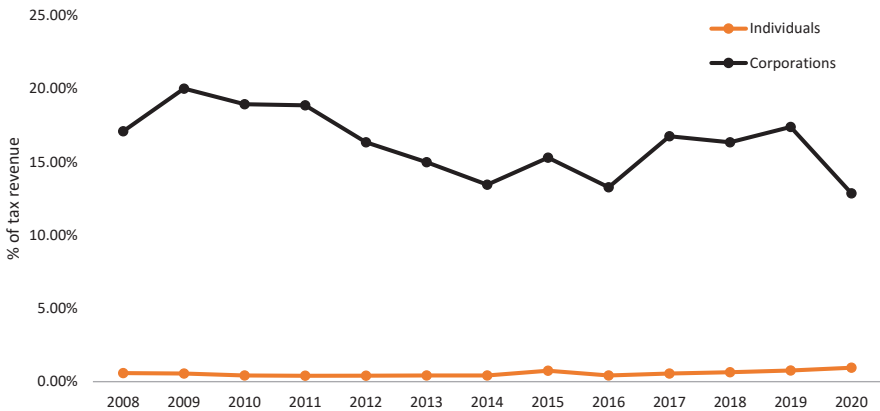
Figure 10.3 seems to reiterate the difficulties faced by the DGT in meeting the targeted revenue. This appears to contradict the continuous increase in the tax-return lodgement rate.<sup>29</sup> Apparently, the tax-return lodgement rate does not positively correlate with tax revenue-to-GDP ratio (Figure 10.3). This might indicate that taxpayers, particularly individuals, may not be entirely truthful in reporting their income as required by the self-assessment system

26 <[www.kemenkeu.go.id/publikasi/siaran-pers/siaran-pers-rapbn-2022-pemulihan-ekonomi-dan-reformasi-struktural/](http://www.kemenkeu.go.id/publikasi/siaran-pers/siaran-pers-rapbn-2022-pemulihan-ekonomi-dan-reformasi-struktural/)> accessed 30 August 2022.

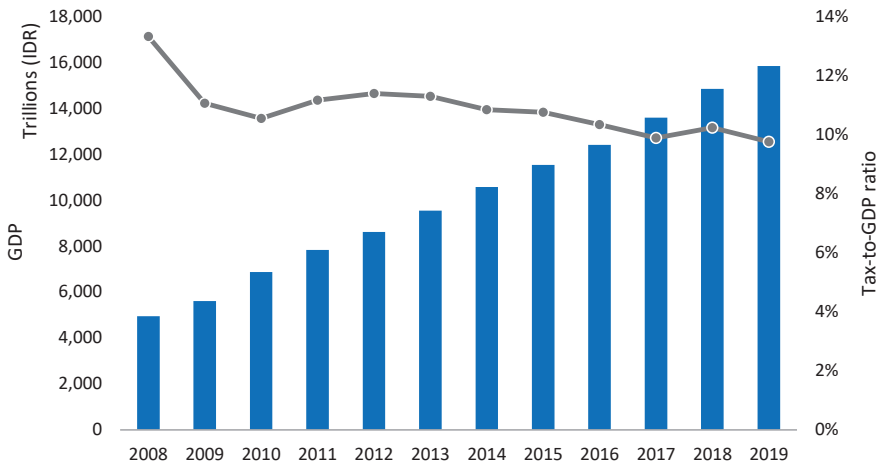
27 Full financial statements from 2009 to 2021 can be downloaded from <[www.bpk.go.id/lkpp](http://www.bpk.go.id/lkpp)> accessed 30 August 2022.

28 The targeted revenue in 2021 has been met according to several media statements. The official number however will not be available until the Auditor General Office releases their audit report.

29 See the DGT’s 2021 annual report: <[www.pajak.go.id/sites/default/files/2021-02/LAKIN%20DJP%202020.pdf](http://www.pajak.go.id/sites/default/files/2021-02/LAKIN%20DJP%202020.pdf)> accessed 30 August 2022.



**Figure 10.2:** The contribution of individuals versus corporations towards tax revenue (2008–20).<sup>30</sup>



**Figure 10.3:** Tax-to-GDP ratio (2008–19).<sup>31</sup>

(Figure 10.1). In other words, formal compliance improves but material compliance may be otherwise. The question is, therefore, how to improve the overall, both formal and material taxpayer compliance. The next section discusses an attempt made by one of the authors of this chapter.

30 This graph is constructed based on the audited financial statements released by the Auditor General Office. The full statements can be downloaded from [www.bpk.go.id/lkpp](http://www.bpk.go.id/lkpp).

31 This graph is constructed based on the data provided by the World Bank. It can be downloaded from <https://api.worldbank.org/v2/en/indicator/GC.TAX.TOTL.GD.ZS?downloadformat=excel> accessed 30 August 2022.

## 10.5 Improving individual taxpayer compliance

### Early research

Early theoretical studies suggest that taxpayers comply because of fear of being caught cheating taxes and thus penalised for doing so.<sup>32</sup> Several experimental studies in Indonesia indeed provide a support for this notion.<sup>33</sup> This stance generally assumes that taxpayers are rational and hence, their decision in complying with tax rules, or otherwise, is purely based on a cost and benefit trade-off calculation. The Indonesian tax administration rules described in section 1 closely follow this approach.

Individuals, however, are not always rational. This makes researchers use insights obtained from behavioural economics to study taxpayer compliance, particularly in a group setting. One important aspect in this context is social norm. A social norm is a pattern which is shared by community members.<sup>34</sup> Thus, if one acts in accordance with the agreed norm, then that individual is seen to behave in an appropriate manner, or vice versa.

It should be noted, however, that taxpayers with limited knowledge in taxation may unknowingly be noncompliant because they do not know that what they do is not in accordance with the applicable tax rules.<sup>35</sup> This is known as unintentional noncompliance. There is, unfortunately, another group of taxpayers who are deliberately being noncompliant regardless of their level of knowledge. In Indonesia, several experimental studies show that some taxpayers may comply even less the tax-savvier they have become<sup>36</sup> or the higher their education level is.<sup>37</sup> Most activities described in this chapter, however, deal with the first-mentioned type of compliance.

Taxpayer education in Indonesia normally takes the form of an oral presentation from the tax office, or other knowledgeable parties, followed by a question-and-answer session after the end of the presentation. Some

32 James Alm, 'What Motivates Tax Compliance?' *Journal of Economic Surveys* 33 (2019): 353.

33 Kristian Agung Prasetyo and Suhut Tumpal Sinaga, 'Tax Compliance: An Experimental Approach', *Hasanuddin Economics Business Review* 1 (2017): 27; Bambang Juanda, 'Ekonomi Eksperimental Untuk Pengembangan Teori Ekonomi dan Pengkajian Suatu Kebijakan' (2010), <[https://bbjuanda.files.wordpress.com/2010/09/270910\\_orasi-bambang-juanda1.pdf](https://bbjuanda.files.wordpress.com/2010/09/270910_orasi-bambang-juanda1.pdf)> accessed 20 August 2018.

34 James Alm, 'What Motivates Tax Compliance?' *Journal of Economic Surveys* 33 (2019): 353.

35 Margaret Anne Mc Kerchar, *The Impact of Complexity upon Unintentional Noncompliance for Australian Personal Income Taxpayers* (University of New South Wales, 2003).

36 Prasetyo and Sinaga, 'Tax Compliance'.

37 Juanda, 'Ekonomi Eksperimental Untuk Pengembangan Teori Ekonomi dan Pengkajian Suatu Kebijakan'.



consider that this approach would not significantly improve taxpayer compliance as its delivery, and perhaps the contents of the education as well, may not be able to stir up taxpayers' interest. It is thus essential to have an alternative form of tax education that attracts taxpayers' attention.

Khusnaini offers a new tax education that was based on the Fogg Behaviour Model (FBM). The idea behind FBM is that a person will commit a certain action if that person is motivated to do so and the said action is an easy task.<sup>38</sup> Another factor that may be important is timing: for example, a person is likely to complete the task if the deadline is approaching.

Looking at the normal way of how tax education is delivered, potential taxpayers are likely to be less motivated to attend. They certainly would prefer not to spend their time at the tax office listening to an official talking about tax and potentially lose sales or trade while doing so. Triggers, such as a threat of being penalised, are often not very useful as small-business owners are frequently outside any formal database. They traditionally are part of what is referred to as 'those who are hard to tax'. This means that even if they evade taxes, they can potentially (or are even likely to) escape from being penalised as they do not exist in the database. As such, it was only logical when such events conducted by the DGT in the past only attracted minimal participants.

Khusnaini conducted an experiment in collaboration with the DGT's branch in Serpong, a suburb located in the South of Jakarta, to consider new ways of attracting more attendees.<sup>39</sup> This location was selected due to its proximity with PKN STAN campus. This tax office also has a large number of small-business owners in their coverage area. In this research, 160 small-business owners were invited to a tax education event. They were randomly assigned to two groups, referred to as group A and B, each of eighty taxpayers. Invitations were sent to members of both groups to attend a tax education session in Serpong tax office.

There were differences in how each of the sessions were conducted. Group A were advised that the event was in the form of a lecture delivered by two tax officials followed by a question-and-answer session. By contrast, for group B, in addition to a short talk on taxation, an information session, based on the FBM principle, was also organised. A number of speakers were invited, including speakers from a financial institution, a small-business owner and an online marketing trainer. In group A, out of eighty members who were invited, only ten attended and some left before the event concluded.

38 Brian J. Fogg, 'A Behavior Model for Persuasive Design' (Proceedings of the 4th International Conference on Persuasive Technology 2009).

39 Khusnaini and Agung Widi Hatmoko, 'Efektivitas Penyuluhan Pajak Berdasarkan Pendekatan Fogg Behavioral Model (FBM) Terhadap Tingkat Kepatuhan Wajib Pajak Orang Pribadi (Studi Kasus Pada KPP Pratama Serpong)' (Kajian Akademis BPPK, 2014).

For group B, out of eighty invitations, a hundred people arrived at the venue (which would indicate a growth via word of mouth).<sup>40</sup>

After each session, the participants were requested to complete a Likert-type questionnaire covering attributes such as tax knowledge, taxpayer compliance, their perception towards tax, their ability to make tax payments, motivation in paying tax and trigger for tax payments. The results showed that members of group B overall have a higher score compared to group A. This means that for these participants, tax education delivered based on the FBM approach was able to deliver a more favourable outcome. They also showed improved compliance and attitudes towards taxation. For example, Taxpayer 1, who was part of the B group, said that she 'is going to comply with tax rules and to straight away register to be [a] taxpayer'. In a similar tone, Taxpayer 2 mentioned that she 'put a proud-to-pay-tax souvenir in her office so that her customers are aware of their taxes too'. Some of the participants who belonged to group B later became the core part of the FoT community.

### **The formation of the FoT community**

Khusnaini's research outlined in the preceding section attracted the DGT's attention and became a precursor of a new approach in their tax education with the introduction of what they named the Business Development Service (BDS) in 2014. Generally, BDS takes the form of a seminar. In these seminars, practitioners, such as business owners or marketing consultants, are invited as speakers, allowing taxpayers who join the event to listen to the talks and engage in a question-and-answer session later. This latter session is the only time when taxpayers interact with the presenters. There are normally no follow-up sessions to see if the event contributed significantly towards taxpayer compliance.

This approach was not sufficient (Taxman 1).<sup>41</sup> This interviewee then invited several local business owners, who were also taxpayers administered in his office, to discuss possible new approaches that might be more suitable for their needs. This initiative failed to attract significant interest. While it is clear that in an Indonesian context tax education is important in improving taxpayer compliance,<sup>42</sup> designing a tax education programme that can be beneficial to the tax office as well as taxpayers is challenging.

40 The invitation was apparently shared among small-business owners in Serpong.

41 Kristian Agung Prasetyo and Muhammad Djufri, 'Identifikasi Faktor Yang Mempengaruhi Intensitas Komunitas UMKM Sahabat Pajak (USP) Untuk Patuh Dalam Membayar Pajak' (Kajian Akademis Pusdiklat Pajak, 2020).

42 Fany Inasius, 'Factors Influencing SME Tax Compliance: Evidence from Indonesia', *International Journal of Public Administration* 42 (2019): 367.

Taxpayers, generally individuals, do not seem to be interested in attending such programmes. This challenge is not unique in Indonesia. Mascagni and Santoro report that taxpayer education in Africa also faces similar challenges.<sup>43</sup> They note in their report that although a number of innovative approaches have been introduced, such as the use of edutainment, they often have little or no impact on taxpayers' behaviour. In addition, the education programmes generally have limited participant attendance if they are not made compulsory. Therefore, there is a need to have an innovative education event that garners taxpayers' interests.

In Indonesia, the Serpong branch of the DGT was later reorganised into Serpong and Pondok Aren branches. The Pondok Aren branch is located in the vicinity of STAN campus. Interviewee, Taxman 1, who worked at the Pondok Aren branch and had undertaken the previous efforts to revitalise tax education discussed above, contacted Khusnaini to organise a marketing and exhibition event for local business owners in collaboration with STAN. STAN became the lead organiser of the event to boost participation because normally, as evident in previous meetings organised by Taxman 1, similar events conducted by the tax office only attracted minimal attention. This is understandable as the DGT normally does not have a favourable place among small-business owners. This perhaps contributes to the difficulties faced by the DGT in arranging a tax education programme that attracts taxpayers' interests.

In this context, Taxpayer 3, for example, mentioned that for them, the tax office was scary because their main job was to 'take money [from people]' and 'penalise those who fail to pay tax'. And once taxes are paid, the money will probably be 'siphoned off by tax officers themselves'. Such a view is also evident in Africa, which makes encouraging taxpayers to comply a challenge.<sup>44</sup>

During the exhibition event in STAN, the tax office just had a small booth distributing tax-related information. Later after the event, it offered more support and had more significant presence within FoT by letting them use the meeting room located in the tax office on weekends and providing a small space in the lobby for these small-business owners to feature some of their products (Figure 10.4).

The tax office even provided assistance by providing a printed product catalogue and a small space for display and sale of those products on weekends (Figure 10.5).

43 Giulia Mascagni and Fabrizio Santoro, 'What Is the Role of Taxpayer Education in Africa?' (*African Tax Administration Paper 1*, 2018), <[www.ictd.ac/publication/what-is-the-role-of-taxpayer-education-in-africa/](http://www.ictd.ac/publication/what-is-the-role-of-taxpayer-education-in-africa/)> accessed 30 August 2022.

44 Ibid.



**Figure 10.4:** Gallery of FoT products at the tax office. Photo taken by Prasetyo.

Most business owners involved in this programme organised themselves in an association they called the FoT community in July 2016.

### **The development of FoT**

The Pondok Aren involvement in FoT became more significant once FoT was established. They began to deliver greater tax-related content as well as the business-friendly oriented materials. As a result of the closer relationship between the two, taxpayers began to question their original perception of the tax office. It is true that there are penalties, but in reality, tax officials are willing to negotiate as to how those penalties are applied depending on taxpayers' specific circumstances. They began to see the humane side of the tax office.

They also recognised that it is difficult for tax officials to siphon tax money paid by taxpayers. Corruption, even though it still occurs, is becoming rarer in DGT. It is felt that the DGT's focus has now shifted to serving taxpayers, with a focus on the needs of the taxpayers. Taxman 1 in this respect says that the approach is on what business owners need: 'What they currently need? Oh bookkeeping, and we did a workshop on bookkeeping. What will they need tomorrow? Branding.'



**Figure 10.5:** Gallery of FoT products at the tax office. Photo taken by Prasetyo.

In addition, Taxman 1 also raises an important comment during interview. They believe that the Indonesian tax office's current approach now resembles farming rather than mining (Taxman 1). Farmers plant, grow and then cultivate, whereas miners only 'cultivate' and never grow. Once the mineral,

or whatever they mine, runs out, miners leave. A tax office who cares for their taxpayers' business should act like a farmer, not a miner.

Improving the FoT members' overall perception towards the tax office makes them more cooperative. They now actively participate in education events held by the tax office. FoT even have their own entrepreneurial and tax workshops for small-business owners and experienced FoT members are often the speakers at these events and classes. Sometimes tax officials are invited, but mostly, these events are for FoT members by FoT members. Taxpayer 5 believes that this happens because there is a willingness between FoT members to help one another. For example, when one member wishes to pay income tax in instalments and does not know how, another member is willing to help to sort things out. Complying with tax rules has somehow become a social norm shared by FoT members.

Tax education has now shifted from being difficult to attract participants, to where participants are actively involved in organising education events. Peers, such as close friends or family members, have been found to have a significant influence in making a taxpayer compliant or otherwise.<sup>45</sup> Here, FoT has bridged the gap in providing an education programme that benefits both the tax office and taxpayers. It is noted that before the formation of FoT, only 4 per cent of small-business owners participated in early events at the beginning of FoT and paid income tax. The attendance rate of education programmes held by the tax office was normally poor. Once FoT was formed and conducted their education programmes, the number of FoT members who paid income tax rose to 90 per cent.<sup>46</sup> On the taxpayers' side, most FoT members benefit from the entrepreneurial workshops, held in conjunction with STAN and the tax office, in the form of an increased sale. As the size of their businesses grow, so too do their tax payments.

The OECD notes that defining a clear objective is a significant step in designing a successful tax education programme.<sup>47</sup> The objective of a tax education programme should cover the information to be delivered and to whom it is delivered. A clear programme objective provides a strong ground in overcoming small audiences or a low reaching event. The FoT community deals with this issue by recognising the needs of its members, which may include more than simply taxation. The tax office also accepts, as noted by Taxman 1 noted earlier, that it is not sufficient to focus their programme solely on tax-specific issues. As tax payments generally depend on the size of taxpayers'

45 Inasius, 'Factors Influencing SME Tax Compliance'.

46 Ambarwati, 'Evaluasi Pelaksanaan Pemenuhan Kewajiban Pajak Orang Pribadi Tertentu Pada Kantor Pelayanan Pajak Pratama Pondok Aren', *Jurnal Transparansi 2* (2019): 44.

47 OECD, *Building Tax Culture, Compliance and Citizenship: A Global Source Book on Taxpayer Education* (2nd edition) (OECD, 2021).

business, it is in the interest of the tax office to promote a favourable environment where businesses can grow in a sustainable manner. The miners' metaphor used by Taxman 1 succinctly puts this in context. This stimulates what is referred to as reasoned-based trust between FoT members and the tax office as they have a common goal.<sup>48</sup>

Trust is also at play here. The literature is clear that making taxpayers comply in a low-trust environment is difficult.<sup>49</sup> The FoT community helps with this issue by conducting tax education programmes delivered by members of the community for their peers. For example, one FoT member may not know how to generate a billing code required to make income tax payments. Another, more experienced, FoT member then steps in and provides a step-by-step guide. Presently, there are several members who act as part of a go-to team like this.

A tax education delivered this way can result in higher levels of trust, as taxpayers tend to trust their peers more. Indeed, opinion from other people – such as peers, coworkers, family or friends – is often important in shaping a taxpayer's compliance.<sup>50</sup> After all, people tend to comply with a social norm if they are well informed about it.<sup>51</sup> For this reason, taxpayers will likely evade taxes if such behaviour is widespread among their peers, and vice versa.<sup>52</sup> FoT provides an environment for its members where compliance with taxation law, which now has become their norm, is encouraged.

At the moment, FoT has grown to become a large community-based organisation. Initially, as described in preceding sections, FoT consisted only of a small number of small-business owners in the vicinity of PKN STAN. These days, FoT has grown larger covering around 400 small-business owners (Table 10.2).

Please note that although this programme is considered to be able to improve taxpayers' perception towards the tax office and their overall compliance, particularly in the Banten region, the contribution of FoT towards overall tax revenue, as explained by Taxman 1, remains financially small. Thus, a larger

48 Katharina Gangl et al., 'The Relationship between Austrian Tax Auditors and Self-Employed Taxpayers: Evidence from a Qualitative Study', *Frontiers in Psychology* 10 (2019): 1.

49 Erich Kirchler, Erik Hoelzl and Ingrid Wahl, 'Enforced versus Voluntary Tax Compliance: the "Slippery Slope" Framework', *Journal of Economic Psychology* 29 (2008): 210.

50 John Scholz, Kathleen McGraw and Marco Steenbergen, 'Will Taxpayers Ever Like Taxes? Responses to the U.S. Tax Reform Act of 1986', *Journal of Economic Psychology* 13 (1992): 625.

51 Cass R. Sunstein, *Conformity: The Power of Social Influences* (New York University Press, 2019).

52 Kirchler, Hoelzl and Wahl, 'The Relationship between Austrian Tax Auditors and Self-Employed Taxpayers'.

**Table 10.2:** Friends of Tax member demographics

<i>Description</i>	<i>Total</i>
Total FoT members	406
Sex	
Female	72%
Male	28%
Religion	
Muslim	92%
Christian/others	8%
Types of products	
Food and beverages	60%
Clothing	19%
Craft	10%
Others	11%

scale initiative at a national level is required if one wishes to significantly improve the tax revenue contribution made by small-business owners. This chapter nonetheless contributes to the overall tax education and tax policy discussion by offering a way to improve the compliance of small-business owners through education.

## 10.6 Conclusion

This chapter describes a different approach to the traditional tax clinic, as discussed in much of this book. This approach is specifically grounded in the Indonesian experience. The normal approach to community tax education in Indonesia is through a one-way lecture on a certain topic followed by a question-and-answer session later. This classical approach is often not very useful for small-business owners. In Indonesia, small businesses are hard to tax. It is difficult for tax officials to enforce tax rules for this particular type of taxpayers.

To deal with this issue, this chapter describes the use of a taxpayer-centred tax education based on the Fogg Behavioural Method. In general, the new approach results in more taxpayers attending the tax education events and an improved taxpayers' perception towards the tax office. Following the events, a community-based association of small-business owners was established. This community, named FoT, works closely with the tax office to introduce initiatives that help improve taxpayer compliance for small-business



owners. Initial findings suggest that not only is there a higher rate of individual compliance, but that they also urge their colleagues to follow their steps in adhering to the applicable tax rules, often without the involvement of tax officials.

It is important, however, to emphasise that a larger scale of similar initiatives is still required to significantly address the low tax compliance of small-business owners. Once the low compliance issue is addressed, tax revenue should generally increase accordingly.

# Chapter 11

## Policy changes

### *Impact on and through the Tax Court*

*Keith Fogg\**

#### 11.1 Key findings

Tax clinics can shape the law through litigation. This broader impact of clinical tax education allows the voices of the unrepresented to be heard in the courts and for the tax laws to be shaped accordingly. Low-income taxpayers have a harder path to walk in litigation and are less likely to be successful. Without tax clinics, it is even less likely that such voices would be heard through the litigation process. Not all clinics will have the capacity or resources to undertake tax litigation. For those considering it, clinics can help in case evaluation, case development and assistance in court. This can allow a tax clinic to achieve positive outcomes for taxpayers (for example, a higher chance of settlement in favour of the taxpayer) as well as the development of tax law. Clinics can also comment on tax regulations and guidance, which can lead to an even greater impact.

#### 11.2 Introduction

While the Internal Revenue Service (IRS) may not stop and think about the importance of every case and its possible impact, it generally approaches litigation strategically. Its larger goal is to shape the law through litigation rather than just to win or lose individual cases because of the dollars at issue. In addition to a relatively strategic approach to litigation, it also uses its rule making power to create legal provisions that best assist the IRS in the administration of tax laws, rather than those which protect the interests of low-income taxpayers.

In order to effectively represent low-income taxpayers as a group, clinics must also approach litigation and rule commenting in a strategic manner. Unlike large corporations and other well-funded taxpayers, low-income taxpayers typically do not have a vision for facilitating changes to the law that could

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benefit the group as a whole. Each low-income taxpayer generally fights their own battles with the government without the benefit of collective and coordinated action that could lead to the most favourable outcomes. The tax clinic at Harvard Law School, often acting in concert with others, seeks to promote outcomes in litigation and through the comment process that can achieve the best results for low-income taxpayers as a group as well as serve the best interest of the taxpayer whose case sits at the heart of the litigation. [Chapter 7](#) written by David Sams explains the importance of listening to the taxpayer community as a part of determining the best interest of taxpayers beyond the individual being represented. This chapter will focus on why pursuing litigation with an eye towards its ability to foster a broad impact, and why making comments on proposed regulations, can provide a path to best serving the community of low-income individuals.

## 11.3 Government approach

### Litigation

The IRS is a repeat player present in all federal tax litigation.<sup>1</sup> It has a large group of in-house attorneys (lawyers) at the local and national level who handle its litigation and who write its regulations. The local attorneys perform the trial work, but they act on the direction of the attorneys located in the National Office who approach each issue strategically. Because of its position as a repeat player, the IRS can pick and choose the cases it litigates in order to promote the best outcomes. At the National Office, its attorneys become subject matter experts in narrow areas of the tax law. The IRS National Office groups them into subject matter areas generally headed by an attorney with many years of experience who can see the broader implications of individual cases. These attorneys advise the local attorneys as to which cases to push forward and which cases to concede. In this way, the IRS has significant influence over the cases offered to judges for decisions, as well as a significant ability to shape the course of the law through litigation.

In the United States, the legal system operates as a precedent-based system, with new decisions being influenced by the outcomes of earlier cases having similar fact patterns.<sup>2</sup> If precedent exists from Case A and later the same or

1 In every federal tax case in the United States the taxpayer is the petitioner (Tax Court) or the plaintiff (District Court) and the IRS is the respondent or the defendant. There are no federal tax cases brought by a private party against a private party.

2 See Evan Caminker, 'Why Must Inferior Courts Obey Superior Court Precedents?' *Stanford Law Review* 46 (1994): 817, 818; Erin O'Hara, 'Social Constraint or implicit Collusion? Toward a Game Theoretic Analysis of Stare Decisis', *Seton Hall Law Review* 24 (1993): 736.

similar facts come before the same or a lower court in Case B, the outcome of Case B will be controlled by the precedent set in Case A. It's possible that if Case B had gone first, the judges might have reached a different outcome, perhaps because Case B has much more sympathetic facts and would have offered the judges a different lens through which to view the matter. Similarly, the possibility exists that the taxpayer in Case B received representation from a much more accomplished lawyer who considered matters not argued in Case A. By controlling, or at least influencing, which cases move forward in litigation first, a repeat player can seek to have the case(s) with the facts most favourable to the outcome it seeks go first and establish precedent and can otherwise choose which cases will move forward to decision. In this way, one could describe precedent as path dependent, since the order of presentation to the courts can impact the setting of precedent.

By incrementally obtaining decisions on issues of importance, the IRS can shape legal precedent and set the stage for future success. It does this not only at the trial level but also in the decisions it makes on which cases to appeal.<sup>3</sup> When parties bring litigation in an appellate court that the IRS does not like or that has a case with issues that are especially favourable to taxpayers, the IRS will seek ways to concede or otherwise dispose of those cases, waiting for subsequent cases in a more favourable jurisdiction or with more favourable facts.<sup>4</sup> Because it is a repeat player, it has the ability to shape litigation in an effort to better control precedent. That does not mean that the IRS can totally control which cases move forward in litigation but does give it much more control over the system than individual litigants have.

## Regulations and other rules

Of course, the IRS also influences the law through actions other than litigation. Perhaps through regulation it plays an even more important role, given the power of regulations to shape and control the law.<sup>5</sup> When Congress passes legislation, it relies on agencies to explain the law.<sup>6</sup> In explaining the

3 See generally Keith Fogg, 'The Room of Lies' (*Procedurally Taxing*, 6 August 2015), <<https://procedurallytaxing.com/the-room-of-lies/>> accessed 1 September 2022; Keith Fogg, 'The Room of Lies Part 2' (*Procedurally Taxing*, 7 August 2015), <<https://procedurallytaxing.com/the-room-of-lies-part-2/>> accessed 1 September 2022.

4 Carlton Smith, 'Tax Court Jurisdiction in Late-Filed Deficiency Cases' (*Procedurally Taxing*, 17 April 2020), <<https://procedurallytaxing.com/tax-court-jurisdiction-in-late-filed-deficiency-cases/>> accessed 1 September 2022.

5 Maeve P. Carey, 'An Overview of Federal Regulations and the Rulemaking Process' (*Congressional Research Service*, IF10003, 19 March 2021).

6 Margaret Lemos, 'The Other Delegate: Judicially Administered Statutes and the Nondelegation Doctrine', *Southern California Law Review* 81 (2008): 405, 434 (stating that Congress intends to delegate interpretive authority to administrative agencies); see generally

law, the IRS seeks to write regulations which, of course, follow the legislative mandate of Congress, but which also interpret that mandate in a manner most favourable to the government. Once the IRS has properly promulgated a regulation, courts in the United States are generally bound by the interpretation of the IRS, so long as it has reasonably interpreted the law.<sup>7</sup>

The same lawyers in the IRS National Office who look for cases in litigation that present the best facts also write the regulations. As mentioned, the lawyer assigned to write a regulation will be a subject matter expert on the topic on which the regulation is written and the work will be reviewed by senior lawyers and executives with many years of experience in the area. Through regulations, the IRS shapes the interpretation of changes to the law made by Congress.<sup>8</sup>

## 11.4 Role of tax clinics in shaping the law

### Litigation: impact of clinics on individual cases

Prior to the existence of low-income taxpayer clinics, low-income taxpayers essentially had no voice in shaping the law, either through litigation or through regulations. Low-income taxpayers brought litigation which could impact the law, but almost without exception, each individual taxpayer who sought to litigate an issue in their own case gave little or no thought as to how their case might influence the body of law governing low-income taxpayers as a whole.

Occasionally, a low-income taxpayer with compelling facts, the ability to persevere and good fortune would win an important case. Some important examples in the US tax system are: *Vera v. Commissioner*, in which the Tax Court determined that the petitioner could bring an innocent spouse case into the Tax Court for a tax period for which she had previously received a notice of determination because the IRS included the year in a second notice of determination;<sup>9</sup> *Loveland v. Commissioner*, in which the Tax Court clarified that meeting with a revenue officer does not qualify as a prior administrative hearing which has preclusive effect on collection issues that a taxpayer may want to raise in a collection due process (CDP) hearing;<sup>10</sup> and *Porter v. Commissioner*, in which the Tax Court held that the taxpayer was entitled to

Margaret Lemos, 'The Consequences of Congress's Choice of Delegate: Judicial and Agency Interpretations of Title VII', *Vanderbilt Law Review* 63 (2010): 363.

7 United States: *Chevron, USA, Inc. v. NRDC, Inc.*, 467 US 837, 843 (1984); Antonin Scalia, 'Judicial Deference to Administrative Interpretations of Law', *Duke Law Journal* 3 (1989): 511 (discussing the *Chevron* doctrine and the Court's deference to an agency's reasonable interpretation of law).

8 Robert Reilly, 'Gleaning IRS Guidance', *The Practising CPA* 26 (2002): 6.

9 United States: *Vera v. Commissioner*, 157 T.C. No. 6 (2021).

10 United States: *Loveland v. Commissioner*, 151 T.C. 78 (2018).

equitable relief under §6015(f) even though she had reason to know of the taxable distribution because of other mitigating factors.<sup>11</sup>

Most cases in the United States involving low-income taxpayers result in a loss for the taxpayer.<sup>12</sup> That common outcome does not mean the taxpayer should have won and lost only because of the lack of representation. It does, however, reflect the fact that pro se litigants have a more difficult path to success.<sup>13</sup> In many cases, the taxpayer takes a case to litigation because the pro se taxpayer lacks the skills to properly evaluate the case. In some notable cases, the low-income taxpayer lost a case that established precedent, which in turn damaged the chances of future taxpayers who may have had more compelling facts and law.<sup>14</sup>

The IRS benefits when it litigates against most pro se taxpayers since the IRS always has a well-trained lawyer who can outmatch the pro se taxpayer in arguing the law and the facts. It is not the goal of the IRS or the Tax Court to reach the wrong conclusion because the taxpayer is unrepresented, but in an adversarial system, the pro se taxpayer is almost never equipped to match the skill in arguing the case that the government brings. This imbalance puts extra pressure on the court to try to cause full development of the factual aspect of the case and to perform additional legal research on its own. The court will almost always struggle to provide the taxpayer with the protection that a well-trained lawyer could bring to the contest.

Low-income taxpayer clinics bring several benefits to the Tax Court cases in which they engage. They assist the taxpayer in properly evaluating the case and thereby facilitate settlement of some cases that otherwise would have gone to trial because of the inexperience of the taxpayer. They assist in case development which often results in settlement of the case, often favourable to the taxpayer, because the proper development of the case allows the IRS to see why the taxpayer should prevail in whole or in part. They assist at

11 United States: *Porter v. Commissioner*, 132 T.C. 203 (2009).

12 National Taxpayer Advocate, 'Annual Report to Congress' (Vol. 1, 2016) at 414 (providing data that pro se taxpayers prevailed in only 17 per cent of cases from June 2015 through May 2016).

13 *Ibid.* (providing data that shows represented taxpayers prevailed 22 per cent of the time, compared to 17 per cent for pro se taxpayers).

14 Keith Fogg and Caitlin Hird, 'Pro Se Precedent in Tax Court: A Case for Amicus Briefs', forthcoming. Among the cases discussed in the article are United States: *Walquist v. Commissioner*, 152 T.C. 61 (T.C. 2019) (holding that certain penalties do not need prior supervisory approval); United States: *Lewis v. Commissioner*, 128 T.C. 48, 49 (T.C. 2007) (limiting the situations in which taxpayers can contest the merits of their tax liability in Collection Due Process Cases); and United States: *Greene-Thapedi*, 126 T.C. 1 (2006) (holding that taxpayers in collection due process cases cannot obtain a refund). These are just a few of the cases in which pro se taxpayers litigating in the US Tax Court created precedential opinions binding future pro se taxpayers as well as future represented parties.

trial to make sure that proper evidence goes into the record, making it more likely that the taxpayer can succeed, and they assist in writing briefs. So, on the individual case level, low-income taxpayer clinics provide significant assistance to the taxpayers they represent, which makes it more likely that the taxpayer will prevail or will settle and less likely that the taxpayer's case will result in an unfavourable precedential opinion.

Clinics have some constraints that the IRS does not have in trying to use litigation to shape future law. While the IRS can make strategic decisions to concede certain cases, clinics represent individuals and have a duty to those individuals to zealously represent them. Sometimes an individual may not have the best case for progressing an area of the law but has a viable case, nonetheless. Unless the client decides to be strategic in continuing to press a case, a clinic may be bound to represent the individual litigant, despite knowing that the client's case may not be the best one with which to try to shape the law. Clinics have more leeway if they are coming in at the appellate level and offering to appeal a case that might not otherwise be appealed.

### **Litigation: impact of clinics on the community of low-income taxpayers**

While individual case representation by the clinics provides a significant benefit to the individual taxpayers and to the system, clinics or some clinics with better resources, have the ability to use litigation to shape the law. Each individual clinic does not see as many cases as the IRS sees; however, on some issues clinics will see enough cases to pick and choose the best ones for litigation. Clinics also have the ability to see outcomes and to approach unrepresented taxpayers to offer the service of taking their case on appeal or making a request for reconsideration.<sup>15</sup>

The first example of clinics in the United States working together in a coordinated litigation strategy in an effort to change the law occurred in an attack on the regulations then promulgated under IRC 6015(f). This code provision came into existence in 1998. The regulation written by IRS attorneys explaining the law took the position that taxpayers only had two years after the IRS began collection activity within which to make an innocent spouse request for relief under IRC 6015(f).<sup>16</sup>

15 While the United States: ABA Model Rule on Professional Conduct 7.3 prohibits in-person solicitation of clients for the monetary gain of the individual lawyer or their firm, the rule does not prohibit clinics from soliciting clients since the representation will occur at no cost to the client and no pecuniary gain to the clinician. So, at least in the United States, attorneys working at clinics have the ability to approach individual clients and create a represented matter.

16 United States: Relief from Joint and Several Liability, 66 Fed. Reg. 3888 (17 January 2001); United States: Relief from Joint and Several Liability, 67 Fed. Reg. 47278 (18 July 2002).

The 1998 legislation created three paths to innocent spouse relief – IRC 6015(b), (c) and (f). In subparagraphs (b) and (c) the statute provided the two-year limitation within which the claimant had to act after the IRS initiated collection action on the liability; however, (f) contained no such time limitation. Despite the absence of a statutory provision setting a time limit for requesting relief, the IRS wrote such a limit into its regulations. When the regulations were written, the IRS requested comments on the proposed regulation; however, it received no comments on this provision.<sup>17</sup>

Two clinics joined together to attack the regulation provision, and they succeeded in convincing the Tax Court that the regulation invalidly limited the time within which the taxpayer could request (f) relief.<sup>18</sup> The IRS appealed the decision in *Lantz* and clinics quickly used the decision to flood the Tax Court with many cases. Three circuits upheld the validity of the regulation<sup>19</sup>, including the 7th Circuit in the *Lantz* case, but the litigation highlighted the problem. Congress put pressure on the IRS to withdraw the regulation and it did.<sup>20</sup> In 2013, the IRS issued a revised 6015(f) Revenue Procedure.<sup>21</sup> This time clinics, acting through the American Bar Association Tax Section, submitted comments to the proposed regulations.<sup>22</sup> To date, the IRS has not finalised the regulations. The process of contesting the 6015(f) regulation united many in the clinic community, showing the power of the clinics to accomplish a goal through litigation.

The Tax Clinic at the Legal Services Center of Harvard Law School (hereinafter the Tax Clinic) seeks to build on the success of the litigation in the *Lantz* case.

17 United States: Relief from Joint and Several Liability, 67 Fed. Reg. 47278 (18 July 2002).

18 United States: *Lantz v. Commissioner*, 132 T.C. No. 8 (2009).

19 United States: *Lantz v. Commissioner*, 607 F.3d 479 (7th Cir. 2010); United States: *Mannella v. Commissioner*, 631 F.3d 115 (3d Cir. 2011); United States: *Jones v. Commissioner*, 642 F.3d 459 (4th Cir. 2011).

20 United States: I.R.S. Notice 2011–70 (2011); see generally Keith Fogg, 'Innocent Spouse Proposed Regulations Issued for Timing of Making Request Under Section 6015(f) – Work Still Needs to be Done' (*Procedurally Taxing*, 15 August 2013), <<https://procedurallytaxing.com/innocent-spouse-proposed-regulations-issued-for-timing-of-making-request-under-section-6015f-work-still-needs-to-be-done/>> accessed 1 September 2022; Carlton Smith, 'New Additional Proposed Innocent Spouse Regulations Issued (Part 1)' (*Procedurally Taxing*, 24 November 2015), <<https://procedurallytaxing.com/new-additional-proposed-innocent-spouse-regulations-issued-part-1/>> accessed 1 September 2022; Carlton Smith, 'New Additional Proposed Innocent Spouse Regulations Issued (Part 2)' (*Procedurally Taxing*, 25 November 2015), <<https://procedurallytaxing.com/new-additional-proposed-innocent-spouse-regulations-issued-part-2/>> accessed 1 September 2022.

21 26 C.F.R. 601.105, Rev. Proc. 2013–34 (2013); see also Carlton Smith, 'New Additional Proposed Innocent Spouse Regulations Issued (Part 1)' (*Procedurally Taxing*, 24 November 2015), <<https://procedurallytaxing.com/new-additional-proposed-innocent-spouse-regulations-issued-part-1/>> accessed 1 September 2022.

22 American Bar Association Section of Taxation, *Comments on Notice of Proposed Rulemaking Under Section 6015*, 80 Fed. Reg. 224 (April 4, 2016).



By identifying issues of significant interest to the low-income taxpayer community and pushing to find cases involving those issues and to litigate those issues, the Tax Clinic seeks to push for changes to the law through litigation. It primarily does this by seeking out cases it determines present the issues it identifies as important as well as by finding the cases with the most favourable facts.

The first issue it identified concerned the jurisdiction of the Tax Court in situations in which the taxpayer files a petition beyond the time period listed in the statute. The Tax Court has a longstanding view that if a taxpayer misses the time period listed in the statute, the court cannot exercise jurisdiction over the case. The Tax Court's position that the time period for filing a petition is jurisdictional disproportionately hurts low-income taxpayers because they are more likely to be pro se and to miss a time frame. The United States Supreme Court has issued rulings over the past seventeen years that most time periods for filing suit are not jurisdictional but are claims processing rules.<sup>23</sup> The Tax Clinic sought to apply the Supreme Court precedent to the various time frames for filing a petition in Tax Court. The first case in which the Tax Clinic pushed this issue was the case of *Guralnik v. Commissioner*.<sup>24</sup>

In *Guralnik*, the petitioner's attorney gave the petition in a CDP case on Friday 13 February to Federal Express and purchased its most expensive next-day delivery service. The last date to file the petition was Sunday 15 February, but because of IRC 7203 and because the last date fell on a Sunday, a timely petition could have been filed on Monday. Monday 16 February was a federal holiday, which meant that the last day to file the petition fell on Tuesday 17 February. On Tuesday 17 February, it snowed in Washington, DC, causing the Tax Court to close. The petition was delivered on Wednesday 18 February. The IRS moved to dismiss the petition as late. The Tax Clinic filed an amicus brief arguing that the time period was not jurisdictional and that the Tax Court could equitably toll the time period because of the circumstances of this case. The Tax Court ruled against the position argued by the Tax Clinic in a 16–0 *en banc* opinion but did accept an argument that because the clerk's office was closed on 17 February, the petition could be timely filed the following day.

The Tax Clinic has argued this issue in additional cases in the past five years. Most of the time it has lost;<sup>25</sup> however, the DC Circuit has ruled that the

23 Bryan T. Camp, 'New Thinking about Jurisdictional Time Periods in the Tax Code', *The Tax Lawyer* 73 (2019): 1, 38.

24 United States: *Guralnik v. Commissioner*, 146 T.C. 230 (2016) (*en banc*).

25 United States: *Rubel v. Commissioner*, 856 F.3d 301 (3d Cir. 2017); United States: *Matuzak v. Commissioner*, 862 F.3d 192 (2d Cir. 2017); United States: *Naufflett v. Commissioner*, 892 F.3d 649 (4th Cir. 2018); United States: *Cunningham v. Commissioner*, 716 F. App'x 182 (4th Cir. 2018); United States: *Duggan v. Commissioner*, 879 F.3d 1029 (9th Cir. 2018); United States: *Organic Cannabis v. Commissioner*, No. 17-72877 (9th Cir. 2020); United States: *Boechler v. Commissioner*, No. 19-2003 (8th Cir. 2020); United States: *Myers v. Commissioner*, 928 F.3d 1025 (D.C. Cir.

language in one of the Tax Court's jurisdictional grants is not jurisdictional.<sup>26</sup> Because of the success in the DC Circuit, a circuit split existed which caused the Supreme Court to accept a case presenting the issue of jurisdiction in the Tax Court. In *Boechler v. Commissioner*, the Supreme Court ruled 9–0 that the time period for filing a petition in Tax Court is not jurisdictional, which means that a taxpayer with a good excuse for filing late can have their case moved forward to a merits determination.<sup>27</sup> The issue in *Boechler* concerned an issue present in only 3 per cent of Tax Court cases. The primary issue in Tax Court cases involves the determination of the additional liability the IRS has determined that a taxpayer owes. This issue is present in 95 per cent of the cases. After *Boechler*, the Tax Court ruled again that in cases involving additional liability the taxpayer must file their petition in a timely manner. The Clinic worked with a taxpayer to appeal that decision and prevailed in the Third Circuit.<sup>28</sup> The issue may now go back to the Supreme Court for a ruling on this aspect of Tax Court jurisdiction or be resolved through acceptance by the Tax Court of the Third Circuit's decision or by Congressional action.

While the Tax Clinic has put a lot of energy and effort into pursuing the jurisdiction issue, it has also filed amicus briefs in a variety of cases it felt had an impact on low-income taxpayers, directly represented taxpayers with impact issues in other areas of the law, and in some of its amicus briefs it has partnered with another clinic.

The Tax Clinic identified the innocent spouse area as one in which the IRS and the Tax Court were placing too much emphasis on the knowledge factor. Therefore, it chose to represent two individuals in their appeals of their losses of innocent spouse cases at the Tax Court.<sup>29</sup> In each case, the taxpayer had several positive factors in the test established by the IRS and only one negative factor, knowledge. Yet, the court found the individuals did not qualify for innocent spouse status. In both cases the Tax Clinic lost the appeal, due in part to the high burden to overturn a factual decision of a lower court. As with the jurisdictional issue, it hopes that the losses bring attention to the issue, which may bring Congressional attention to the factors necessary to obtain innocent spouse relief.

The Tax Clinic appealed a case involving last known address. Low-income taxpayers move more often than taxpayers with higher incomes. The failure

2019); United States: *Pfizer v. United States*, No. 17–2307 (2nd Cir. 2019); United States: *Castillo v. Commissioner*, T.C. Docket No.18336-19L (order dated 25 March 2020).

26 United States: *Myers v. Commissioner*, 928 F.3d 1025 (D.C. Cir. 2019).

27 *Boechler, P.C. v. Commissioner*, 142 S. Ct. 1493 (2022).

28 *Culp v. Comm'r of Internal Revenue*, 132 A.F.T.R.2d 2023-5198 (3d Cir. 2023).

29 United States: *Jacobsen v. Commissioner*, 2020 US App. LEXIS 4544 (7th Cir. 13 February 2020); United States: *Sleeth v. Commissioner*, F.3d – 2021 WL 1049815 (11th Cir. 2021).

to receive notice of IRS action can present significant issues to low-income taxpayers. In the appeal brought by the Tax Clinic, the taxpayers had provided notice of their change of address to the IRS in several ways but not in the way the IRS desired the notice to occur.<sup>30</sup> The appellate court overturned the decision of the Tax Court, finding that the various ways in which the taxpayers provided their new address adequately put the IRS on notice.

The Tax Clinic has filed amicus briefs in cases involving the full payment rule which keeps many low-income taxpayers from obtaining refunds overpaid to the IRS.<sup>31</sup> The Tax Clinic has filed amicus briefs regarding the jurisdiction of district courts to hear innocent spouse cases.<sup>32</sup> The Tax Clinic has filed amicus briefs in an innocent spouse case involving tacit consent to file the return.<sup>33</sup> The Tax Clinic has an amicus brief in the Tax Court in an innocent spouse case concerning the ability to obtain innocent spouse relief from the payment of an erroneous refund.<sup>34</sup> The Tax Clinic filed an amicus brief in the district court concerning the scope of the Regulatory Flexibility Act which requires the IRS to address the concerns of small businesses as it writes regulations.<sup>35</sup> The definition of small businesses includes the gig economy jobs that many low-income taxpayers work. The Tax Clinic also filed an amicus brief in the district court in support of the right of prisoners to receive the stimulus check sent out by the IRS during the global pandemic.<sup>36</sup>

The Tax Clinic has also filed an amicus brief with the United States Supreme Court in two cases.<sup>37</sup> In *CIC Services*, it filed an amicus brief in support of

30 United States: *Gregory v. Commissioner*, Docket No. 19-2229 (3rd Cir. 2020).

31 United States: *Larson v. United States*, F3d (2nd Cir. 2018); see Carlton Smith, 'Larson Part I Post: Full-Payment Rule of Refund Suits Held to Apply to Assessable Penalties' (*Procedurally Taxing*, 6 May 2018), <<https://procedurallytaxing.com/larson-part-i-post-full-payment-rule-of-refund-suits-held-to-apply-to-assessable-penalties/>> accessed 2 September 2022; see also Keith Fogg, 'Access to Judicial Review in Non-Deficiency Tax Cases', *The Tax Lawyer* 73 (2020): 435.

32 Sarah Lora and Kevin Fann, 'Innocent Spouse Survives Motion to Dismiss in Jurisdictional Fight with the IRS' (*Procedurally Taxing*, 18 September 2019), <<https://procedurallytaxing.com/innocent-spouse-survives-motion-to-dismiss-in-jurisdictional-fight-with-the-irs/>> accessed 2 September 2022.

33 United States: *Jones v. Commissioner*, TC Memo 2019-139, appeal pending, 9th Cir. Case No. 20-70013.

34 United States: *LaRosa v. Commissioner*, Dk. No. 10164-20.

35 Keith Fogg, 'How Does the Regulatory Flexibility Act Impact Tax Regulations?' (*Procedurally Taxing*, 2 January 2020), <<https://procedurallytaxing.com/how-does-the-regulatory-flexibility-act-impact-tax-regulations/>> accessed 2 September 2022.

36 United States: *Scholl v. Mnuchin*, Case No. 4:20-cv-5309-PJH.

37 United States: *CIC Services, LLC v. Internal Revenue Service, et al.*, US (17 May 2021) (No. 19-930) (The clinic filed an amicus brief in support of the Supreme Court granting cert and then when the case was accepted for cert the clinic filed an amicus brief at the merits stage. The Supreme Court ruled for CIC Services unanimously, finding that the Anti-Injunction

the position that the Anti-Injunction Act does not prohibit taxpayers from bringing a suit attacking a regulation where the suit does not impair the collection of tax. This issue can affect low-income taxpayers because of all of the benefit programmes Congress runs through the IRS. The Supreme Court adopted the position argued in the amicus brief, allowing the taxpayer to challenge the regulation.<sup>38</sup>

## **Commenting on proposed legislation, regulations, forms and rules**

While impact litigation provides an important avenue for representing the interests of low-income taxpayers, an even greater impact can occur by influencing the legislation, regulations, forms or rules that will govern low-income taxpayers. Prior to the establishment of low-income taxpayer clinics and the realisation by these clinics that they could make an important difference in this area, low-income taxpayers essentially had no voice in the process the IRS used to create rules, regulations and forms. Now, low-income taxpayer clinics look for announcements by the IRS of proposed rule-making and seek to provide input whenever possible.<sup>39</sup>

On 26 March 2018, the House of Representatives Committee on Ways and Means Subcommittee on Oversight published a discussion draft entitled 'The Taxpayer First Act'. Unlike the recent tax reform legislation, the Act was jointly released in a bipartisan effort to reform tax procedure. The publication of the draft came with an invitation to submit comments and a statement that 'Comments would be most helpful if received by April 6, 2018'. Despite the short time frame for comment, the Tax Clinic produced a forty-nine-page

Act did not bar the litigation brought to challenge the regulation). In United States: *Boechler, LLC v. Commissioner*, Dk. No. 20-1472, the clinic again filed an amicus brief in support of the Supreme Court granting cert and another brief at the merits stage. The case is pending argument and decision. The issue in this case, whether the time to file a petition in Tax Court is jurisdictional, is one the clinic has argued for the past six years.

38 Ibid.

39 The comment process can be influential in the development of regulations, though having an inside track to the Treasury Department that allows access before the regulation writing process begins could be even more influential. See Monte Jackel, 'How Tax Regulations Are Made' (*Procedurally Taxing*, 12 July 2021), <<https://procedurallytaxing.com/how-tax-regulations-are-made/>> accessed 2 September 2022; Keith Fogg, 'Commenting on Regulations' (*Procedurally Taxing*, 27 February 2019), <<https://procedurallytaxing.com/commenting-on-regulations/>> accessed 2 September 2022. By and large, the tax clinic community does not possess the influence and access that would allow it to gain access early in the process, although when it works through the ABA Tax Section this sometimes occurs as it did during 2021 in the development of the Advance Child Tax Credit.

comment to Congress on the proposed legislation.<sup>40</sup> Because it is unusual for Congress to issue a formal request for comments, this is the only comment project the Tax Clinic has engaged in at the legislative phase.

Clinics generally comment on regulations in one of two ways. Many clinicians belong to the American Bar Association Tax Section. The ABA Tax Section has a formalised process for commenting on regulations and the IRS holds its comments in high regard.<sup>41</sup> Clinicians started paying attention to regulations and regularly commenting on them about 12–15 years ago. Since that time, the committee that addresses the issues concerning low-income taxpayers has become one of the most prolific commenters on IRS regulations. Appendix A contains a list of the comment projects of the ABA Tax Section in the past decade with the projects on which the Pro Bono and Tax Clinics Committee has participated marked in bold. During this period, clinician members of the ABA Tax Section have become the most prolific of all committees of the section. In addition to the comments made by the section, individual clinics make comments from time to time as well.<sup>42</sup>

As well as commenting on regulations, clinicians occasionally comment on subregulatory guidance when the IRS offers the opportunity to comment on such guidance. Clinicians comment on forms as the IRS adopts new forms or makes changes to forms. In 2020, the IRS published a notice seeking comments on the form individuals use for seeking innocent spouse relief.<sup>43</sup> Because the Tax Clinic represents numerous low-income individuals seeking relief from the joint liability caused when they have signed a joint return with their spouse, it commented on the proposed new form.<sup>44</sup> The comments submitted by the Tax Clinic led to a meeting between two members of the clinic and several members of the team at the IRS working on the form. A year later when the IRS published the revised form, the Tax Clinic's comments made a difference in some parts of the revision.<sup>45</sup> This form has critical importance for low-income taxpayers seeking innocent spouse relief.

40 Keith Fogg, 'The Taxpayer First Act' (*Procedurally Taxing*, 9 April 2018), <<https://procedurallytaxing.com/the-taxpayer-first-act/>> accessed 2 September 2022.

41 <[www.americanbar.org/content/dam/aba/administrative/taxation/resources/cogs/cogs-style-manual.pdf](http://www.americanbar.org/content/dam/aba/administrative/taxation/resources/cogs/cogs-style-manual.pdf)> accessed 2 September 2022.

42 The Tax Clinic at the Legal Services Center of Harvard Law School submitted three comments during the autumn semester of 2021 on issues impacting low-income taxpayers.

43 United States: Comment Request for Forms 8857 and 8857(SP), 85 Fed. Reg. 17950.

44 Madeleine DeMeules, 'Public Comment and LITCs: Bringing Client Voices to the Administrative Process' (*Procedurally Taxing*, 12 June 2020), <<https://procedurallytaxing.com/public-comment-and-litcs-bringing-client-voices-to-the-administrative-process/>> accessed 2 September 2022.

45 Audrey Patten, 'Significant Changes in New Draft Form 8857' (*Procedurally Taxing*, 24 June 2021), <<https://procedurallytaxing.com/significant-changes-in-new-draft-form-8857/>> accessed 2 September 2022.

Most of the people submitting this form are unrepresented. In the majority of their cases, clinicians or other representatives do not get involved with their case until the IRS has denied their innocent spouse status. If the clinician begins representing the taxpayer at the stage of the Tax Court, the clinician's ability to assist can be significantly hindered because in the Tax Court case the taxpayer may only present information presented to the IRS during the administrative consideration of the request for relief. Making sure that this form led the unrepresented taxpayer to submit as much relevant information as possible was a critical objective of the comments submitted by the Tax Clinic.

In October 2021, the Tax Clinic submitted comments on IRS Form 911 used by taxpayers to request assistance from the Taxpayer Advocate's Office. These comments were submitted in response to a formal request from the IRS.<sup>46</sup>

At the annual meeting of low-income taxpayer clinics in 2019, the office at the IRS in charge of the meeting arranged a meeting between several clinicians and members of an IRS team designing a revision to the form used for CDP. In anticipation of the meeting, the Tax Clinic representative to the group prepared written comments which he shared with the IRS. The meeting lasted more than two hours and gave the clinicians the opportunity for significant impact on the design of the form. Like the form for innocent spouse relief, this form is foundational to the process leading to Tax Court. Most of the taxpayers submitting this form are unrepresented at the time of its submission. If they omit arguments and information, the rules at play in Tax Court may limit the additional information they can present.

The Tax Clinic also comments on changes to the rules of the Tax Court. Each time the Tax Court makes changes to the rules that govern practice before the court, the court offers the public the opportunity to comment on the rule changes. The Tax Clinic seeks to comment each time the court offers this opportunity because some of the rules have a direct impact on taxpayers appearing before the Tax Court.<sup>47</sup> Over 70 per cent of the petitioners in Tax Court appear unrepresented. Because so many petitioners proceed pro se, ensuring that the rules adequately allow the unrepresented to navigate the

46 United States: Request for Comment on Burden Related to Form 911, Request for Taxpayer Advocate Service Assistance (and Application for Taxpayer Assistance Order), 83 FR 27373.

47 Keith Fogg, 'Tax Court Finalizes Adoption of New Rules' (*Procedurally Taxing*, 16 October 2020), <<https://procedurallytaxing.com/tax-court-finalizes-adoption-of-new-rules/>> accessed 2 September 2022; Keith Fogg, 'Chief Counsel's Office Requests Tax Court Rule Changes' (*Procedurally Taxing*, 22 September 2015), <<https://procedurallytaxing.com/chief-counsels-office-requests-tax-court-rule-changes/>> accessed 2 September 2022; Keith Fogg, 'Re: Comments on Proposed Rule Changes from the Department of Treasury on September 11, 2015' (30 October 2015), <[www.ustaxcourt.gov/resources/rules/suggestions/Harvard\\_10-30-15.pdf](http://www.ustaxcourt.gov/resources/rules/suggestions/Harvard_10-30-15.pdf)> accessed 2 September 2022.

requirements of the court becomes extremely important if these individuals have a chance of success.

### **Commenting on systemic problems at the IRS**

One of the duties of the National Taxpayer Advocate (NTA) involves looking for parts of the tax system that do not function properly.<sup>48</sup> To fulfil this role, the NTA set up a system by which taxpayers and representatives could report to the Taxpayer Advocate Service problems that exist in working with the IRS. The system goes by the name Systemic Advocacy Management System (SAMS).<sup>49</sup> The NTA encourages clinicians to submit comments to SAMS by making it an item on which clinicians report in their grant reports. Even without the encouragement of ticking off a box on a grant report, using the SAMS system serves an important function for clinicians in their effort to interface with the system and ensure that the IRS understands problems that can impact low-income taxpayers. For many clinicians who may not participate in impact litigation or formal comment projects, the regular submission of comments to SAMS serves as their primary means of systemic advocacy. The system is well known to clinicians and heavily used. Low-income taxpayers would have little knowledge of the system and would lack the overall vision of the system to enable them to make good use of this tool.

## **11.5 Conclusion**

Clinics play a critical role in assisting taxpayers who would otherwise face daunting procedural and substantive hurdles in trying to present their case to the IRS or to a court. While the critical role played in assisting individual taxpayers serves an important function in ensuring that taxpayers feel they have received fair treatment from the system, the role of clinics in shaping the system can have an even broader and more important impact. Because of the work that clinics perform in individual cases, they understand the issues that would benefit from impact litigation, the comment process and the SAMS submission process. Clinics in the United States have become much more attuned to the process of impacting the system rather than the individual case. Their voice may not yet be as powerful or as persuasive as the lobbyist who represents large corporations, but their voice is getting stronger as they gain experience and use the various levers available to them to make a difference on a broad scale.

48 United States: 26 USC §7803(c)(2)(A)(ii)–(iv).

49 United States: IRM 13.2.2 Systemic Advocacy Management System (SAMS) Administration.

# Chapter 12

## Marginalised voices

### *Tax and the criminal justice system*

*Deborah Wood\**

#### 12.1 Key findings

We are in a digital world. Some communities, for instance the prisoner community, are left behind in the path to increasing digitalisation. Where tax obligations and guidance are also being digitised (seen, for example, in the UK's Making Tax Digital programme), this can lead to individuals struggling to keep up with the tax system and their tax obligations. Tax clinics can help to bridge the gap between marginalised taxpayers and their tax obligations.

#### 12.2 Introduction

This chapter will consider how university tax clinics can play a role in supporting some of the most marginalised groups in society, specifically people in prison and those leaving a prison environment. It is argued that such a role is particularly important given the increased digitalisation of tax and the way in which the prison community can be digitally excluded and lack the skills, access, confidence and experience to navigate new online systems. Students working with people who have criminal convictions can be uncharted territory for universities and may be met with negative perceptions and general resistance. Robust risk management processes are crucial, and, in the UK, the Ministry of Justice (MoJ) is currently working with higher education institutions to provide frameworks to guide future prison–university partnerships. Although this chapter draws largely from the UK experience, the themes raised in it can be usefully considered by clinics in other tax jurisdictions.

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## 12.3 Making Tax Digital

Undeniably, we now live in a digital world. The United Nations (UN) states that digital technologies have advanced more rapidly than any innovation in history – there are few aspects of society that remain untouched by digitalisation.<sup>1</sup> We have virtual learning environments in education, artificial intelligence-enabled technologies to support diagnosis and treatment in healthcare, and, in tax administration, tax authorities have looked to exploit new technologies to transform how tax is paid and reported.<sup>2</sup>

In 2015, the UK Government announced its intention to work towards the digitalisation of tax administration and HM Revenue and Customs (HMRC) embarked on its Making Tax Digital (MTD) programme. In July 2020, HMRC published a ten-year strategy for modernising the tax system which reconfirmed its commitment to digitalisation.<sup>3</sup> The Foreword to the report stated:

The world has changed immeasurably over the last two decades, and the rapid growth of information and communications technologies and rising public expectations of world-class customer service mean that the UK both can and must have a fully digital tax system able to support taxpayers across the full range of their needs.<sup>4</sup>

The UK's National Audit Office (NAO), in its 2020–21 report on HMRC's annual accounts,<sup>5</sup> stated that digitalisation would make it easier for HMRC to 'get tax right'; something that would then increase public trust and confidence in the tax system. There are also financial incentives for HMRC and the UK Government to get 'tax right'. According to the NAO report, HMRC originally estimated approximately £3 billion in extra tax revenue would be raised over the programme lifecycle, to 2027–28.<sup>6</sup>

In April 2019, initial steps were taken by HMRC towards its digitalisation agenda. In July 2017, the financial secretary to the treasury and paymaster

1 <[www.un.org/en/un75/impact-digital-technologies](http://www.un.org/en/un75/impact-digital-technologies)> accessed 2 September 2022.

2 ICAEW, 'Digitalisation of Tax: International Perspectives' (2022), <[www.icaew.com/-/media/corporate/files/technical/technology/thought-leadership/digitalisation-of-tax.ashx](http://www.icaew.com/-/media/corporate/files/technical/technology/thought-leadership/digitalisation-of-tax.ashx)> accessed 2 September 2022.

3 Gov.UK, 'Building a Trusted, Modern Tax Administration System', <[www.gov.uk/government/publications/tax-administration-strategy/building-a-trusted-modern-tax-administration-system](http://www.gov.uk/government/publications/tax-administration-strategy/building-a-trusted-modern-tax-administration-system)> accessed 2 September 2022.

4 Ibid.

5 National Audit Office, 'Report by the Comptroller and Auditor General' (29 October 2021), <<https://collateral.pmax.co.uk/collateral/186575.pdf>> accessed 2 September 2022.

6 Ibid.

general announced that, from April 2019, businesses with a turnover above the value added tax (VAT) threshold (currently £85,000) would have to keep their records for VAT purposes in a digital format and would need to provide their VAT return information to HMRC through software that was MTD compatible and compliant.<sup>7</sup> Businesses are no longer allowed to maintain paper VAT records and HMRC online VAT return services are withdrawn when the business signs up to MTD.<sup>8</sup>

The rollout of MTD to other taxes was recently delayed. In December 2022, the UK government announced that MTD for Income Tax Self-Assessment (ITSA) would be delayed until April 2026 for sole traders (delayed again from April 2024).<sup>9</sup> Professional bodies such as the Chartered Institute of Taxation (CIOT) and the Association of Tax Technicians (ATT) have welcomed the delay.<sup>10</sup> Concerns had been expressed by numerous organisations involved in tax administration that more time was required to test software and key processes and also for HMRC to focus on communication, awareness raising and education of the changes being introduced. Despite the delay, concerns remain around the programme. Glenn Collins, head of policy, technical and strategic engagement at the Association for Chartered Certified Accountants (ACCA) responded to the Treasury statement: 'There remain concerns around the level of support required by SMEs and the ability of small accountancy practices to meet the workload needs of regular reporting, unmanageable software costs and the low threshold for reporting under MTD.'

Originally, the MTD threshold in 2024 was £10,000. Now, the proposal is to operate MTD from April 2026 for an individual registered for self-assessment (either self-employed or with property income), with a qualifying income of

7 HMRC, 'VAT Notice 700/22: Making Tax Digital for VAT', <[www.gov.uk/government/publications/vat-notice-70022-making-tax-digital-for-vat](http://www.gov.uk/government/publications/vat-notice-70022-making-tax-digital-for-vat)> accessed 2 September 2022.

8 See <[www.icaew.com/technical/tax/making-tax-digital/mtd-guidance/mtd-overview](http://www.icaew.com/technical/tax/making-tax-digital/mtd-guidance/mtd-overview)> accessed 2 September 2022. The enabling primary legislation for MTD was introduced in the form of the Finance (No.2) Act 2017; sections 60–62 addressed digital reporting and record-keeping for VAT along with income tax and Schedule 14 made relevant amendments to the Taxes Management Act 1970. The digitalisation in respect of VAT is extended to all businesses, including those under the VAT threshold, from April 2022.

9 HMRC, 'Government Announces Phased Mandation of Making Tax Digital for ITSA' (Gov.UK, 19 December 2022), <[www.gov.uk/government/news/government-announces-phased-mandation-of-making-tax-digital-for-itsa](http://www.gov.uk/government/news/government-announces-phased-mandation-of-making-tax-digital-for-itsa)> accessed 14 February 2023; UK Parliament, 'Update on Making Tax Digital: Statement HCWS308' (23 September 2021), <<https://questions-statements.parliament.uk/written-statements/detail/2021-09-23/hcws308>> accessed 2 September 2022.

10 ATT, 'Leading Tax Bodies Respond to the Making Tax Digital Delay' (*ATT News*, 23 September 2021), <[www.att.org.uk/technical/news/leading-tax-bodies-respond-making-tax-digital-delay](http://www.att.org.uk/technical/news/leading-tax-bodies-respond-making-tax-digital-delay)> accessed 2 September 2022.

more than £50,000. This threshold reduces, however, from April 2027 to £30,000.

As stated earlier, the UK is not alone in seeking to digitalise tax administration. The Institute of Chartered Accountants in England and Wales (ICAEW) recently published a report, *Digitalisation of Tax: International Perspectives*,<sup>11</sup> which covered case studies from ten diverse tax administrations. The specific model of digitalisation varies across the administrations, from a focus on mandatory e-invoicing in Brazil to tackle avoidance, to extensive pre-population of tax returns in Estonia to comprehensive digital filing in the United States of America. However, a key theme arises across systems – digital exclusion. It is raised as one of the key lessons from the ICAEW study, with interviewees raising it more than any other challenge to the digitalisation agenda.

## 12.4 Digital exclusion

The UN's Sustainable Development Goal 9 includes a specific target on global access to the internet.<sup>12</sup> However, while internet access for all is necessary to tackle digital exclusion, it cannot on its own be sufficient. The Office for National Statistics has highlighted that 'users of the internet can still be digitally excluded because they lack the skills to be able to confidently and safely navigate the digital world'.<sup>13</sup> In the National Health Service's (NHS) Digital Inclusion Strategy,<sup>14</sup> it outlines three aspects of digital inclusion: connectivity (access to internet/infrastructure), digital skills (being able to use digital devices) and accessibility (including consideration of those who require assistive technology to access digital services). Lloyds Bank produces an annual benchmarking report on essential digital skills in the UK.<sup>15</sup> Partly fuelled by the COVID-19 pandemic and the reliance it placed on digital connectivity, the 2021 report estimates that there are approximately 1.9 million fewer people digitally excluded than in 2020. However, the report

11 ICAEW, 'Digitalisation of Tax'.

12 <<https://sdgs.un.org/goals/goal9>> accessed 2 September 2022.

13 Office for National Statistics, 'Exploring the UK's digital divide' (4 March 2019), <[www.ons.gov.uk/peoplepopulationandcommunity/householdcharacteristics/homeinternetandsocial-mediausage/articles/exploringtheuksdigitaldivide/2019-03-04](http://www.ons.gov.uk/peoplepopulationandcommunity/householdcharacteristics/homeinternetandsocial-mediausage/articles/exploringtheuksdigitaldivide/2019-03-04)> accessed 2 September 2022.

14 NHS, 'What We Mean By Digital Exclusion', <<https://digital.nhs.uk/about-nhs-digital/our-work/digital-inclusion/what-digital-inclusion-is>> accessed 2 September 2022.

15 Lloyds Bank, 'Essential Digital Skills Report 2021' (3rd edition, 2021), <[www.lloydsbank.com/assets/media/pdfs/banking\\_with\\_us/whats-happening/211109-lloyds-essential-digital-skills-report-2021.pdf](http://www.lloydsbank.com/assets/media/pdfs/banking_with_us/whats-happening/211109-lloyds-essential-digital-skills-report-2021.pdf)> accessed 2 September 2022.

estimates that there are still 11 million people in the UK that lack digital skills needed for everyday life, with 91 per cent of these lacking the most basic digital skills.

The UN recognises that digital technologies have the potential to be a 'great equaliser', helping to create greater access to services, improve financial inclusion and enhance connectivity. However, they also acknowledge the significant challenges posed by digital exclusion, stating that 'Many of the people left behind are women, elderly, persons with disabilities or from ethnic or linguistic minorities, indigenous groups and residents of poor or remote areas'. In relation to women, the UN highlight that globally, the proportion of women using the internet is 12 per cent lower than that of men and in the least developed countries, this gap is increasing and is estimated to be 33 per cent.<sup>16</sup>

When digitalisation is gaining pace in a number of tax administrations, student-led clinics could arguably have a very significant impact on addressing the digital divide in a tax context. The UK system currently allows people to apply for an exemption from MTD if it is 'not reasonable or practical for you to use computers or the internet due to age, disability or location' or if 'it's not reasonable or practical for any other reason'.<sup>17</sup> However, in the longer term, it is undisputable that people must be empowered to engage with the digital offering.

The Lloyds report profiles the digitally excluded and indicates that an individual is more likely to be excluded if they:

- Are aged over 75
- Have the lowest social grades (DE – semi-skilled and unskilled manual occupations, unemployed)
- Are not working
- Are living alone
- Have no formal education
- Are living with a sensory impairment that affects their day-to-day life.<sup>18</sup>

Many student tax clinics will undoubtedly already be engaging with communities who, based on the above profile, are more likely to be digitally excluded.

16 United Nations, 'The Impact of Digital Technologies', <[www.un.org/en/un75/impact-digital-technologies](http://www.un.org/en/un75/impact-digital-technologies)> accessed 2 September 2022.

17 HMRC, 'Apply for an Exemption from Making Tax Digital for Income Tax', <[www.gov.uk/guidance/apply-for-an-exemption-from-making-tax-digital-for-income-tax](http://www.gov.uk/guidance/apply-for-an-exemption-from-making-tax-digital-for-income-tax)> accessed 2 September 2022.

18 Lloyds Bank, 'Essential Digital Skills Report 2021', 14.

University campuses frequently have significant access to computer facilities and with the typical undergraduate student being in the 18–24 age range,<sup>19</sup> and in higher education, they are among a demographic that is more likely to be digitally skilled. There could be significant benefits of tax clinic students working alongside those who lack the foundational digital skills to access basic tax systems.

For example, in the UK an individual can set up and log into their personal tax account online. This enables them to view records held by HMRC and check crucial information such as national insurance number, tax code and previous income tax records. It also allows the individual to manage certain tax affairs online such as the marriage allowance and tax credits. Marriage allowance lets an individual transfer a set amount of their tax-free personal allowance to a spouse or civil partner. Tax credits are expected to be phased out by 2024 but are currently administered in the form of working tax credits and child tax credits by HMRC and are paid to those on a low income. To set up an account, it is necessary to sign in with a Government Gateway account or Gov.UK Verify. Both processes can be daunting for those who lack basic digital skills and guidance through the process from students could be beneficial.

However, this chapter specifically asks tax clinics to consider how they might work with a potentially new client basis, a group of the most marginalised and digitally excluded individuals in society; those that are in prison or have been released from a secure environment.

## 12.5 Tax issues – people in prison

There are a small number of not-for-profit organisations and charities who look at the tax issues faced by those in prison in the UK. One of these is the Tax Academy Community Interest Company (CIC), run by Paul Retout, who has lived experience of prison.<sup>20</sup> In June 2021, Retout published an article, *Prison and Tax: The Forgotten Issue*, which summarised the key tax issues facing people in prison.<sup>21</sup> The article highlighted that when people enter prison, HMRC are not notified so they continue to send correspondence to the last address they have on file for the individual. A self-employed

19 HESA, 'Who's Studying in HE?', <[www.hesa.ac.uk/data-and-analysis/students/whos-in-he#characteristics](http://www.hesa.ac.uk/data-and-analysis/students/whos-in-he#characteristics)> accessed 2 September 2022.

20 The Tax Academy, <<https://thetaxacademy.co.uk/paul-retout/>> accessed 2 September 2022.

21 Paul Retout, 'Prison and Tax: The Forgotten Issue' (*The Tax Academy*, 1 June 2021), <[www.russellwebster.com/prison-and-tax-the-forgotten-issue/](http://www.russellwebster.com/prison-and-tax-the-forgotten-issue/)> accessed 2 September 2022.

individual may have had to close their business but may still be sent notices to file a tax return. When these letters are not responded to, HMRC assumes that the individual is noncompliant with their tax obligations and follows the ordinary process to address this, for example, with the issue of financial penalties.

As discussed in [Chapter 4](#), there are a number of penalties that can be applied by HMRC under the UK system – for late payment of tax, for failing to complete a tax return, for failing to inform HMRC about changes that affect tax liability and for errors on a return that understate or misrepresent a tax liability. Penalties are very high and can quickly increase over a short period of time. For example, TaxAid, a national charity that provides support to low-income individuals who get into difficulties with their tax affairs, highlights that penalties for filing a late tax return can exceed £1,600 over the first twelve months from the filing date.<sup>22</sup>

An individual in prison will often not think to address outstanding tax liabilities for several reasons. For example, they often falsely assume that while in prison, other government agencies, including HMRC, will be notified and any obligations to the tax authority will be suspended during the period of incarceration. Therefore, it is frequently only upon release from prison, when an individual obtains a job, registers for benefits or registers for self-assessment that the scale of tax charges and penalties against them is realised. As Retout emphasises, at this point the individual is often in an extremely vulnerable state, both financially and mentally; struggling with several challenges such as finding safe accommodation, attempting to reintegrate with any remaining family and support networks and attempting to access welfare support. When an individual leaves prison, in the UK they are generally entitled to a prison discharge grant. This has recently been raised from £46 to £76 but does very little to meet the significant financial challenges the individual is faced with upon release. Outstanding tax liabilities and penalties will only add to these financial barriers, creating higher hurdles to effective reintegration into society.

## Digital exclusion – people in prison

Access to digital technology in the prison estate is extremely limited. A recent briefing paper was published on prisons and the digital divide by the Prisoner Learning Alliance (PLA). The PLA describes itself as a network of

22 TaxAid, <<https://taxaid.org.uk/about>> accessed 2 September 2022; TaxAid, 'Late Filing Penalties and Appeals', <<https://taxaid.org.uk/guides/taxpayers/tax-returns/late-filing-penalties-and-appeals>> accessed 2 September 2022.

organisations and individuals with expertise and interest in prison education who work to influence prison policy across England and Wales.<sup>23</sup> In its report *The Digital Divide: Lessons from Prisons Abroad*, published in July 2020, the Alliance states, 'In a world where digital technology is constantly changing and being updated, spending even a few months – let alone a few years – isolated from these changes can present huge obstacles for prisoners on release'.<sup>24</sup> The challenges of digital isolation for this group have recently been recognised by the UK government. In April 2021 HM Prison and Probation Service (HMPPS) published their latest Digital, Data and Technology Strategy.<sup>25</sup> The strategy set out the vision to 2024, with a key priority to give people in the prison system digital tools and technology to support their rehabilitation.<sup>26</sup>

However, the pace of change is likely to be slow. The PLA Briefing explains that current digital access in the UK prison system is very limited. In May 2022, the Parliamentary Education Select Committee published a report on prison education.<sup>27</sup> It highlighted that the majority of prisons in England and Wales do not have cabling or hardware to support broadband and only 18 out of 117 prisons possess in-cell cabling. There are existing foundations to build upon, but significant developments are required, and it will arguably be difficult to maintain the gap between the prison estate and the outside world, let alone reduce it.

A system called the Virtual Campus (VC) is in place in all prisons in England and Wales. This is a restricted intranet facility which is available in communal spaces such as classrooms and libraries. The PLA highlights issues that many in prison face when accessing the existing limited digital offering – for example, they state that sometimes there are only a few computer terminals which host the VC in each prison. Additionally, the Education Committee note that evidence they received indicated that accessing communal areas with VC was frequently problematic due to

23 Prisoner Learning Alliance, <<https://prisonerlearningalliance.org.uk/vision-and-mission/>> accessed 2 September 2022.

24 Prisoner Learning Alliance, 'The Digital Divide: Lessons from Prisons Abroad' (July 2020), <<https://prisonerlearningalliance.org.uk/wp-content/uploads/2020/07/The-Digital-Divide-Lessons-from-prisons-abroad.pdf>> accessed 2 September 2022.

25 HM Prison and Probation Service, 'Digital, Data and Technology Strategy' (April 2021), <[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/993861/HMPPS-Digital-Data-and-Technology-Strategy-2021\\_22-4.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/993861/HMPPS-Digital-Data-and-Technology-Strategy-2021_22-4.pdf)> accessed 2 September 2022.

26 Ibid., 5.

27 UK Parliament Education Committee, 'Not Just Another Brick in the Wall: Why Prisoners Need an Education to Climb the Ladder of Opportunity' (18 May 2022), <<https://publications.parliament.uk/pa/cm5803/cmselect/cmeduc/56/report.html>> accessed 2 September 2022.

staffing issues. Some prisons are also piloting the use of in-cell devices for enhanced security-cleared prisoners, but access is inconsistent and is dependent on individual prison funding availability and authorisation processes. PLA states that 'there is a lack of coordination or uniformity in how widely and in what capacity these services are available'.<sup>28</sup> The Education Committee agreed, stating that the lack of digital access was 'leaving prisoners unprepared for the real world, lacking the digital skills they need for employment and life skills [. . .] The digital divide between prisoners and the community is ever increasing'.<sup>29</sup>

As well as the obvious access issues, people in prison often fall into the digitally excluded 'risk' group, highlighted in the Lloyd's report, discussed earlier. The Prisoners' Education Trust (PET) that works to enhance the educational experience of people in prisons across England and Wales recently submitted evidence to the Education Select Committee, which is useful to refer to here.<sup>30</sup> They emphasised that many people in prison come from disadvantaged backgrounds. For example, 24 per cent had experienced the care system, 15 per cent had been homeless prior to custody and past research indicates that over two-thirds of people were unemployed at the time they entered prison. The PET also highlights that the majority of those in prison have had negative educational experiences while growing up. For example, they point to a MoJ study on prisoners which reported that 63 per cent of those in the study had been suspended or temporarily excluded from school and 42 per cent reported having been permanently excluded from school.<sup>31</sup> The Prison Reform Trust (PRT) also notes that research has consistently indicated that approximately a third of prisoners have a learning disability.<sup>32</sup> Such individuals may find it more difficult to engage with digital technology without the additional barriers that the prison environment presents.

In December 2021, the UK MoJ published the Prisons Strategy White Paper, setting out a longer-term vision for the prison estate. The paper states that having an effective prison system is central to the government's 'levelling

28 Prisoner Learning Alliance, 'The Digital Divide', 4.

29 UK Parliament Education Committee, 'Not Just Another Brick in the Wall'.

30 Education Select Committee, 'Left Behind White Pupils from Disadvantaged Backgrounds: Written Evidence by Prisoner's Education Trust', <<https://committees.parliament.uk/writtenevidence/6266/html/>> accessed 2 September 2022.

31 Gov.UK, <[www.gov.uk/government/collections/surveying-prisoner-crime-reduction-spcr](http://www.gov.uk/government/collections/surveying-prisoner-crime-reduction-spcr)> accessed 2 September 2022.

32 Prison Reform Trust, 'Prison: The Facts - Summer 2021' (July 2021), <<https://prisonreformtrust.org.uk/publication/12203-2/>> accessed 2 September 2022.



up' agenda.<sup>33</sup> One of the key challenges it notes, in achieving this aim, is the fact that too many prisons still lack basic digital infrastructure. A key step as part of its two-year foundation plan to support the strategy is scaling up the use of digital technology and empowering prisoners with the provision of safe and secure in-cell technology. Additionally, one of the six strategic priorities outlined in the paper is to increase skills-focused education, including giving people in prison the foundations and qualifications they need for work in the digital age. The Response to Consultation Questions was published in June 2022.<sup>34</sup> In this paper it noted that a strong and consistent message emerging from the consultation was support for digital and technological advancement in prison.

### **People in prison/with previous lived experience of prison as clinic clients**

While the digitalisation agenda advances rapidly and plans for those in digitally excluded communities, including those in prison attempt to catch up, opportunities exist for universities and their tax, business, law or advice clinics to bridge the gap. Arguably this forms part of their civic duty. Between 2018 and 2019, the UPP Foundation launched and ran the Civic University Commission.<sup>35</sup> The UPP Foundation is a registered charity that aims to tackle issues facing the higher education sector.<sup>36</sup> The Commission examined the economic, social, environmental and cultural role universities play in their local areas. In its final report, the chair, Lord Kerslake emphasised the growing importance of the civic role of universities: 'As the United Kingdom grapples with the challenges of low growth, low productivity, the impact of austerity and widening spatial inequalities, universities can be (alongside local authorities and the health sector), significant "anchor institutions", able to make an enormous impact on the success of their places'.<sup>37</sup> The acknowledgement of the civic role of the university is not confined to

33 Ministry of Justice, 'Prisons Strategy White Paper' (December 2021), <[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1038765/prisons-strategy-white-paper.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1038765/prisons-strategy-white-paper.pdf)> accessed 2 September 2022.

34 Ministry of Justice, 'Prisons Strategy White Paper: Response to Consultation Questions' (June 2022), <[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1082220/prisons-strategy-white-paper-govt-response.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1082220/prisons-strategy-white-paper-govt-response.pdf)> accessed 2 September 2022.

35 The UPP Foundation, <<https://upp-foundation.org/about-us/civic-university-network/>> accessed 2 September 2022.

36 The UPP Foundation, <<https://upp-foundation.org/about-us/>> accessed 2 September 2022.

37 The UPP Foundation, 'Truly Civic: Strengthening the Connection between Universities and Their Places' (February 2019), <<https://upp-foundation.org/wp-content/uploads/2019/02/Civic-University-Commission-Final-Report.pdf>> accessed 2 September 2022.

the UK. Indeed, in other countries, for example the United States, the civic role has been far more prominent to date.<sup>38</sup>

In 2019, the University of Central Lancashire (UCLan) became the fiftieth university to sign a new 'Civic University Agreement', stating that, for the university, 'civic engagement is not a "nice to have" or an "add-on": genuine and meaningful relationships with the communities around us are vital'.<sup>39</sup> Partly fuelled by this sense of civic duty, staff at Lancashire School of Business and Enterprise (LSBE) at UCLan recently took small steps to pilot how undergraduate and postgraduate students in a business school could work with people in the prison community. This developed from an existing tax clinic project: the North West Tax Clinic. In January 2020, students and staff within the school began working in partnership with students and staff at the University of Lancaster and TaxAid. The North West Tax Clinic was established for a pilot period, until summer 2020, and was the first university tax clinic in the UK.

Due to publicity surrounding this project, in March 2020, LSBE were approached by RIFT Social Enterprise (RSE). RSE was established in 2018 and is a not-for-profit CIC that provides support to those in prison in preparation for reintegration into society. The chief executive, Andy Gullick is a former UCLan graduate, and he approached the business school to discuss whether LSBE students could provide similar student volunteer support to their service. UCLan as an institution was already committed to working with those in the criminal justice system, through the dynamic Criminal Justice Partnership (CJP).<sup>40</sup> However, the pilot project represented a novel venture for the business school and allowed new links to be established with longstanding CJP disciplines, such as criminology and law and presented academics and students within LSBE with opportunities to become involved in work that ordinarily, they might not be exposed to.

At the beginning of the project, the focus was on the tax refund service that RSE provides to its clients. In initial discussions with RSE staff, at the outset of the project in March 2020, the barriers and challenges highlighted by Retout (outlined earlier), were confirmed by their experiences. RIFT SE supports people with convictions to get their tax position up to date, reclaim overpaid tax, which can be used to support their resettlement plans and to address any

38 Robin Hambleton, 'How Can the US Experience Advance the Civic University?' (*WONKHE*, 14 March 2019), <<https://wonkhe.com/blogs/how-can-the-us-experience-advance-the-civic-university-2/>> accessed 2 September 2022.

39 University of Central Lancashire, <[www.uclan.ac.uk/news/university-of-central-lancashire-pledges-commitment-to-the-local-community](http://www.uclan.ac.uk/news/university-of-central-lancashire-pledges-commitment-to-the-local-community)> accessed 2 September 2022.

40 University of Central Lancashire, <[www.uclan.ac.uk/research/centres/criminal-justice-research-partnerships](http://www.uclan.ac.uk/research/centres/criminal-justice-research-partnerships)> accessed 2 September 2022.

late filing and subsequent penalties with HMRC. They work across a number of UK prisons and Gullick, a former prison governor and probation officer, said that their work, in conjunction with HMRC and the MoJ, indicated that a significant proportion of those entering prison were accruing penalties due largely to nonsubmission of self-assessment. The partnership between RSE and LSBE therefore started looking at how students in the business school could be used to support the work of RSE – at the time they were an extremely small team and the demand for their service far exceeded the resources available. It was hoped that staff and students at UCLan could support delivery of the service in the local prison estate. However, shortly after discussions began, the COVID-19 pandemic took hold and on 23 March 2020, the UK prime minister announced the first complete lockdown to tackle the virus, with measures coming into force on 26 March following the approval of the Coronavirus Act 2020.

Over the last two and a half years, the UK (along with much of the world) has been through a cycle of several lockdowns. Throughout this period, when restrictions to day-to-day life have been significant, with working from home being the norm and with highly limited, regulated social contact permitted, much of society has turned to digital technology to maintain any degree of normality in day-to-day life. This experience has not been replicated in the prison estate. Although there are indications that digital technology is being applied more consistently at a management and staff level across prisons, the same cannot be said for those serving prison sentences. There have been some positive developments, for example a software application called ‘Purple Visits’ was introduced across the prison and youth offending estate in 2020, to enable those in prison to connect with family and friends via video. However, generally, it is arguable that the digital divide between prisons and the general population has become more pronounced. During the pandemic, it has been widely reported that almost all of those in prison have spent twenty-three hours per day locked in their cell, in solitary confinement.<sup>41</sup> For the average prisoner, access to communal areas such as libraries, and therefore existing, albeit limited technology, has been severely restricted.

The pandemic has also meant that access to prisons for visitors is also highly restricted. Original discussions with RSE had focused on plans where students could go into local prisons and work with residents to raise awareness of general tax rules and refund processes. RSE had developed a model where individual tax ‘champions’ would be trained to disseminate

41 Prison Reform Trust, ‘Prisoners’ Mental Health Suffering under Conditions of “prolonged solitary confinement” (8 March 2021), <<https://prisonreformtrust.org.uk/prisoners-mental-health-suffering-under-conditions-of-prolonged-solitary-confinement/>> accessed 2 September 2022.

information to others and identify any refund or penalty issues that the social enterprise could work on, on behalf of the individual. Any refunds reclaimed or penalties written off could make a significant difference to the financial position of the resident upon release. Unfortunately, COVID-19 meant that this work was no longer feasible. However, when faced with a decline in the ongoing day-to-day refund work, RSE senior management had breathing space to focus on other areas of work that would support prisoner reintegration. A key area that they identified in this regard was in the area of self-employment.

## Prison and self-employment

In its summer 2021 briefing, the PRT articulates the challenges that those released from prison face when trying to secure employment.<sup>42</sup> Studies reveal that six weeks after leaving prison, only 10 per cent of people are in employment. After a year, this only rises to 17 per cent.<sup>43</sup> The Rehabilitation of Offenders Act 1974 gives people with spent convictions and cautions the legal right of nondisclosure when applying for jobs. Additionally, some employers, a notable example being Timpson,<sup>44</sup> the UK-based family run retail business, actively engage with those leaving prison and provide employability support to individuals within prison and upon release. Other large employers, such as the Civil Service, are also taking steps to increase job opportunities for those with convictions.<sup>45</sup> However, for many, having a criminal conviction can appear as an insurmountable barrier to re-enter the job market. Self-employment may therefore be a viable alternative for those leaving prison. Little joined-up and consistent support for self-employment is currently in place. When, in 2018, the government published its strategy on Education and Employment for adult prisoners, RSE highlighted to the Cabinet Office that it did not consider the possible rehabilitative opportunities for those leaving prison in self-employment.<sup>46</sup> This is surprising when many of the training and rehabilitation opportunities presented to those in

42 Prison Reform Trust, 'Prison'.

43 Table 8, Ministry of Justice, 'Community Performance Quarterly: Update to March 2020' (2021), <[www.gov.uk/government/statistics/community-performance-quarterly-update-to-march-2020](http://www.gov.uk/government/statistics/community-performance-quarterly-update-to-march-2020)> accessed 2 September 2022; Ministry of Justice (2018) Education and employment strategy (2018), <[www.gov.uk/government/publications/education-and-employment-strategy-2018](http://www.gov.uk/government/publications/education-and-employment-strategy-2018)> accessed 2 September 2022.

44 Timpson, <[www.timpson.co.uk/](http://www.timpson.co.uk/)> accessed 2 September 2022.

45 Rupert McNeil, 'Ban the Box' (*Civil Service Blog*, 8 February 2016), <<https://civilservice.blog.gov.uk/2016/02/08/ban-the-box/>> accessed 2 September 2022.

46 Ministry of Justice, 'Education and Employment Strategy' (May 2018), <[www.gov.uk/government/publications/education-and-employment-strategy-2018](http://www.gov.uk/government/publications/education-and-employment-strategy-2018)> accessed 2 September 2022.

prison are in areas where self-employment opportunities would be common, for example in catering and construction.

In 2017, David Cameron, then UK prime minister, commissioned a review to be led by David Lammy, a member of parliament, on the particular challenges faced by those from a black, Asian and minority ethnic background in the criminal justice system. The Lammy Review also considered general challenges faced by those within the system, particularly with regards to rehabilitation and reintegration. The review stated, 'Ex-offenders need effective services and supportive communities, but above all else, they need work. A job removes dependence on criminality for income, and an opportunity for education or training boosts self-respect and gives ex-offenders a stake in society and in their own future.'<sup>47</sup> An undergraduate research intern was employed by LSBE in summer 2020 to undertake a review of academic literature in this area. She reviewed recent studies, for example a research review undertaken by Grosholz et al., which identified the potential for impactful work and collaborations to be carried out in the area of incarceration and entrepreneurship.<sup>48</sup>

Encouraged by such literature and in collaboration with RSE, a self-employment virtual support clinic was launched in January 2021. It was a small pilot project which involved twelve students, mainly undergraduate, from disciplines including marketing, accounting and general business, and ran until April 2021. Much of the work was outside of the direct remit of a specific tax clinic – there were tax aspects to the project but often queries involved students carrying out research into many other areas too. The project included students, with staff supervision, reviewing business plans from prison residents and researching areas to help refine and develop their plans. It also involved a redesign of material provided by RSE to those in prison to try and make it as accessible and engaging as possible and encourage uptake of the RSE provision. In summer 2021, RSE was successful with a number of large funding contracts and recruited a team of specialists to provide and develop an ongoing service. RSE now provides self-employment and business start-up support across the UK under a number of contracts such as the Department of Work and Pensions

47 The Lammy Review (8 September 2017), <[www.gov.uk/government/organisations/lammy-review](http://www.gov.uk/government/organisations/lammy-review)> accessed 2 September 2022.

48 Jessica Grosholz et al., 'Entrepreneurship Education in the Transformation of Incarcerated Individuals: A Review of the Literature and Future Research Directions', *International Journal of Offender Therapy and Comparative Criminology* 64 (2020): 1551. <[www.researchgate.net/publication/342047980\\_Entrepreneurship\\_Education\\_in\\_the\\_Transformation\\_of\\_Incarcerated\\_Individuals\\_A\\_Review\\_of\\_the\\_Literature\\_and\\_Future\\_Research\\_Directions](http://www.researchgate.net/publication/342047980_Entrepreneurship_Education_in_the_Transformation_of_Incarcerated_Individuals_A_Review_of_the_Literature_and_Future_Research_Directions)>.

Restart Scheme. In November 2021, it won the Social Impact in Enterprise Award from the National Enterprise Network for its work.<sup>49</sup>

## **Tax and self-employment**

Although this project did not specifically focus on tax, through the work undertaken a number of tax issues were raised that future university clinics could consider. For example, as stated above, many in prison are trained in areas of construction. An understanding of the Construction Industry Scheme (CIS) and the registration requirements as a subcontractor is crucial information for the individual. Registration for the scheme is online and a focus on the digital skills needed to do this and submit ongoing returns could be highly beneficial. VAT queries were often raised by clients during the pilot. VAT can be extremely confusing for anyone who has no previous experience with the system, even more so if you have been isolated from the system and developments for a number of years. Here, students could work on developing inclusive material that explained the area in accessible formats.

Other common queries were those around the different tax treatments of a sole trader and limited company – these are the sort of areas that might usefully be tackled by undergraduate students within a business school.

As stated at the outset, it is recognised that working with prisons may present new challenges for universities around risk management. Engaging with other departments across the university who have prior experience in this area, for example, criminology, is vital here.

The pilot project at UCLan was completely supported by the prisons lead from the CJP. Partnering with other organisations already working in the field is another way to take the first steps into such a new area – UCLan's partnership with RSE was invaluable in this regard. Additionally, when looking to start this sort of work, there are many lower risk opportunities that can be considered and can potentially be integrated into the existing curriculum. For example, clinics could look to carry out policy work and supporting research on the current system and interface between prison and tax authorities, to scope and set out system improvements. Work could be carried out to design materials on key topics relating to tax and self-employment in accessible formats, that could be provided to those in prison. Students could look to produce material to raise awareness of tax allowances like the marriage allowance – this can still be claimed by a person in prison and can present financial benefits to their family.

49 National Enterprise Network, <[www.nationalenterprisenetwork.org/](http://www.nationalenterprisenetwork.org/)> accessed 2 September 2022.

## 12.6 Student and university benefits

As explored in more detail in [Chapter 13](#), this type of work arguably provides many benefits to students – such projects can allow students to reinforce theoretical concepts in a safe, supportive learning environment, bringing relevance and revelation to their learning experience and providing opportunities for inclusive, real-life learning.<sup>50</sup> It can also help student volunteers to develop key employability skills, particularly in the areas of adaptability, communication, creative problem solving and effective client relationship management. As outlined earlier, such projects can expose students to working with students across academic disciplines and provide rich learning experiences for them. Another key aspect of this type of work is emotional intelligence. Working with people in marginalised communities, particularly prison, can allow the learner to explore unfamiliar settings and interactions.

Drawing upon educational theory, such clinical learning exposes students to ‘disorienting moments’ and can challenge pre-existing assumptions about the world. A growing body of work acknowledges the importance of empathy in ethical leadership and therefore the importance of providing business students with opportunities to see life through the eyes of others. Newly developed scales, such as the EPIC (Evaluating the Personal, Interpersonal and Contextual dimensions of growth through learning) scale recently developed by academics at the University of Cambridge and University of Edinburgh present exciting opportunities to track student development.<sup>51</sup> From a university perspective, there are many advantages of exploring this type of work. As outlined earlier, this work can fit into the university’s civic duty and strategy, but it can also provide research opportunities, raise the profile of the university, enhance the teaching and learning strategy and contribute to accreditation standards.<sup>52</sup>

## 12.7 Conclusion

Globally, digitalisation of core services continues to gather pace. This includes the digitalisation of tax administration. This chapter has focused on the UK

50 Sara Flowers, ‘Ephebagogy: A White Paper for Educators and Researchers’ (2016), available online, <[www.academia.edu/24952166/Ephebagogy\\_A\\_white\\_paper\\_for\\_educators\\_and\\_researchers](http://www.academia.edu/24952166/Ephebagogy_A_white_paper_for_educators_and_researchers)> accessed 2 September 2022.

51 Ingrid Obsuth et al., ‘Validation of a New Scale Evaluating the Personal, Interpersonal and Contextual Dimensions of Growth through Learning: The EPIC scale’, *Studies in Educational Evaluation* 74 (2022): 1.

52 See, for example, ‘AACSB Accreditation Standard 9: Engagements that Impact Business and Society’, available at <[www.aacsb.edu/educators/accreditation/business-accreditation/aacsb-business-accreditation-standards](http://www.aacsb.edu/educators/accreditation/business-accreditation/aacsb-business-accreditation-standards)> accessed 2 September 2022.

example to highlight that one of the key challenges for effective digitalisation is for it to advance in a way which does not further exclude those in marginalised communities. Universities are in a place, with facilities and digitally engaged students, to work with those in these communities to try and reduce the digital divide. It could be argued that when the internet continues to develop at such a pace, affecting so many aspects of our everyday lives, from buying a bus or train ticket to checking a bank balance, universities have a civic duty to do this.

One of the most digitally excluded groups is those in prison. As well as having extremely restricted access to digital facilities, often for a long period of time, many of those in prison have other characteristics that mean they are more likely to face digital exclusion. Working with prisons may be uncharted territory for tax clinics and business schools. However, universities often have existing links with prison environments through other academic disciplines. Although working with prisons may present new risks and challenges, frameworks are being developed to guide universities, and lower risk and less resource-intensive projects, such as policy work and the development of accessible materials, can be a stepping stone into this area.





**Part III**  
**Tax clinics and our students**



## Chapter 13

# Pedagogical theory and clinical tax education

*Amy Lawton\**

### 13.1 Key findings

When designing a tax clinic that is based in higher education, it is equally important to design the clinic around the needs of our students. Due to the established nature of clinical legal education, as well as tax clinics in the United States (and more recently Australia) and clinics in other disciplines, there is a rich body of pedagogical literature that looks at clinics and experiential learning more generally. The benefits of doing pro bono and clinical work are well documented. Students can develop a broader range of soft skills and a deeper understanding of the law or rules that they are studying.

This chapter will explore three of those: experiential learning theory (ELT), self-determination theory (SDT) and work-integrated learning (WIL) theory. These theories can be used in your own research and in your tax clinic design.

### 13.2 Introduction

So far, this book has considered the rationale and benefits of introducing clinics from the viewpoint of our local communities. However, in the higher education context, there is another stakeholder: our students. When designing a clinic, it is important to think about how the design will help to support and develop the students participating in the project. This chapter presents a number of theoretical insights into the pedagogy of clinical tax education. The references within this chapter are there to serve as a starting point to any pedagogical research you may wish to undertake.

Both law and accounting, where students most often study tax in higher education, are vocational subjects. In law, '[t]he life of the law has not been logic; it has been experience',<sup>1</sup> and there has been a clear movement towards

\* Amy Lawton, Senior Lecturer in Tax Law, University of Edinburgh. Founder of the Scottish Tax Clinic, co-founder of the North West Tax Clinic.

1 Oliver Wendell Holmes, *The Common Law* (Little Brown & Co., 1881), 1.

introducing avenues that facilitate learning by experience in law schools. There is perhaps even a pressure for law schools to do so: 'Law Schools are under ever-increasing pressure, both from within the legal profession and from outside influences, including law firms, to provide some form of interaction with the real world, in order to develop knowledge, expand skill sets and transform attitudes and values.'<sup>2</sup>

As a part of this movement, law clinics now exist at many law schools and some have been running for decades,<sup>3</sup> a movement that is not as clear in business schools in some jurisdictions. As such, the benefits of clinical education have now been explored and framed using a number of theoretical frameworks.<sup>4</sup> In particular, clinics can help students work on professional competences, such as writing advice,<sup>5</sup> as well as broader soft skills, such as reading skills and letter writing skills.<sup>6</sup> It also helps students prepare for the world of work.<sup>7</sup> Beyond career and skills benefits, clinical legal education has also been argued to help law students, for example, better understand how law is applied.<sup>8</sup>

Students are a key part of any tax clinic or tax community project in a higher education setting. It is therefore important that a university-based tax community project considers and shapes the learning environment for those students. How we encourage our students to learn is important and can even influence how they develop as individuals.<sup>9</sup> This chapter serves to introduce relevant theories that could be used to frame a pedagogical

2 Noelle Higgins, Elaine Dewhurst and Los Watkins, 'Field Trips as Short-Term Experiential Learning Activities in Legal Education', *The Law Teacher* 46, no. 2 (2012): 165, 166.

3 See Richard Grimes, Joel Klaff and Colleen Smith, 'Legal Skills and Clinical Legal Education: A Survey of Undergraduate Law School Practice', *The Law Teacher* 30 (1996): 44; Sara Browne, 'A Survey of Pro Bono Activity by Students in Law Schools in England and Wales', *The Law Teacher* 35 (2001): 33.

4 For a comprehensive coverage of clinical legal education, see Linden Thomas and Nick Johnson (eds), *The Clinical Legal Education Handbook* (University of London Press, 2020).

5 Rachel Dunn, Victoria Roper and Vinny Kennedy, 'Clinical Legal Education as Qualifying Work Experience for Solicitors', *The Law Teacher* 52, no. 4 (2018): 439–52, 445–46.

6 Malcolm Combe, 'Selling Intra-Curricular Clinical Legal Education', *The Law Teacher* 48, no. 3 (2014): 281, 282; see also, Laura Lundy, 'The Assessment of Clinical Legal Education: An Illustration', *The Law Teacher* 29 (1995): 311.

7 Francine Cantatore, 'The Impact of Pro Bono Law Clinics on Employability and Work Readiness in Law Students', *International Journal of Clinical Legal Education* 25, no. 1 (2018): 147, 147.

8 Richard Grimes, 'Reflections on Clinical Legal Education', *The Law Teacher* 29 (1995): 169, 171.

9 Alice Kolb and David Kolb, 'Learning Styles and Learning Spaces: Enhancing Experiential Learning in Higher Education', *Academy of Management Learning and Education* 4, no. 2 (2005): 193, 195.

exploration of tax clinic design. These theories are incredibly useful. They can inform the design of a tax clinic to better shape the student experience. In particular, this chapter will draw on existing frameworks within clinical legal literature that can equally apply to clinical tax education: experiential learning, WIL and SDT.

This list is by no means exhaustive. That being said, it is a useful starting point in any exploration of tax clinics from an educational standpoint. This foundational work will be built on in the chapters that follow and will equip readers with a variety of tools to consider the benefits of a clinical education in tax.

### **13.3 Fostering the next generation of tax advisers: the importance of pro bono**

Clinic environments are also often associated with pro bono environments.<sup>10</sup> In the UK, a definition of pro bono legal work can be found in the Law Works pro bono protocol:

[L]egal advice or representation provided by lawyers in the public interest including to individuals, charities and community groups who cannot afford to pay for that advice or representation and where public and alternative means of funding are not available [...] Legal work is Pro Bono Legal Work only if it is free to the client, without payment to the lawyer or law firm (regardless of the outcome) and provided voluntarily either by the lawyer or his or her firm.<sup>11</sup>

Chaifetz argues that law students must be taught about the importance of public service and pro bono work during their time at university:<sup>12</sup> 'An education which does not question current legal frameworks or examine the effect laws have on individuals handicaps future attorneys.'<sup>13</sup>

10 Although clinical education can also occur in non-pro bono environments, for example through simulation, see Michael Hughes et al., 'SIMulated Professional Learning Environment (SIMPLE): Programme Final Report' (SIMPLE, 2008); Graham Ferris, 'Revisiting "Pressing problems in the law: what is the law school for?" 20 years on', *The Law Teacher* 54, no. 3 (2020): 455.

11 Available at <[www.lawworks.org.uk/why-pro-bono/what-pro-bono/pro-bono-protocol](http://www.lawworks.org.uk/why-pro-bono/what-pro-bono/pro-bono-protocol)> accessed 26 February 2021.

12 Jill Chaifetz, 'The Value of Public Service: A Model for Instilling a Pro Bono Ethic in Law School', *Stanford Law Review* 45 (1992): 1695, 1711.

13 Ibid., 1698.

More concerning, a traditional legal education can shift students away from public interest action 'because of its exclusive focus on the acquisition of technical expertise rather than on the use of legal skills to address larger social issues'.<sup>14</sup> Pro bono is well established in the legal profession, demonstrated in its stronger reflection in law schools. Pro bono in accountancy and tax is less developed, perhaps explaining its more limited presence in business schools.

One of the major benefits of engaging in pro bono work is that it potentially helps to foster altruism in our students.<sup>15</sup> True altruism, where there is no expectation of a future benefit to the self, is argued to be rare.<sup>16</sup> Clinics help to enhance 'the commitment of students to professional ideals and values, fostering the values that promote pro bono contributions'.<sup>17</sup> That being said, student participation in pro bono environments remains somewhat self-centred, with skill gain being valued more highly than altruistic values.<sup>18</sup> Despite the limited impact of pro bono environments on altruism so far, exposing students to pro bono tax clinic work has the benefit of also exposing them to new issues in tax. In practice (both in law and accounting), tax practitioners primarily deal with fee-paying clients. A pro bono tax clinic would expose students to how taxes affect lower-income individuals: it helps to show them the impacts that tax policy has on more marginalised sections of our societies.

Pro bono work is important, especially in an era of reduction in legal aid and support to access professional advice.<sup>19</sup> In the realms of tax, access to free advice relies on guidance issued by HMRC and on the pro bono activities of professional firms and charities. Tax clinics provide an opportunity to bolster the pro bono offering by drawing on students, universities and the tax profession to provide free advice to local communities. More discussion on the societal benefits of tax clinics can be found in Part II of this book.

14 Ibid., 1701.

15 Paul McKeown, 'Law Student Attitudes towards Pro Bono and Voluntary Work: The Experience at Northumbria University', *International Journal of Clinical Legal Education* 22 (2015): 4, 4.

16 Ibid., 6.

17 Jeff Giddings, *Promoting Justice Through Clinical Legal Education* (Melbourne: Justice Press, 2013), 64.

18 McKeown, 'Law Student Attitudes towards Pro Bono and Voluntary Work', 23.

19 In the UK, for example, legal aid was further reduced in the Legal Aid, Sentencing and Punishment of Offenders Act 2012.

## 13.4 Relevant pedagogical theories

### Transforming tax experience into learning: experiential learning theory<sup>20</sup>

Experiential learning is the ‘the process whereby knowledge is created through the transformation of experience’.<sup>21</sup> It is an established branch of pedagogical theory and has been documented in clinical literature. Tax clinics are potential experiential learning environments.<sup>22</sup> This focus on experience is a shift away from the ‘passive vessel’ view of students<sup>23</sup> towards considering them to be ‘active discoverers and constructors of their own knowledge’.<sup>24</sup> But it is important to be aware that:

A growth-producing experience in the philosophy of experiential learning refers not only to a direct experience related to a subject matter under study but also to the total experiential life space of the learner [...] at one end learners feel that they are members of a learning community who are known and respected by faculty and colleagues and whose experience is taken seriously, a space ‘where everyone knows your name’. At the other extreme are ‘mis-educative’ learning environments where learners feel alienated, alone, unrecognized, and devalued.<sup>25</sup>

That being said, tax clinics (along with law clinics) are geared towards providing experience to students. The chapters that follow in this part all outline different approaches to supporting a positive student experience. It is therefore important, as educators, to ensure that the experience is ‘growth

20 This section draws on previous work: Amy Lawton, ‘Lemons to Lemonade: Experiential Learning by Trial and Error’, *The Law Teacher* 55 (2021): 511.

21 David Kolb, *Experiential Learning: Experience as the Source of Learning and Development* (second edition) (Pearson Education, 2014), 1.

22 Alperhan Babacan and Hurriyet Babacan, ‘Enchancing Civic Consciousness through Student Pro Bono in Legal Education’, *Teaching in Higher Education* 22, no. 6 (2017): 672, 673.

23 M. Raghallaigh and R. Cunniffe, ‘Creating a Safe Climate for Active Learning and Student Engagement: An Example from an Introductory Social Work Module’, *Teaching in Higher Education* 18, no. 1 (2013): 93, 94; John Dewey, *Outlines of a Critical Theory of Ethics* (Register Publishing Co., 1891), 186; John Dewey and Jo Boydston, *The Later Works of John Dewey 1925–1953* (SIU Press, 1990), 462.

24 Robert Barr and John Tagg, ‘From Teaching to Learning: A New Paradigm for Undergraduate Education’, *Change* 27 (1995): 12, 21.

25 Kolb and Kolb, ‘Learning Styles and Learning Spaces’, 207.



producing' in any teacher-designed project.<sup>26</sup> This means that students should be at the very centre of the design process for a tax clinic, and not included as an afterthought.

As a theoretical framework, experiential learning looks to how students convert this 'growth producing' experience into meaningful learning. Specifically, Kolb outlines four elements to this process (otherwise known as Kolb's learning cycle): concrete experience, reflective observation, abstract conceptualisation and active experimentation.<sup>27</sup> Baker, Jensen and Kolb develop this: 'The Experiential Learning Theory model portrays two dialectically related modes of taking in, grasping experiences – apprehension (concrete experience) and comprehension (abstract conceptualization) – and two dialectically related modes of transforming experience – intension (reflective observation) and extension (active experimentation).'<sup>28</sup>

The process is broken into two stages: apprehension and transformation.<sup>29</sup> Apprehension is the concrete experience and abstract conceptualisation, while transformation includes reflective observation and active experimentation.<sup>30</sup> The experience provided by any tax clinic would not in itself be sufficient to ensure learning.<sup>31</sup> For 'complete' experiential learning to take place,<sup>32</sup> a clinic needs to provide the opportunity for students to touch on all four elements of Kolb's learning cycle.<sup>33</sup> This could take place through conversation, an assessed reflective journal or workshops for students to discuss the issues they are facing – there is a lot of flexibility to provide touchpoints on Kolb's learning cycle.

Experiential learning provides a higher amount of 'immediacy' when compared to traditional, didactic teaching methods.<sup>34</sup> In particular, a tax clinic would bring a greater relevance to a student studying the subject,<sup>35</sup>

26 Ibid., 205.

27 Kolb, *Experiential Learning*, 27.

28 Ann Baker, Patricia Jensen and David Kolb, 'Conversation as Experiential Learning', *Management Learning* 36, no. 4 (2005): 411, 412.

29 Carolin Kreber, 'Learning Experientially through Case Studies? A Conceptual Analysis', *Teaching in Higher Education* 6, no. 2 (2001): 217, 220.

30 Charalampos Mainemelis, Richard Boyatzis and David Kolb, 'Learning Styles and Adaptive Flexibility: Testing Experiential Learning Theory', *Management Learning* 33, no. 1 (2002): 5, 8; Kolb and Kolb, 'Learning Styles and Learning Spaces', 194.

31 Kreber, 'Learning Experientially through Case Studies?', 218.

32 Deborah Maranville, 'Infusing Passion and Context into the Traditional Law Curriculum Through Experiential Learning', *Journal of Legal Education* 51, no. 1 (2001): 51, 59.

33 Originally also seen in C. Jung, *Psychological Types* (Princeton University Press, 1971).

34 Michael Reynolds, 'Wild Frontiers: Reflections on Experiential Learning', *Management Learning* 40, no. 4 (2009): 387, 388.

35 Ibid., 388.

and is particularly relevant for vocational subjects where students will be working with clients in their future career (for example, in law).<sup>36</sup> In an echo of the benefits of clinical education more generally, experiential learning also provides the opportunity to develop both skills and careers. That is not to say that ELT is perfect.<sup>37</sup> Criticisms include theoretical challenges to the reflective processes held within Kolb's learning cycle, that they are insufficient and retrospective in nature.<sup>38</sup> Overall, the main criticisms can be summarised as follows: 'the emphasis on the centrality of individual experience has come at the expense of psychodynamic, social, and institutional aspects of learning. Alternatives include the introduction of critical theory, social learning theory, psychodynamics and phenomenology, as well as all-out institutional boycotts of the theory itself.'<sup>39</sup>

This builds on the idea that ELT does not consider different cultures,<sup>40</sup> as well as social learning.<sup>41</sup> These are not insurmountable challenges (and can be worked through, for example, by conversation)<sup>42</sup> but need to be kept in mind when adopting an ELT approach to designing a tax clinic. It is also true that a low-income taxpayer clinic will expose students to broader social issues that go beyond the tax rules they are applying.

## **Employability from tax clinics: work-integrated learning (WIL)**

Another pedagogical framework is WIL. WIL draws on experiential learning as well as broader theories of active learning,<sup>43</sup> and has been referred to as

36 Juliet Turner, Alison Bone and Jeanette Ashton, 'Reasons Why Law Students Should Have Access to Learning Law through a Skills-Based Approach', *The Law Teacher* 52, no. 1 (2018): 1, 3.

37 See, for example, Paul Dennison, 'Reflective Practice: The Enduring Influence of Kolb's Experiential Learning Theory', *The Journal of Learning and Teaching at the University of Greenwich* 1 (2009): 23; Christopher Kayes, 'Experiential Learning and Its Critics: Preserving the Role of Experience in Management Learning and Education', *Academic of Management Learning and Education* (2002): 137.

38 David Boud, 'Creating the Space for Reflection', in David Boud et al. (eds), *Productive Reflection at Work* (Routledge 2006), 159; Russ Vince, 'Behind and Beyond Kolb's Learning Cycle', *Journal of Management Education* 22, no. 3 (1998): 304–19.

39 Kayes, 'Experiential Learning and Its Critics', 142.

40 James Anderson, 'Cognitive Styles and Multicultural Populations', *Journal of Teacher Education* 39, no. 1 (1988): 1, 2–9.

41 Defined as 'independent, socially and culturally transmitted network of words, symbols and images that is based solely on comprehension': Kolb, *Experiential Learning*, 105.

42 Kayes, 'Experiential Learning and Its Critics', 147.

43 Denise Jackson, 'Employability Skill Development in Work-Integrated Learning: Barriers and Best Practice', *Studies in Higher Education* 40 (2015): 350, 352.

'experiential learning, cooperative education and work-based learning'.<sup>44</sup> Similarly to experiential learning, WIL attempts to integrate traditional, academic learning with 'real-world' experience.<sup>45</sup> It helps to foster relationships with stakeholders outside the university sphere, such as industry and businesses.<sup>46</sup> Indeed, much of its focus is on the employability of students after participating in WIL, and this can be seen in the extensive research looking at various employment-related attributes. Examples include studies on WIL and self-efficacy,<sup>47</sup> skill development,<sup>48</sup> employability skill development,<sup>49</sup> pre-professional identity<sup>50</sup> and career management competencies.<sup>51</sup> While WIL might have its roots in experiential learning, its focus has moved towards equipping students with skills and confidence for life after university.

The literature is based predominantly in the Australian context; however, graduate attributes and employability is a language that higher education institutions around the world have become familiar with. As Yorke points out:

The inclusion of work-related learning in curricula is gaining significance as the implications of massified higher education systems and institutions respond to governmental pressures towards the production of what Atkins (1999), in a memorably infelicitous phrase, described as graduates who were

44 Denise Jackson, 'Developing Pre-professional Identity in Undergraduates through Work-Integrated Learning', *Higher Education* 74 (2017): 833, 835.

45 Denise Jackson and Nicholas Wilton, 'Developing Career Management Competencies among Undergraduates and the Role of Work-Integrated Learning', *Teaching in Higher Education* 21 (2016): 266, 267.

46 Jackson, 'Employability Skill Development in Work-Integrated Learning', 351.

47 Brett Freudenberg, Mark Brimble, Craig Cameron, Kirsten Macdonald and Dianne English, 'I Am What I Am, Am I? The Development of Self-Efficacy through Work Integrated Learning', *The International Journal of Pedagogy and Curriculum* 19 (2012): 177; Nava Subramaniam and Brett Freudenberg, 'Preparing Accounting Students for Success in the Professional Environment: Enhancing Self-Efficacy through a Work Integrated Learning Program', *Asia-Pacific Journal of Cooperative Education* 8 (2007): 87.

48 Brett Freudenberg, Mark Brimble and Craig Cameron, 'WIL and Generic Skill Development: The Development of Business Students' Generic Skills through Work-Integrated Learning', *Asia-Pacific Journal of Cooperative Education* 12, no. 2 (2011): 79.

49 Jackson, 'Employability Skill Development in Work-Integrated Learning'; Anna Rowe and Karsten Zegwaard, 'Developing Graduate Employability Skills and Attributes: Curriculum Enhancement through Work-Integrated Learning', *Asia-Pacific Journal of Cooperative Education* 18, no. 2 (2017): 87.

50 Jackson, 'Developing Pre-professional Identity in Undergraduates through Work-Integrated Learning'.

51 Denise Jackson and Nicholas Wilton, 'Developing Career Management Competencies among Undergraduates and the Role of Work-Integrated Learning', *Teaching in Higher Education* 21 (2016): 266.

‘oven-ready and self-basting’ as regards the possession and application of skills relevant to the labour market.<sup>52</sup>

Employability and work-ready are often used synonymously in this literature.<sup>53</sup> WIL provides the potential to develop nontechnical and professional skills in students, something that has been described as lacking in the past.<sup>54</sup> It therefore provides the opportunity to ‘equip students with the necessary generic skills, but also contribute to student engagement’.<sup>55</sup>

In particular, WIL projects can increase job knowledge and skills in students, as well as their ‘work-readiness’.<sup>56</sup> It is therefore ‘instrumental’ to graduate job readiness.<sup>57</sup> With a focus on employability comes a potential move away from looking at the academic learning and overall performance of the student.<sup>58</sup> Although there has been evidence that WIL also improves academic performance, it is clear that the theory does place an emphasis on employability. This, in turn, means that ‘attention remains predominantly outcomes-focused with less attention to the process of what, how and from whom students acquire skills during placements’.<sup>59</sup> This is reflected in the fact that assessing WIL projects that place a focus on employability is difficult. Reflection is once again important and necessary to foster an integration of skills.

Traditional WIL projects can take the form of ‘work placements, internships, field work, sandwich year degrees, job shadowing and cooperative education’.<sup>60</sup> That being said, Jackson also points out that there is a growing shift towards less traditional WIL projects:

[T]here is a growing focus on what is now termed non-placement WIL. This may include simulations, role plays and industry

52 Mantz Yorke, ‘Work-Engaged Learning: Towards a Paradigm Shift in Assessment’, *Quality in Higher Education* 17 (2011): 117, 117–18; citing M. J. Atkins, ‘Oven-Ready and Self-Basting: Taking Stock of Employability Skills’, *Teaching in Higher Education* 4 (1999): 267.

53 Anna Rowe and Karsten Zegwaard, ‘Developing Graduate Employability Skills and Attributes: Curriculum Enhancement through Work-Integrated Learning’, *Asia-Pacific Journal of Cooperative Education* 18, no. 2 (2017): 87, 88.

54 Brett Freudenberg, Mark Brimble and Craig Cameron, ‘Where There Is a WIL There Is a Way’, *Higher Education Research and Development* 29 (2010): 575, 575.

55 *Ibid.*, 576.

56 Freudenberg, Brimble and Cameron, ‘WIL and Generic Skill Development’, 82.

57 Jackson, ‘Employability Skill Development in Work-Integrated Learning’, 350.

58 Yorke, ‘Work-Engaged Learning’, 118.

59 Jackson, ‘Employability Skill Development in Work-Integrated Learning’, 351.

60 Kathryn Von Treuer et al., ‘Evaluation Methodology for Work Integrated Learning Placements: A Discussion Paper’ (Proceedings of the Australian Collaborative Education Network National Conference 2010), <<http://acen.edu.au/wp-content/uploads/2015/09/ACEN-2010-Proceedings.pdf?x99824>> accessed 1 October 2022.

projects, not always in the place of work, and allows students to connect with industry in a classroom or virtual setting.<sup>61</sup>

Tax clinics are not traditional workplaces. In many ways, they are partially simulated workplaces, with a number of safety nets (including institutional support and extensive supervision) that are more structured than the real-life workplace would provide. That being said, the traditional pro bono clinic environment that is discussed throughout this handbook is a workplace. As such, tax clinics have the potential to strongly foster graduate attributes and employability among our students in higher education.

WIL theory provides a useful starting point for questions on how to prepare students for the workplace. This can be incorporated and taken into account when designing a clinical project. A well-designed clinical tax project has the potential to make students more employable where a meaningful experience is provided.

### **Growing student motivation and confidence: self-determination theory (SDT)<sup>62</sup>**

As discussed earlier, clinical environments expose students to professional workplaces where their skills and competences can be developed. An environment that fosters autonomy, relatedness and competence can help internalise extrinsic motivation in students,<sup>63</sup> allowing them to engage in their learning for the enjoyment and fulfilment it provides.<sup>64</sup> Autonomy, relatedness and competence have been described as three basic, human needs.<sup>65</sup> Therefore, a tax clinic that sought to encourage these needs would provide a more effective learning environment for students:

The fullest representations of humanity show people to be curious, vital, and self-motivated. At their best, they are agentic

61 Jackson, 'Developing Pre-professional Identity in Undergraduates through Work-Integrated Learning', 835.

62 This section draws on prior work: Michal Chodorowski (student), Amy Lawton and David Massey, 'Mapping Motivations: Self-Determination Theory and Clinical Tax Education', *European Journal of Legal Education* 2 (2021): 129.

63 Richard Ryan and Edward Deci, 'Self-Determination Theory and the Facilitation of Intrinsic Motivation, Social Development, and Well-Being', *American Psychologist* 55, no. 1 (2000): 68, 70.

64 Nigel Duncan et al., 'Resilience and Student Wellbeing in Higher Education: A Theoretical Basis for Establishing Law School Responsibilities for Helping our Students to Thrive', *European Journal of Legal Education* 1, no. 1 (2020): 83, 93.

65 Ryan and Deci, 'Self-Determination Theory and the Facilitation of Intrinsic Motivation, Social Development, and Well-Being', 68.

and inspired, striving to learn; extend themselves; master new skills; and apply their talents responsibly [...] yet, it is also clear that the human spirit can be diminished or crushed and that individuals sometimes reject growth and responsibility.<sup>66</sup>

This idea forms the basis for SDT, which is one of the most widely cited motivational theories.<sup>67</sup> As a theory it looks to explain people's behaviour and motivation,<sup>68</sup> and revolves around the 'importance of humans' evolved inner resources for personality development and behavioural self-regulation'.<sup>69</sup>

Its importance lies with the value of intrinsic motivation, which is essential for both confidence and self-determination.<sup>70</sup> It is also important in the educational context that any university tax clinic would be based: 'Under conditions conducive to autonomy, competence, and relatedness, people will be likely to express their inherent tendency to learn, to do, and to grow. People are engaged and motivated in domains where their basic psychological needs can be and periodically are fulfilled.'<sup>71</sup>

A tax clinic designed with SDT in mind would therefore consider the clinic's ability to foster the three basic needs: autonomy, competence and relatedness.<sup>72</sup> It is only then that a student can be motivated and thrive within the tax clinic environment.<sup>73</sup>

Autonomy speaks to the degree to which individuals feel responsible for their own behaviour.<sup>74</sup> It is also an element of choices and decision-making,

66 Ibid.

67 Christopher P. Cerasoli, Jessica M. Nicklin and Alexander S. Nassrelgrawi, 'Performance, Incentives, and Needs for Autonomy, Competence, and Relatedness: A Meta-Analysis', *Motivation and Emotion* 40, no. 6 (2016): 781, 781.

68 Paula J. Manning, 'Understanding the Impact of Inadequate Feedback: A Means to Reduce Law Student Psychological Distress, Increase Motivation, and Improve Learning Outcomes', *Cumb L Rev* 43 (2012): 225, 229.

69 Ryan and Deci, 'Self-Determination Theory and the Facilitation of Intrinsic Motivation, Social Development, and Well-Being', 68.

70 Edward Deci, Richard Koestner and Richard Ryan, 'Extrinsic Rewards and Intrinsic Motivation in Education: Reconsidered Once Again', *Review of Educational Research* 71 (2001): 1, 3.

71 Richard Ryan and Cynthia Powelson, 'Autonomy and Relatedness as Fundamental to Motivation and Education', *The Journal of Experimental Education* 60, no. 1 (1991): 49, 49 and 53.

72 Louis Schulze Jr, 'Alternative Justifications for Law School Academic Support Programs: Self-Determination Theory, Autonomy Support, and Humanizing the Law School', *Charleston Law Review* 5 (2011): 269, 300.

73 Kennon Sheldon and Lawrence Krieger, 'Understanding the Negative Effects of Legal Education on Law Students: A Longitudinal Test of Self-Determination Theory', *Personality and Social Psychology Bulletin* 33, no. 6 (2007): 883, 885.

74 Kimberley J. Bartholomew, Nikos Ntoumanis, Richard M. Ryan, Jos A. Bosch and Cecilie Thøgersen-Ntoumani, 'Self-Determination Theory and Diminished Functioning: The Role of

allowing a learner to take control of their own learning.<sup>75</sup> In particular, students are at their most autonomous ‘when they freely choose to devote time and energy to their studies or to a particular academic activity’.<sup>76</sup> This free choice does not exist out of context, however, and is framed by the learning environment they find themselves in.<sup>77</sup> Clinical environments are particularly valuable for fostering autonomy in our students. They foster vitality and creativity.<sup>78</sup> They enable students to become problem setters rather than simply problem solvers.<sup>79</sup> This ability for clinics to foster autonomy is important and maintains motivation and empowers students.<sup>80</sup>

The benefits of an autonomy-supportive environment should not be understated. Without it, students can forget the reason they came to study in the first place.<sup>81</sup> It provides a psychological freedom and is ‘characterised by a sense of volition and choicefulness’.<sup>82</sup> As Sheldon and Krieger argue: ‘to maximize the learning and emotional adjustment of its graduates, law schools need to focus on enhancing their students’ feelings of autonomy. Why? Because such feelings can have trickledown effects, predicting changes in students’ basic need satisfaction and consequent psychological well-being.’<sup>83</sup> This is not something that is present in a traditionally taught curriculum and opens the door to clinical education bridging this gap. It is also argued to be a

Interpersonal Control and Psychological Need Thwarting’, *Personality and Social Psychology Bulletin* 37, no. 1 (2011): 1459, 1459.

75 Marjit Wijnen et al., ‘Is Problem-Based Learning Associated with Students’ Motivation? A Quantitative and Qualitative Study’, *Learning Environment Research* 21 (2018): 173.

76 Caesar Orsini, Vivian Binnie, Sarah Wilson and Maria J. Vegas, ‘Learning Climate and Feedback as Predictors of Dental Students’ Self-Determined Motivation: The Mediating Role of Basic Psychological Needs Satisfaction’, *European Journal of Dental Education* 22 (2018): 228, 230.

77 Idit Katz, Avi Kaplan and Gila Gueta, ‘Students’ Needs, Teachers’ Support, and Motivation for Doing Homework: A Cross-Sectional Study’, *The Journal of Experimental Education* 78 (2010): 246, 249.

78 Jonny Hall and Kevin Kerrigan, ‘Clinic and the Wider Law Curriculum’, *International Journal of Clinical Legal Education* 16 (2011): 25, 26.

79 Omar Madhloom, ‘A Normative Approach to Developing Reflective Legal Practitioners: Kant and Clinical Legal Education’, *The Law Teacher* 53, no. 4 (2019): 416, 418.

80 Caesar Orsini, Philip Evans, Vivian Binnie, Priscilla Ledezma and Fernando Fuentes, ‘Encouraging Intrinsic Motivation in the Clinical Setting: Teachers’ Perspectives from the Self-Determination Theory’, *European Journal of Dental Education* 20, no. 2 (2016): 102, 110.

81 Douglas A. Blaze, ‘Law Student Motivation, Satisfaction, and Well-Being: The Value of a Leadership and Professional Development Curriculum’, *Santa Clara Law Review* 58 (2019): 547, 548.

82 Maarten Vansteenkiste, Eline Sierens, Bart Soenens, Koen Luyckx and Willy Lens, ‘Motivational Profiles from a Self-Determination Perspective: The Quality of Motivation Matters’, *Journal of Educational Psychology* 101, no. 3 (2009): 671, 672.

83 Sheldon and Krieger, ‘Understanding the Negative Effects of Legal Education on Law Students’, 884.

pre-requisite of competence: 'perceived competence will not lead to greater well-being unless the behaviour performed is autonomous'.<sup>84</sup>

Competence is the process of experiencing increased mastery in an area.<sup>85</sup> For students in higher education, it includes 'successfully performing study-related activities',<sup>86</sup> as well as being good at what they are doing.<sup>87</sup> This competence requires a link back to autonomy, where the student feels responsible for their own growing mastery.<sup>88</sup> Beyond this, the activities to encourage competence need to be intellectually stimulating but not overchallenging.<sup>89</sup> Tax clinics provide a good opportunity to build competence in an autonomy-supportive way. Where the clinic deals with live client case work, students will take some level of responsibility for the casework that they complete. Within the clinical setting, competence growth can be encouraged by positive feedback to the participating students.<sup>90</sup>

The importance of competence in taxation is significant. In the UK (as echoed in other jurisdictions around the world), a member of the Chartered Institute of Taxation must be competent, and they

must carry out their professional work with proper regard for the technical and professional standards expected. In particular, a member must not undertake professional work which a member is not competent to perform, whether because of lack of experience or the necessary technical or other skills, unless appropriate advice, training or assistance is obtained to ensure that the work is properly completed.<sup>91</sup>

As a higher education tax clinic is a learning environment, there is a tension between purely encouraging competence (with positive feedback) and highlighting a lack of competence. To expect students to attain the level of an

84 Chantal Levesque, A. Nicola Zuehlke, Layla R. Stanek and Richard M. Ryan, 'Autonomy and Competence in German and American University Students: A Comparative Study Based on Self-Determination Theory', *Journal of Educational Psychology* 96, no. 1 (2004): 68, 68.

85 Duncan et al., 'Resilience and Student Wellbeing in Higher Education', 94.

86 Wijnen et al., 'Is Problem-Based Learning Associated with Students' Motivation?', 174.

87 Sheldon and Krieger, 'Understanding the Negative Effects of Legal Education on Law Students', 885.

88 Ryan and Deci, 'Self-Determination Theory and the Facilitation of Intrinsic Motivation, Social Development, and Well-Being', 70.

89 Cerasoli et al., 'Performance, Incentives, and Needs for Autonomy, Competence, and Relatedness', 784.

90 Deci, Koestner and Ryan, 'Extrinsic Rewards and Intrinsic Motivation in Education', 3–4.

91 Chartered Institute of Taxation, 'Professional Rules and Practice Guidelines' (2018), para. 2.4.



experienced tax professional would be over challenging (and so diminish competence) but, on the other hand, not highlighting any weaknesses would also be unethical. This is especially important as university clinics are an external facing community service. A new tax clinic should therefore be mindful to nurture competence but not in an unlimited way, encouraging students to recognise the limits of their own expertise and when they may need support or guidance.

The final basic psychological need is relatedness. It is different to autonomy, where the focus is on independence, responsibility and choice. Instead, relatedness looks to how people work together and connect to their environment.<sup>92</sup> For a vocational subject such as tax, it looks also to how tax students connect to the tax profession. In law schools, this is something that has been historically criticised:

[L]aw schools' devotion to the case method and to doctrine at the expense of skills divorces students from their natural inclination to engage in lawyering; students spend the better part of a year of law school utterly separated from fundamental lawyering skills – counselling, interviewing, and negotiating – that might connect them to practice and thus people.<sup>93</sup>

In some jurisdictions that time is even longer: some law schools teach law through a purely doctrinal approach. A greater integration of clinical education has begun to overcome this criticism, something that tax clinics would continue to develop.

Less broadly, relatedness is 'the degree to which the pedagogical method promotes the feeling of interconnectedness with others and that the learning will lead to a greater ability to use the skills to interact with other people'.<sup>94</sup> This is a critical need and has been compared 'to a plant's need for sunlight, soil, and water';<sup>95</sup> it allows people to flourish.<sup>96</sup> It requires students to connect to others and build trusting relationships.<sup>97</sup> Without it, motivation

92 Although relatedness is not 'antithetical' to the other three needs: Ryan and Powelson, 'Autonomy and Relatedness as Fundamental to Motivation and Education', 53.

93 Schulze Jr, 'Alternative Justifications for Law School Academic Support Programs', 327.

94 Ibid., 321.

95 Sheldon and Krieger, 'Understanding the Negative Effects of Legal Education on Law Students', 885; Richard Ryan, 'Psychological Needs and the Facilitation of Integrative Processes', *Journal of Personality* 63, no. 3 (1995): 397.

96 Ryan and Deci, 'Self-Determination Theory and the Facilitation of Intrinsic Motivation, Social Development, and Well-Being', 71.

97 Sheldon and Krieger, 'Understanding the Negative Effects of Legal Education on Law Students', 885; Duncan et al. 'Resilience and Student Wellbeing in Higher Education', 94.

drops and individuals can become less responsible and innovative.<sup>98</sup> But with it, learning environments can thrive even without intrinsic motivation – as extrinsic motivation can be supported by our relationships with others.<sup>99</sup>

Tax clinics have the potential to forge positive connections with the profession, student and teacher.<sup>100</sup> Clinical environments tend to be (but are not always) smaller learning environments, which allows a higher level of relatedness: 'Because the groups are small, the tutor is able to give more individual support when needed and show interest in all students, which can stimulate feelings of relatedness.'<sup>101</sup>

Students also forge professional relationships with their clients and professional supervisors. They also get to know one another as peers.<sup>102</sup> These close relationships are in stark contrast to more traditional, didactic lectures where there is a 'sense of anonymity'.<sup>103</sup> It is important, therefore, that the design of a tax clinic takes into account these three student (and supervisor) needs to help motivate and boost confidence in students.

### 13.5 Concluding remarks

On a theoretical level, tax clinics touch upon a number of pedagogical theories that are well established within education research and practice. These theories all explore different aspects of how tax clinics could shape our students' learning. ELT helps us to think about how we can help students transform their experience into meaningful learning through reflection or abstract conceptualisation. WIL explores a future reality of our students, which is that they will want to seek employment at the end of their studies. WIL exposes some of the employability-related benefits that a working environment has for our students: and a tax clinic has the potential to be a working environment. Finally, SDT speaks more broadly to what a tax clinic should facilitate for students to grow and develop as individuals: any tax clinic should seek to foster autonomy, competence and relatedness.

The remaining chapters in this section will explore narrower elements of student experience and learning in relation to tax clinics. First, the benefits

98 Manning, 'Understanding the Impact of Inadequate Feedback', 238.

99 Ryan and Deci, 'Self-Determination Theory and the Facilitation of Intrinsic Motivation, Social Development, and Well-Being', 73

100 Wijnen et al., 'Is Problem-Based Learning Associated with Students' Motivation?', 182, 189.

101 Ibid., 176.

102 Ibid., 182, 189.

103 Ibid., 189.

of simulated clinics are explored by Vitale and Medlen; simulated clinics provide an important experience to our students. The importance of tax advocacy is highlighted by Lora and Speidel in [Chapter 15](#). Tax advocacy provides an opportunity for our students to develop important skills and gain valuable experience. Another impact of clinical tax education is explored in [Chapter 16](#), where Boahen et al. analyse student feedback in light of employability. Finally, [Chapter 17](#) considers how a virtual clinic would impact on learning for our students, arguing that virtual clinics can still help students develop their professional identity.

### 13.6 Key reading

Nigel Duncan et al., 'Resilience and Student Wellbeing in Higher Education: A Theoretical Basis for Establishing Law School Responsibilities for Helping our Students to Thrive', *European Journal of Legal Education* 1, no. 1 (2020).

Denise Jackson, 'Employability Skill Development in Work-Integrated Learning: Barriers and Best Practice', *Studies in Higher Education* 40 (2015): 350.

David Kolb, *Experiential Learning: Experience as the Source of Learning and Development* (second edition) (Pearson Education, 2014).

# Chapter 14

## Enhancing student experience

### *Shadowing, role-plays and reflection*

*Connie Vitale and Andrew Medlen\**

#### 14.1 Key findings

As discussed in [Chapter 3](#), where models of clinical tax education were presented, this chapter highlights the benefits to the student experience of setting up a tax clinic as a simulated tax practice. The simulated tax clinic provides students in the programme with insight and exposure to possible career paths, while gaining valuable employability skills.

#### 14.2 Introduction: pedagogical rationale

The Tax Clinic at Western Sydney University (WSU) has been established as a work-integrated learning (WIL) course in an accredited programme, meaning it must meet the course learning outcomes.<sup>1</sup> Regardless of the teaching approach, it was necessary to ensure that the tax clinic enhanced the student experience and graduate employability in the tax profession. The tax clinic adopted simultaneous constructive alignment (SCA). SCA is a framework that integrates ‘the developmental needs and expectations of students, employers and academics related to employability’ (see also [Figure 14.1](#)).<sup>2</sup>

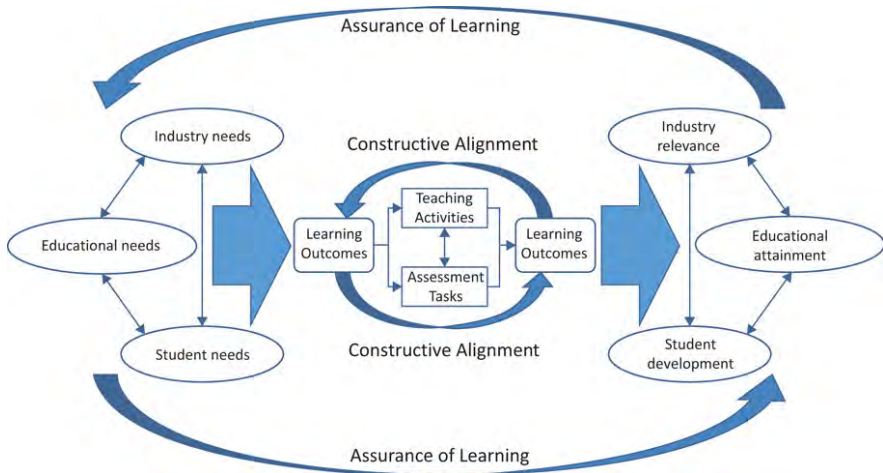
This requires a balance between the learning objectives (or aims of the subject), the assessment tasks set to achieve those learning objectives, and the aims of the National Tax Clinic Project (NTCP) guidelines:<sup>3</sup>

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1 For a theoretical background of Work Integrated Learning, please refer to [Chapter 13](#), Section 13.4.

2 Connie Vitale, Dorothea Bowyer and Leopold Bayerlein, ‘Developing and Presenting a Framework for Meeting Industry, Student and Educator Expectations in University Degrees’, *e-Journal of Business Education and Scholarship of Teaching* 14, no. 1 (2020): 57, 61.

3 Australian Taxation Office, ‘National Tax Clinic Trial Grant Opportunity Guidelines’ (2018), 1.1, 6. Available at <[www.grants.gov.au/Ga/Show/aa4cba18-9e37-d965-ff6c-03636018ab1d](http://www.grants.gov.au/Ga/Show/aa4cba18-9e37-d965-ff6c-03636018ab1d)> accessed 12 July 2022.



**Figure 14.1:** Simultaneous Constructive Alignment. Source: Vitale, Bowyer, and Bayerlein (2020)

While adopting SCA as a framework for establishing the WSU tax clinic, the depiction in Figure 14.1 does not highlight the importance of developing students' soft skills and empathic learning. Soft skills have been defined as the 'interpersonal, human, people or behavioural skills needed to apply technical skills and knowledge in the workplace'.<sup>4</sup> It falls under the emotional intelligence competency domain of skills for business graduates and professionals at all levels.<sup>5</sup> The importance of soft skills in the workplace is becoming widespread, as employers recognise the benefits of employees with strong interpersonal skills.<sup>6</sup> Furthermore, empathic learning is a core principle of the tax clinic experience. According to Briggs, 'empathy is considered a motivating factor for unselfish, prosocial behaviour',<sup>7</sup> a healthy addition to add to any student's attributes. The tax clinic implementation expanded on the elements depicted in Figure 14.1 by adding soft skills and empathy as a mandatory link between student development and industry relevance.

4 Rouxelle De Villiers, 'The Incorporation of Soft Skills into Accounting Curricula: Preparing Accounting Graduates for Their Unpredictable Futures', *Meditari Accountancy Research* 18, no. 2 (2010): 1, 2.

5 *Ibid.*, 3.

6 Chiara Succi and Magali Canovi, 'Soft Skills to Enhance Graduate Employability: Comparing Students and Employers' Perceptions', *Studies in Higher Education* 45, no. 9 (2020): 1834.

7 Saga Briggs, 'How Empathy Affects Learning, and How to Cultivate It in Your Students' (2014) InformED: <[www.opencolleges.edu.au/informed/features/empathy-and-learning/](http://www.opencolleges.edu.au/informed/features/empathy-and-learning/)> accessed 22 July 2022; see also Amy Lawton, Kathryn Saban and Sadie Whittam, 'Do We Want a Human First and a Lawyer Second? Developing Law Student Empathy through Clinical Legal Education', *International Journal Clinical Legal Education* 29, no. 1 (2022): 4.

Along with SCA, the WSU tax clinic adopted a Vygotskian approach in the development of learning modules to necessitate student interaction in solving problem-based activities, which is the core principle of Vygotsky's sociocultural framework.<sup>8</sup> Hall highlights the need for concepts to be taught to students before they are used in activities.<sup>9</sup> Targeted student training prior to the commencement of the tax clinic session addressed this need.

An important objective of establishing the tax clinic as a WIL subject is to determine job suitability and future career aspirations while providing a positive student experience. Inclusion of experiential learning theory aided in this objective. Kolb describes experiential learning as 'the process whereby knowledge is created through the transformation of experience. Knowledge results from the combination of grasping and transforming experience'.<sup>10</sup> Moreover, involving students in the continuous improvement model of the clinic enhances student experience. Students are encouraged to identify and share their ideas on how the current model may be improved. This encouragement begins during training where the versions of each procedure are highlighted, and students are encouraged to share their ideas. Additionally, students submit a report at the end of their term with recommendations on how the clinic may be improved.

The pedagogical principles outlined formed the foundations for the setting up of the tax clinic as a simulated tax practice, promoting and enhancing the student experience.

The following presents the initial collaboration and implementation for setting up the tax clinic. The student experience is highlighted through their exposure to tax professionals, taxpayers, work ethic and the development of soft skills.

### 14.3 Initial collaboration

Initial discussions were held with WSU's Director of Academic Program (Accounting) and the academic who is also a Registered Tax Agent, on how to

8 Andrea Hall, 'Vygotsky Goes Online: Learning Design from a Socio-Cultural Perspective', *Learning and Socio-Cultural Theory: Exploring Modern Vygotskian Perspectives* 1 (2007): 94. Paper presented at the Learning and Socio-cultural Theory: Exploring Modern Vygotskian Perspectives International Workshop 2007. Paper available at: <<https://ro.uow.edu.au/cgi/viewcontent.cgi?article=1005&context=1lrg>> accessed 22 July 2022.

9 Ibid., 182

10 David Kolb, *Experiential Learning: Experience as the Source of Learning and Development* (FT Press, 2014), 41.

best establish a tax clinic within a university setting while providing opportunities for students to gain ‘work ready’ skills as part of their undergraduate studies. It was decided to expand these discussions to include Annette Morgan, the Co-Founder and Clinic Director of the Curtin Tax Clinic established in 2018.<sup>11</sup> WSU decided to mirror the operational setup of the Curtin Tax Clinic. It was also agreed that the establishment of a tax clinic at WSU would work toward a number of key principles:

1. Provide a community service by offering tax services to unrepresented and lower income individuals and small businesses
2. Assist the Australian taxation Office (ATO) to clear outstanding taxpayer returns (Income tax, Business Activity Statements) and acting as a conduit between the ATO and the taxpayer
3. Operate the clinic as a ‘simulated tax practice’ to provide students with insight and exposure to possible career paths, gain valuable employability skills, including ‘soft skills’
4. Integrate the clinic into the Business undergraduate programme to enable students to participate voluntarily in the clinic while gaining recognition as part of their studies
5. Provide increased financial literacy for both students and clients.

Emphasis is placed on the student experience by ensuring that the WSU Tax Clinic is an authentic representation of an actual tax practice. It was agreed that exposure of students to a functioning tax practice would necessitate tax clinic staff (Tax Manager and Supervisors) to be suitably qualified (that is, current registration with the Tax Practitioners’ Board (TPB) of Australia) and to have current industry experience. Additionally, the codified principles of the Tax Agents Service Act (2009) (TASA) would be reinforced and demonstrably adhered to. Although these principles were discussed in the prerequisite taxation unit completed by the students, these are reiterated during their first training session. Also espoused was that any work performed by students on behalf of clients, or any advice given to clients, would always be under the supervision of a qualified staff member.

## 14.4 Implementation

The tax clinic is an educational facility. The aim of the clinic is to provide practical experience to the students and to educate taxpayers on their tax

11 Donovan Castelyn, Stephanie Bruce and Annette Morgan, ‘2019 National Tax Clinic Project: Curtin University-Curtin Tax Clinic’, *Journal of Australian Taxation* 22 (2020): 1.

affairs. The intention is to give taxpayers independence and confidence to meet their future tax obligations.

The tax clinic also provides student with a unique opportunity to apply problem solving, research and critical thinking skills in the university. The accounting students enrolled in the clinic are afforded a taste of working in a tax practice. They experience the job application phase of having to apply and interview for their position. This is then followed by extensive training, undertaking role-plays, awareness and application of written policies and procedures, and training in commercial tax software prior to meeting with the client.

It is a real advantage for these students to be able to apply practical skills to the theory that they have learnt throughout their course.

From a student's perspective, it is a fundamental part of their career-readiness development. They are learning the conversion from theory to practice and developing their soft skills, which are critically important in industry today. They learn the importance of effective communication in dealing with clients as well as teamwork by having to work with their fellow students and their assigned tax professional.

The WSU Tax Clinic has been set up as a WIL subject in the form of an internship for enrolled students situated on main campus. Students volunteering to work in the clinic to gain additional experience must have previously completed the subject to qualify. Students must complete a minimum of 140 hours working in the clinic and receive academic credit for successful completion. The academic who established the subject encompasses the roles of tax professional, educator, trainer, mentor and supervisor simultaneously. The simulated tax practice mirrors the policies and procedures followed in an actual tax practice. Assessments meet the requirements of the curriculum while also being appropriate for trainees in a tax practice, providing students with the same experience they would encounter in a paid traineeship position.

## **Student recruitment**

The WSU Tax Clinic has a student recruitment process. Eligible students are identified via the university's student management system. To be eligible to apply, students must be concurrently enrolled or have successfully completed the Taxation Law subject and have a minimum Grade Point Average at Credit level at WSU.<sup>12</sup> Once identified, students are contacted via email by the tax

12 Connie Vitale and Michelle Cull, '2019 National Tax Clinic Pilot Project: Western Sydney University', *Journal of Australian Taxation* 22 (2020): 116.



clinic manager and are invited to apply for a Tax Clinic worker position. The application process consists of an Expression of Interest (EOI) letter and a Curriculum Vitae (CV). Once the application is received, interviews are undertaken and students are ranked. The ranking of students includes the written application, their professionalism during the interview, their motivation for enrolling in the tax clinic, and their course progression (students in their last semester of study are given priority). Applicants are advised the outcome of their application with successful applicants being issued with a training schedule and work roster for the upcoming session. This process mimics the procedure students, as prospective employees, will encounter when they apply for employment in industry.

Assessments in the WIL subject consist of:

- EOI, CV and Job Interview
- Participation/ Presentation
- Role-plays
- Reflection
- Report writing.

Following is a justification of why each assessment is considered important to both the success of the clinic and the student experience of working in a tax practice.

### **EOI, CV and job interview**

The purpose of the EOI and CV is for students to experience the procedure for applying for employment in industry. The compilation of a CV allows the students to summarise their experience and skills, while the EOI clearly states the skill set and motivation required for the position. Once the EOI and CV are submitted, a job interview is scheduled. The job interview allows the panel to assess the eligibility and suitability of the candidate and gives the student an opportunity to articulate why their application should be considered, and to have any questions they have about the position answered. The EOI and CV is graded, and oral and written feedback is given to the student. Students are formally advised of the outcome of their application via email, and successful students are then enrolled in the WIL subject.

### **Participation and presentation**

Taxation is a highly reputable field and as such, accountants are expected to perform under an extensive and stringent criterion acting with honesty,

integrity, independence, confidentiality and competence.<sup>13</sup> Students in the clinic learn to understand the importance of these principles and the responsibilities that they must adhere to. Each student must agree to these responsibilities before they meet with any clients. The WSU Tax Clinic uses a Tax Clinic Student Participation deed (the Curtin University deed was adapted to meet this purpose), which clearly states the responsibilities that must be undertaken in the clinic. To emphasise the importance of these responsibilities, the relevant sections of the TASA (2009) legislation are studied along with the Code of Ethics for Professional Accountants (APESB, 2018).<sup>14</sup> The similarities of both documents are used for reinforcement of the duties expected of a professional working in a tax practice. Particular focus is placed on Confidentiality and Professional Competence and Due Care, and the legalities of the student's participation.

Students are given time to reflect on whether they still wish to participate and are asked to sign the Tax Clinic Student Participation deed before they are accepted as a tax clinic team member. The deed is witnessed by an impartial party. Continuing tax clinic workers are then provided with a copy of a Client Contract (Curtin University version adapted) which states the terms that clients must agree to before being accepted and exemplifies the importance of the privacy and professionalism principles required in the clinic.

Upon acceptance into the tax clinic, staff training commences where students are provided with appropriate practical knowledge to enhance their confidence. Practical knowledge encompasses all aspects of working in a tax practice from setup in the morning, to making appointments and filing the finished working papers.

This is accomplished through allocated training sessions and engagement with clients. In developing the staff training sessions, it was acknowledged that students have different learning styles,<sup>15</sup> which can impact upon the way they experience the assigned activities. Secondly, students from different age groups have different approaches to learning, as do students from diverse cultural backgrounds. For example, we observed that some students were able to follow and apply a flow chart on the tax calculation process, whereas others required a more detailed written explanation. Further, students with different life and work experiences also have learning differences. An advantage of having experienced educators and tax professionals staffing the WSU

13 Australia: Tax Agent Services Act, s. 30.

14 Accounting Professional and Ethical Standards Board, 'APES 110 Code of Ethics for Professional Accountants (including Independence Standards)' (2018): <<https://apesb.org.au/standards-guidance/apes-110-code-of-ethics/>> accessed 22 July 2022.

15 David Kolb, *Learning Style Inventory and Technical Manual* (Boston: McBer and Company, 1985), 2 and 267.

Tax Clinic is that the training sessions can be adapted to suit the student cohort each semester.

Training includes the following:

1. Compilation of a roster for the clinic to ensure that there are students available during opening hours. Students are expected, as part of their enrolment, to commit to 140 hours of participation including training, assessments, client meetings, research, and so on.
2. Introduction to clinic working papers and how to complete this template (see Appendix A).
3. How to conduct client meetings. This is a document that includes a list of instructions of how to interact with tax clinic clients and has two versions: face-to-face meetings and online meetings. These dynamic documents are further developed by students in the clinic as part of the continuous improvement strategy.
4. Daily routine – introduction to the simulated tax practice. Office work (daily setting and packing up of office space including signage and bollards to define space), checking stationery levels, upcoming appointments, filing client records and archiving completed matters.
5. MyTax training. MyTax is free publicly available Australian Government software for individual taxpayers to complete their personal income tax returns. Using the ATO online services simulator, students are trained on various taxpayer scenarios commonly encountered within the tax clinic (<https://onlineservicessimulator.atg.gov.au/>).
6. Commercial tax software training.<sup>16</sup>

## 14.5 From theory to practice

### Working papers

Working papers include information and documentation that apply to the client. Each case is assigned a unique alphanumeric code that is maintained and stored electronically in an Excel worksheet. Contents of the Working Paper (WP) file vary from client to client, depending on the issue presented.

The WP file includes all correspondence pertaining to the issue and verification that proof of identity (POI) has been completed. The client agreement

<sup>16</sup> Access HandiTax: available at <[www.theaccessgroup.com/en-au/products/handisoft-cloud/handitax/](http://www.theaccessgroup.com/en-au/products/handisoft-cloud/handitax/)> accessed 12 July 2022.

is included in the current file, along with a copy of any ATO correspondence. To ensure the integrity and completeness of the information, the WPs are numbered at the end of the case. The numbering includes a field to show the number of pages included in the file, for example page 1 of 5, page 2 of 5, and so on.

The WP file should include as a minimum the following documentation:

1. The Client Agreement
2. Papers that include a detailed description of:
  - The issue presented
  - Information that is required to assist the client
  - Questions that are asked of the client to help resolve the issue
  - Enquiries made with the ATO liaison officer (if applicable)
  - What advice was provided to the client? It may be that the problem is beyond the scope of the clinic and a recommendation made that the client seeks other professional assistance.
  - If an appointment is made for the client to return to the clinic, future actions (if required).
3. Once the matter has been resolved, the client's tax file number and any personal identifiers are removed from all correspondence before storing it electronically on the university's records management system.

Please refer to Appendix 1 for an example of how to complete a WP.

Upon a client issue being concluded, any hard copy WPs are scanned to electronic format and the soft copy file archived to a location that keeps them secure and stored under the university record keeping policy and procedures. WPs are protected so that they cannot be modified. Each file has a unique name (for example, WP XXX) for ease of identification.

A procedural document has been produced for the students in creating and storing WPs.

## Shadowing

After training and induction to the tax clinic, the process of transitioning students from the traditional classroom textbook questions to the real-world organisational setting commences. We highlight that in practice each client situation may be unpredictable, with no prewritten solutions provided. This prepares students to tackle the various scenarios they may face. Implementing and reinforcing the codified principles of TASA (2009)

is paramount to working in the tax clinic. Any work performed by students on behalf of clients, any advice provided to clients, or any contact with a member of the public within the clinic, will always be under the supervision of a qualified staff member or tax professional.

To achieve this, we adopt and implement a shadowing strategy. Initially students shadow the tax professional to observe, learn and ultimately gain confidence in the process of interacting with clients. Shadowing a professional teaches them how to gather facts using layperson terms, and how to apply those facts to aid the client in successfully completing their tax return, and/or resolving any outstanding taxation issues. The tax professional also ensures that a full explanation is provided to the client to assist in making them self-sufficient into the future, one of the objectives of the tax clinic. The explanation of complex tax issues is conveyed in simple language avoiding unnecessary tax specific jargon. The ATO website is used as a reference point for the taxpayer for future use. In this way, students learn how to develop interpersonal skills of communication, customer service, problem solving and teamwork: 'Conveying complex information in an easy-to-digest manner, being persuasive and instilling confidence make up a palette of good interpersonal skills'.<sup>17</sup>

Students also learn that sometimes matters cannot be solved in one meeting and may be required to undertake research prior to giving further advice to the client. During a meeting with a client (or immediately after), students complete a WP for future reference. If further research is required, the WP provides a recorded trail that other tax clinic members can refer to. Throughout this experience, the importance of soft skills is demonstrated and emphasised. Skills required to be able to deal with the public in assisting with their tax matters and unforeseen circumstances that inevitably complicate the situation, are demonstrated through shadowing an experienced professional. Some examples have included deceased estates, broken marriages, domestic violence and mental health difficulties.

Once the tax professional believes that the student has gained sufficient confidence and competence for the role as interviewer, the tax professional shadows the student in future interviews acting as a mentor and adviser. In this capacity the tax professional still assumes overall responsibility while providing valuable work experience to the student. The student and the tax professional work as a team with the best resolution for the taxpayer being the main objective. At the conclusion of each interview the tax professional and the student enter into a discussion allowing the student an opportunity

17 Amanda Woodward, 'Next-Gen Accountants: Will They Have the Right Mix of Skills?' (*In The Black*, CPA Australia, 1 June 2021) <[www.intheblack.com/articles/2021/06/01/next-gen-accountants-right-mix-skills](http://www.intheblack.com/articles/2021/06/01/next-gen-accountants-right-mix-skills)> accessed 22 July 2022.

to share any concerns that they may have had and allowing the tax professional to provide feedback. This process provides for continuous improvement and enhancement of work skills, improving the student experience.

Any new issues are taken back to the group and discussed as a means of preparation should similar scenarios be encountered in the future. These student experiences form the basis of empathic learning and provide an opportunity for the students to see first-hand the uncertainty, stress and vulnerability faced by clients. These encounters provide a basis for unselfish, prosocial behaviour from the students.<sup>18</sup>

The pastoral care of the students in the clinic is paramount. Without the ability to predict what a client may reveal about their personal circumstances in the meetings, it is important that the mental wellbeing of the students is always considered. For this, a debrief with the tax professional is undertaken. Following the debrief, experiences are shared with all tax clinic workers to allow other team members to be aware of these experiences which will assist in the development of students' emotional intelligence. If students are still uncomfortable and need further counselling, we offer them the university's counselling services.

## **Team-based approach**

For larger and more complicated tasks, a team-based approach is adopted. An example could include multiple years of financial record reconstruction, outstanding business activity statements and income tax returns for the same client. Team-based projects harbour many interrelated actions between different members of the group. As such, they actively test the soft skill capabilities of the students as they must monitor group performance, provide feedback, be adaptable and maintain clear and concise communication.<sup>19</sup> These team-based soft skills are critical to an individual's success due to modern-day organisations adopting team-based work cultures.<sup>20</sup>

By effectively exposing the tax clinic students to self-monitored team exercises, essential soft skills are gradually developed as team chemistry grows. Teamwork also enables leadership development. It is expected that every student will periodically take the leadership role of the group. This exercise is important as practising leadership is essential for establishing and

18 Briggs, 'How Empathy Affects Learning, and How to Cultivate It in Your Students'.

19 Eduardo Salas, Carolyn Prince, David Baker and Lisa Shrestha, 'Situation Awareness in Team Performance: Implications for Measurement and Training', *Human Factors* 37, no. 1 (1995): 123.

20 Paul Osterman, 'How Common Is Workplace Transformation and Who Adopts It?' *ILR Review* 47, no. 2 (1994): 173.

enhancing an individual's emotional intelligence and confidence.<sup>21</sup> By taking the leadership role, students effectively gain experience facilitating and supporting their colleagues, thus gaining an important perspective of what is required as a leader and what will be expected from them in future leadership situations. This is seen as another way of enhancing students' preparedness to become career ready.

## Role-plays

The introduction of role-plays meets the needs of curriculum design and training of students working in the tax clinic. The use of role-plays can be an effective tool for development and regular measurement and assessment of progression of ability.<sup>22</sup> They may also provide unbiased conditions for accurate measurement of growth as well as providing further opportunity for the development of soft skills including active listening and building confidence. Role-plays are commonly used as a training exercise in the medical industry and military branches. Daff explains that the medical industry uses role-plays as training to help doctors develop communication skills and draws parallels between the medical and accounting industries, and how accounting education can adopt the use of role-plays.<sup>23</sup> One of the parallels are the varying client or patient expectations. These professions have to communicate technical issues in layperson's terms. There is a need to understand the client or patient's perspective and effectively provide alternative courses of action. Therefore, client or patient interaction is important and needs to be done effectively.

Continuously engaging with clients in a practical context will develop soft skills. De Villiers recommends the use of the role-plays as assessments to aid the development of soft skills in the accounting curriculum.<sup>24</sup> Soft skill development is frequently emphasised during clinic learning to enhance the student experience and provide students with strong attributes that would be transferable to their future employment and everyday lives.

Soft skills such as oral and written communication, problem solving and adaptability, effectively build a firm foundation for future growth within a promising career as well as advancements in personal life. The initial

21 Ronald Riggio and Sherylle Tan, *Leader Interpersonal and Influence Skills: The Soft Skills of Leadership* (Routledge, 2013).

22 Conor Carroll, 'Enhancing Reflective Learning through Role-Plays: The Use of an Effective Sales Presentation Evaluation Form in Student Role-Plays', *Marketing Education Review* 16, no. 1 (2006): 9.

23 Lyn Daff, 'Lessons from Successes in Medical Communication Training and Their Applications to Accounting Education', *Accounting Education* 21, no. 4 (2012): 385.

24 De Villiers, 'The Incorporation of Soft Skills into Accounting Curricula', 15.

development of these soft skills is incredibly important, however constant refinement is highly recommended to maintain and improve upon the present ability. This can be achieved through further constant practical engagement or preparation for dealing with clients by rehearsing or developing role-plays for scenarios which may arise. In so doing, the development of these soft skills, manifested through the tax clinic, will continue to strengthen. Role-plays have been selected as a training technique in the tax clinic to achieve the following:

1. Initiate discussion with fellow Tax Clinic workers
2. Highlight common tax scenarios that would occur in the clinic
3. Develop and enhance verbal and written communication, adaptability and problem-solving skills
4. Introduce working papers in practice administration and understand their importance
5. Allow students to learn how to communicate complex tax issues in layperson terms.

Role-plays are assigned to students in pairs who then discuss the scenario. One student acts in the role of the Tax Clinic worker, while the other acts out the role of the taxpayer or client. Once the students complete the role play, they write up a WP showing the conversation that had taken place, the advice that was given and where the advice was sourced from. Students complete a WP using layperson terms understanding that a taxpayer would not necessarily understand tax-specific jargon. Role-plays are marked to meet the assessment requirements for the enrolled subject, and feedback is given to students on a weekly basis. Timely feedback enables students to reflect and further develop their skills before the next client interaction.

Development of soft skills is enhanced through continual engagement with role-playing activities. Repetition is key to the development of soft skills.<sup>25</sup> This is achieved through practical experience in the client meetings and similarly through effective and representative role-plays. Soft skills are continually emphasised through the engagement with role-plays and, as such, there is an expectation that these skills will begin to improve at a rate appropriate to each individual.

Role-playing as a facilitated learning tool is effective in increasing the development of soft skills as it is highly specific in its focus towards addressing a task, providing an accurate representation of real-life scenarios in which these skills would be required. Further, it provides a safe space for learning

25 Jeff Shore, 'Repetition: The Key to Mastery' (*TrainingMag*, 2014), <<https://trainingmag.com/repetition-the-key-to-mastery/>> accessed 22 July 2022.



without any repercussions for errors but rather, provides encouragement for further learning. In the clinic, a minimum of ten role-plays are completed by the students which may include:

- Eligibility for the clinic – only unrepresented taxpayers can be accepted as clients
- Work-related deductions – incorporates commonly claimed work-related expenses and changes in ATO approved rates
- Working from home (WFH) expenses – identifies different methods to calculate allowable deductions claimable (for example, COVID-19 WFH rate change)
- Individual taxation return – common income tax offsets and calculations
- Personal Services Income (PSI) – differentiating between PSI and Business Income
- Medicare levy exemption – distinguishing different categories of exemption, specifically focussing on international student visa holders and the completion of a Medicare Entitlement Statement
- Company tax return – focussing on layout and key differences in completing this type of return
- Business Activity Statements (BAS) – calculating and completing requisite fields depending on registration type
- Rental property schedules – completing necessary information in accordance with ATO guidelines, including depreciation schedules
- Capital Gains Tax (CGT) – identifying qualifying assets and associated calculations for different entities
- Small Business Entity (SBE) depreciation – depreciation methods specific to SBE including immediate write-off concessions
- Fuel tax credits – calculating diesel rebates for eligible vehicles
- Tax administration matters – may include late payment penalties, failure to lodge (FTL) penalties, general interest charge (GIC) and notices of objection.

## **Reflection and report writing**

Underpinning the tax clinic's success is a culture of continuous improvement. With each student cohort, changes are made to assessment, training and procedures based on feedback provided by the previous students. Students provide this feedback via their assessment tasks. The assessment tasks include a reflective journal (both positive and negative experiences) and a report of how students believe the tax clinic may be improved.

The reflective journal builds on the experiential learning design. Experiential learning defines learning as ‘the process whereby knowledge is created through the transformation of experience. Knowledge results from the combination of grasping and transforming experience’.<sup>26</sup> Experiential learning is continuous, encouraging students to develop their skills using focused reflection from their tax clinic experience.

Through constant reflection the students continually experience, reflect, think and act: something that is pivotal for their professional development and job readiness. Additionally, this type of learning shifts the focus from a teacher-centred to a student-centred design. Through observation, repetition and guidance, a student’s confidence and competence develop, allowing them to become independent learners. This allows the tax professional to fulfil multiple roles including trainer, mentor, supervisor and work colleague.

Reflections written by the student provide support for the training programme implemented, achieving the aims and objectives of the tax clinic:

### **Student 1:**

All in all, the tax clinic has been a positive learning experience that has provided an unprecedented opportunity for practical skill development and a deeper insight into the world of tax accounting. Through it, I have further developed skills in teamwork, critical thinking and problem solving and been provided an environment to explore a different niche of the accounting profession.

### **Student 2:**

Overall, all experiences in the tax clinic have been extraordinary. I have gained not only professional knowledge in taxation but also personal achievements. Working in the clinic helps me understand how teamwork and diversity play such an important role in an organisation. Just a few months ago, I was concerned about my future after graduating due to lack of confidence. Thanks to the tax clinic, I have obtained sufficient skills to enter the workforce.

The written report also forms part of the student’s assessment for the WIL subject. The report requires students to take on an independent consulting role, assessing the tax clinic’s operations to provide recommendations on how

26 Kolb, *Learning Style Inventory and Technical Manual*, 41.

it may be improved. Reports were chosen for this assessment in a conscious effort to link future tasks that students will be required to complete after graduating, contributing to their career readiness.

## Career readiness

‘The challenge for universities in delivering their programs is to find the right balance of technical content and applied skills that will best equip their students for the evolving world of work.’<sup>27</sup>

The lack of career readiness has been highlighted in an industry where education standards at the tertiary level have not kept up with industry demands. The Millennial Survey conducted by Deloitte identified a lack of employability skills (technical and nontechnical) when leaving the higher education sector. Regardless of nationality and gender, millennials reported that it was after graduation and in an organisational setting, where their skills and experience on the job allowed them to fully meet their career ambitions.<sup>28</sup> An aim of establishing the WSU Tax Clinic was to address these concerns, improving the student experience and preparing students to be work ready with the necessary technical and nontechnical skills. The National Tax Clinic programme funded by the federal government shared this initiative.

In an effort to address concerns of graduates lacking ‘job ready’ software skills, the WSU Tax Clinic provides students with training in commercial tax software; the Australian Government’s online services platform (MyGov), bookkeeping software applications and Microsoft Excel. These skills are enhanced through undertaking client work. Students have benefited greatly from this ‘hands on’ exposure, improving their job ready skills.

## COVID-19 and the impact on the student experience

The COVID-19 pandemic has had many impacts on students’ ability to learn and provide a clear and functional service because it has provided a new challenge that taxpayers, students and educators have not faced before. Development of many soft skills has been hindered due to a lack of face-to-face interactions that might have occurred within a more conventional work environment. Despite these challenges, soft skills such as adaptability, creativity and flexibility have been developed because of the unexpected

27 Jotham Lian, ‘Major Uni Concedes: Accounting Degrees Not Enough to Be “Job Ready”’ (*Accountants Daily*, 9 November 2017), <[www.accountantsdaily.com.au/business/11018-major-uni-concedes-accounting-degrees-not-enough-to-be-job-ready](http://www.accountantsdaily.com.au/business/11018-major-uni-concedes-accounting-degrees-not-enough-to-be-job-ready)> accessed 1 October 2022.

28 Deloitte, ‘Mind the Gaps: The 2015 Deloitte Millennial Survey’ (2015), 8, available at <[www2.deloitte.com/content/dam/Deloitte/global/Documents/About-Deloitte/gx-wef-2015-millennial-survey-executivesummary.pdf](http://www2.deloitte.com/content/dam/Deloitte/global/Documents/About-Deloitte/gx-wef-2015-millennial-survey-executivesummary.pdf)> accessed 22 July 2022.

introduction of the online environment. With the aid of online meeting technology, the use of 'break out' rooms, webcams and microphones, contact with taxpayers and colleagues has still been achievable. Exposure to these additional mediums of communication has further enhanced the student experience by providing additional technological and work ready skills.

## **14.6 Conclusion**

This chapter has demonstrated how an authentic integrated learning platform, through a fully functioning university-established tax clinic, has enhanced the student experience. From the job application and interview process, undertaking training and role-plays, exposure to real-life situations and self-reflection, the student is provided with both simulated and real opportunities for development. This helps to prepare and develop our students for employment after university. Experiential and empathic learning, together with the importance of developing soft skills, gives students in the programme insight and exposure to possible career paths while gaining valuable employability and life skills. Ultimately, some students choose not to pursue a career in taxation having personally reflected on their suitability for a role in taxation, further enforcing the importance of providing an authentic working environment. The clinic is distinctly student centred allowing the students to co-create the future curriculum from the feedback they provide. The continuous improvement protocol enhances the students' experience allowing them to contribute to the growth of the clinic and promoting a sense of belonging.

## Appendix 14.1 Example tax clinic client working paper form

CLIENT NAME:	<i>(name of the client, Capitalise last name)</i>	W/P REF: <i>(obtain from W/P file)</i>	Page of <i>(for example, 1 of 3 pages)</i>
EMAIL ADDRESS:	<i>(client's email address)</i>	PERIOD ENDED:	<i>(financial year issue relates to)</i>
ISSUE: <i>(a brief description of the issue presented, for example, 2021 Individual income tax return or, Late lodgement fine)</i>		PREPARED BY:	<i>(name of person who prepared W/P)</i>
		DATE PREPARED:	<i>(date W/P prepared)</i>
POI: <i>(Verify client's identity indicating source, do not retain copy, for example, Driver's Licence)</i>		REVIEWED BY:	<i>(name of supervisor who checked the W/P)</i>
<i>(Record here any advice given to the client and how it was delivered.)</i>			
<i>(When speaking to a client, be aware that they may not understand tax jargon, for example, BAS, Assessment notice.)</i>			
<i>(You need to speak to the client in everyday language and always check to ensure that they understand what you are advising them about.)</i>			
<i>(Where possible, show them on the Tax Office website where they can find the information themselves and record this on your working papers.)</i>			
<i>(Record any action taken to resolve the issue.)</i>			
<i>(FOLLOW UP: If you need to follow up anything for the client, ensure you write this on the WP under this heading.)</i>			

# Chapter 15

## Introducing tax advocacy to students

*Sarah Lora and Christine Speidel\**

### 15.1 Key findings

Using examples from clinics at law schools in the United States, this chapter describes the training and professional development provided to students by the tax controversy clinic model (as initially discussed in [Chapter 3](#)). Students not only gain skills and direct advocacy experience but they also learn habits of reflective, thoughtful practice which will allow them to succeed in any professional context. Working with low-income community members helps students to connect, understand and empathise with their clients while instilling public service values that will stay with them long after they have graduated.

### 15.2 Introduction

Ms. M- worked in a grocery store making minimum wage. She was the sole breadwinner for her family of four but had never filed a tax return. The Internal Revenue Service sent her Statutory Notices of Deficiency for four years asserting that she owed several thousands of dollars based on income reported by her employer. Students assessed the case and advised the client to contest the notices in the U.S. Tax Court. Students prepared and filed a Tax Court petition arguing that Ms. M- did not owe any money but was instead owed refunds, as she was eligible for anti-poverty credits for her family. The students' advocacy was a success, resulting in refunds to the client of over \$16,000. The taxpayer was shocked and very appreciative of the clinic's help. In addition to helping her resolve her tax issue, the students educated Ms. M- about tax administration and the tax law, including how to have future tax returns prepared and

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filed for free, and the availability of anti-poverty tax benefits designed to help people just like her.<sup>1</sup>

In academic tax clinics, students take on the role of practising lawyers while they are still in a supportive, supervised learning environment. Through representing clients in real cases, students learn and practice the foundational lawyering skills they will need after graduation. This role assumption forms the core of clinical legal education.<sup>2</sup> However, teaching skills to students is not the only purpose of clinics.<sup>3</sup> Tax clinics, like other law clinics in the United States, have both internal and external missions: to educate students on the one hand, and to achieve justice for low-income taxpayers on the other, through representation, education and systemic advocacy.<sup>4</sup>

How can a student with no tax background or law practice experience be expected to effectively represent a taxpayer before the IRS or the US Tax Court? The learning curve is admittedly steep, both in terms of tax law and procedure, and often in terms of understanding the complexity of the lives of LITC clients.<sup>5</sup> However, role assumption in tax clinics is possible, effected in two main ways. First, through close case supervision that supports self-reflection and iterative growth. Second, through a classroom component incorporating readings, written assignments and simulation exercises. Supported by effective supervision and classroom teaching, students successfully work with and support individuals and communities who face barriers to accessing tax justice.<sup>6</sup>

1 Ms M – (not her real name) was a client of the Lewis & Clark Low-Income Taxpayer Clinic (LITC). Her case story was featured in the 2021 LITC Program Report published by the IRS Taxpayer Advocate Service: Low Income Taxpayer Clinics, '2021 Program Report' (2021), <<https://perma.cc/8LNS-37BK>> accessed 22 July 2022.

2 Role assumption has been described as 'the defining feature of clinical education'. See Peter Toll Hoffman, 'Clinical Course Design and the Supervisory Process', *Ariz St L. J.* 277 (1982): 283. Its primacy is widely recognised even as some scholars have questioned the effectiveness of the model for all students. See, for example, Minna J. Kotkin, 'Reconsidering Role Assumption in Clinical Education', *NM L Rev.* 19 (1989): 185, 194: 'In the experiential learning model [...] [t]he learner must first immerse herself in immediate, concrete experience'.

3 Deborah N. Archer, 'Open to Justice: The Importance of Student Selection Decisions in Law School Clinics', *Clinical L. Rev.* 24 (2017): 1, 5: 'But most clinics have a dual mission. They also afford an opportunity to impart a passion for social justice and the broader skills necessary to achieve social justice'.

4 See IRS Pub. 5066, n 1; IRS Pub. 3319 (May 2021), 1, <<https://perma.cc/A6P9-P6VM>> accessed 22 July 2022.

5 See Archer, 'Open to Justice', 19. Tax clinic clients frequently contend with barriers such as poverty, disability, language access, literacy, and the lingering impacts of slavery and institutionalised racism in the United States.

6 See generally W. Edward Afield, 'Social Justice and the Low-Income Taxpayer', 64 *Villanova L. Rev.* (2019): 347.

Students looking back on their time in the clinic generally appreciate the experience. One Villanova graduate commented:

Working in the Tax Clinic was one the best experiences I had in law school. The Clinic gave me an opportunity to get the full experience of working as a lawyer. In other externships, I was limited to performing very specific roles and I never had an opportunity to interact with clients. In the Clinic, I was allowed to not only interact with my clients, but take the lead on planning their cases. This client-focused work made my experience in the Tax Clinic an invaluable part of my legal education.<sup>7</sup>

Using examples from clinics at law schools in the United States,<sup>8</sup> this chapter describes the training and professional development provided to students by the tax controversy clinic model. First, we examine the design and operation of academic tax clinics, highlighting important pedagogical and structural decision points. We then describe different aspects of the course, giving examples of how one might approach the teaching of both broad professional competencies and the specific lawyering skills required for tax advocacy.

### 15.3 The structure of a clinic course

Clinical education is designed to train future lawyers by permitting students to assume the role of practising attorneys under close and careful supervision.<sup>9</sup> Law schools in the United States are accredited by the American Bar Association (ABA), which has adopted standards and rules of procedures for the approval of law schools.<sup>10</sup> The standards include a requirement that approved law schools require six credit hours of experiential learning that includes a classroom component.<sup>11</sup>

7 Email from Villanova Law graduate K. S., J. D. to author (2020).

8 The examples provided in this chapter are not universally practised nor necessarily practised by both authors of this chapter. We have attempted to provide a range of examples and viewpoints. Clinic professors should design their course in a manner that makes the most sense for them and their students.

9 Role assumption has been described as ‘the defining feature of clinical education’. See Hoffman, ‘Clinical Course Design and the Supervisory Process’, 283; Kotkin, ‘Reconsidering Role Assumption in Clinical Education’, 194.

10 ‘A.B.A., Standards and Rules of Procedure for Approval of Law Schools’ (ABA 23 August 2021) <[www.americanbar.org/groups/legal\\_education/resources/standards/](http://www.americanbar.org/groups/legal_education/resources/standards/)> accessed 20 June 2022. Unaccredited law schools also exist in the United States.

11 *Ibid.*, 304(a)(5). The classroom component is sometimes referred to as a seminar. At some schools the two components are graded separately; at others, students receive one grade for the entire course.



## The seminar component

The classroom component provides a space for students to synthesise practice experience with broader legal concepts in a way that is relevant for all practice areas. Ideally, it provides ample opportunity for a rich experience incorporating professional conduct and ethics, legal skills such as client interviewing, building trust with clients, coworkers and the broader legal community across differences, fact development and analysis, legal research and writing, tax concepts frequently seen in client cases, and tax policy as it relates to low-income taxpayers.

Many textbooks offer readings, exercises and ideas for the clinic seminar.<sup>12</sup> One textbook exists that is written specifically for LITCs. Authored by former clinic director and current US Tax Court Special Trial Judge Diana Leyden, the book incorporates tax-specific discussions of professional responsibility, interviewing and counselling, and serves as a tax law and procedure reference manual.<sup>13</sup>

## The client representation component

Student responsibility for representing real clients in real cases is, of course, the distinguishing feature of clinical education. Clinics operate law firms staffed by student associates, except with a not-for-profit mission. Pedagogical and structural choices in designing the client representation component of a clinic are discussed in more detail in the next section.

Because we integrate teaching across the case work and seminar components of the course, we discuss them together for the remainder of the chapter.

## 15.4 Major design choices within the clinic model

This section explores some of the ways in which our 'non-profit law firm' (our tax clinic) could be structured as we introduce students to tax practice.

12 Frequently used texts include Deborah Epstein, Jane Aiken and Wallace Mylniec, *The Clinic Seminar* (West Academic Publishing, 2014); David F. Chavkin, *Clinical Legal Education* (Carolina Academic Press, LLC, 2002); David A. Binder, Paul Bergman and Susan C. Price, *Lawyers as Counselors: A Client-Centered Approach* (West Publishing Company 2001); and Stefan H. Krieger and Richard K. Neumann, Jr, *Essential Lawyering Skills* (4th ed., Wolters Kluwer Law & Business, 2011).

13 Diana Leyden, *Advocating for Low Income Taxpayers: A Clinical Studies Casebook* (Vandeplas Publishing, 2008).

As a preliminary note, clinics differ in their approach to dividing students' time between the classroom component and the case work component of a clinic course. Some schools formally separate the case work and seminar components, awarding different types of credits and potentially separate grades for each component.<sup>14</sup> At Villanova and Lewis & Clark, a single grade is given for both components, and the academic credits for case and classroom work are not formally separated on a student's transcript.<sup>15</sup> However, in those clinics, casework is integrated into the classroom discussion, and as the semester progresses the seminar begins to resemble a law firm practice unit meeting, where case issues are presented and discussed among members of the firm. The issues discussed in this part of the chapter impact how one teaches the classroom component as well as how one approaches case work.

### The directive–nondirective continuum

In designing a clinic course, perhaps the most important decision is how to approach student learning along the continuum from directive to nondirective teaching. One prominent strain of clinical pedagogy in the United States emphasises 'nondirective' teaching and supervision,<sup>16</sup> wherein the student is expected to take on primary responsibility for their cases. This includes learning the applicable law and procedure, justifying and critically examining each lawyering choice that they make, being nudged or guided to gaining knowledge and achieving insights on their own, and being given as much case responsibility and autonomy as possible.<sup>17</sup> In the clinic seminar,

14 For example, enrolment in Harvard Law's twelve-week-long Federal Tax Clinic consists of a seminar with two 'classroom credits' meeting for two hours per week, plus three, four or five 'clinical credits' (at the student's election), requiring twelve, sixteen or twenty hours of case work per week. At Harvard, each clinical credit requires four hours of case work per week or forty-eight hours per semester. See <<https://hls.harvard.edu/dept/clinical/clinical-credits/>> and <<https://hls.harvard.edu/academics/curriculum/catalog/default.aspx?o=77734>> accessed 20 June 2022.

15 Villanova and Lewis & Clark have thirteen-week semesters. At Villanova, students earn six credits and spend four hours per week in clinic seminar plus fourteen hours per week on case work. At Lewis and Clark, students earn three credits and spend two hours per week in seminar plus eight hours per week on cases. It should also be noted that some schools require a year of clinic enrolment rather than a semester.

16 Professor Wallace Mlyniec points out that even 'nondirective' supervision is directive to some degree. Wallace J. Mlyniec, 'Where to Begin? Training New Teachers in the Art of Clinical Pedagogy', *Clinical Law Review* 18 (2012): 101, 114. We use the directive/nondirective dichotomy here for convenience as we find it a useful framework.

17 See generally David Chavkin, *Clinical Legal Education: A Textbook for Law School Clinical Programs* (Anderson, 2002), Chapter 2 'Clinical Methodology', 7–17; Epstein et al., *The Clinic Seminar*; for a striking example of nondirective supervision in action, see: Agata Szypszak, 'Where in the World Is Dr. Detchakandi', *Clinical Law Review* 6 (2000): 517.

this approach means less time spent on lectures and an emphasis on student participation and engagement, perhaps tending towards the Socratic method. Other clinics adopt a more traditionally 'directive' approach, supervising students as one would a law clerk or summer associate, lecturing on tax law and procedure, and providing similar resources as one might find in private practice. Both models give student attorneys more responsibility than they would have as summer associates or new attorneys in a large firm. We will explore how these approaches can play out in different areas of clinic practice.

### **Level of student responsibility for cases**

All clinics offer students first-hand practice experience, in a way that is not available to law students working in the private sector.<sup>18</sup> However, the student's level of responsibility for a case can vary by clinic. In some clinics, it may also vary depending on the experience and skill level of the student. This can be seen in several aspects of the law practice.

- Who does the client interact with over the course of their case? (The student and the instructor, or only the student?)
- Who performs the initial in-depth client interview? (The student and the instructor together, or only the student? If the latter, does the instructor sit in on the interview?)
- How is case strategy decided?
- How are the next steps in a case determined?

Consider Margaret, a disabled low-income individual who came to the clinic because she received an IRS bill for not reporting income from a lawsuit settlement related to alleged discrimination in the workplace. Margaret did not report the income on her return because she believed that type of income was not taxable. The clinic student researched the issue and unfortunately concluded that the liability is correct: the settlement is taxable. The student asks their supervisor, 'What should I do next?'

A directive supervisor might inform the student that the next step in the case is to perform a financial analysis and get Margaret's debt into

<sup>18</sup> Law students enrolled in academic LITCs may be authorised to represent taxpayers before the IRS. IRS Publication 3319, 57 (May 2021) (citing Delegation Order 25-18 (Rev. 4), 8 April 2021). The US Tax Court as well as state and federal courts also have student practice rules which allow students to gain direct experience advocating for a client. See, for example, United States: US Tax Court Rules of Practice and Procedure Rule 24(a)(5); EDPA. Local Rule of Civil Procedure 83.5.1.

Currently Not Collectible (CNC) status if possible.<sup>19</sup> The supervisor might further tell the student to fill out IRS Form 433-F to see if Margaret qualifies for CNC. The student would work with the client to gather the necessary information, and might do some legal and factual investigation for the CNC claim before checking back with the supervisor to review the draft Form 433-F. If Margaret qualifies, the student will advocate with the IRS to obtain CNC status.

A nondirective supervisor might instead respond to the student with a question, 'What do you think we should do next?' or 'Is there anything else we could do to help Margaret?', ultimately guiding the student to realise that they should next determine the client's collection options and then help her decide which option to pursue (if any). Hopefully this will be a quick conversation, as the student will recall the basic collection options from clinic orientation and from clinic seminar readings. If the student does not, the supervisor might direct the student to review certain materials (such as the basic tax collection materials from orientation, the collection chapter of a practice treatise, or a specific seminar reading), and then come back to discuss next steps in Margaret's case. The supervisor would likely not identify CNC as the next step or Form 433-F as the required form but would instead ask the student to research the options and propose next steps for the case. Sooner or later the student would get to the same place as the student in our directive example above.

Both students in this scenario gain the practical experience of helping a client complete Form 433-F, analysing the client's eligibility for CNC, and helping the client obtain protection from enforced collection. The student in the nondirective clinic will also practise recalling and applying information from class sessions to their cases (the other student will do this also, to a lesser extent), and will practise thinking broadly about options for next steps when one phase of a case has concluded. On the other hand, the client in the directive clinic may obtain relief more quickly allowing more taxpayers to be served.

One benefit of the nondirective approach is that the supervisor's hunch about next steps is not always right. Often there is no single 'right answer'. Recalling the previous example, if Margaret has little income and assets, she

19 Many clinic clients have valid tax debts that they cannot pay. These taxpayers may be eligible for IRS programmes that are alternatives to enforced collection. One such programme is Currently Not Collectible, which prevents the IRS from collecting while a taxpayer is suffering from financial hardship. Other programmes include Installment Agreements, allowing payment in monthly instalments, and the Offer in Compromise programme, which allows qualifying taxpayers to settle their debt for less than they owe. See IRS Taxpayer Advocate, I Can't Pay My Taxes: What Should I Do? <[www.taxpayeradvocate.irs.gov/get-help/paying-taxes/cant-pay-my-taxes/](http://www.taxpayeradvocate.irs.gov/get-help/paying-taxes/cant-pay-my-taxes/)> accessed 20 June 2022.

may qualify for an Offer In Compromise (OIC) that would eliminate the tax debt completely. This result would be superior to a collection hold. If the professor suggests CNC, the student may not consider an OIC, resulting in an inferior outcome for the client.

One Villanova student put it this way: ‘At the firm I worked at last summer, I was told, “this is the argument we’re making, go draft the brief”. But in the clinic, you’re asking us to figure out what arguments we should make in the brief, and then draft them. It’s a lot more responsibility’.<sup>20</sup>

## Use of examples and templates

Clinics towards the nondirective end of the spectrum minimise students’ access to templates and samples of prior work. Instead, students are guided to think through each step in their case work, and creatively craft their work product within the bounds of the law, the applicable rules and their client’s goals. This prevents students from blindly following what has come before without stopping to think it through or customise it for their case. In order for students to draft case work products without the benefit of templates, nondirective clinics provide training in basic tax law and procedure, and they provide resources such as treatises and legal research databases.

Clinics that practise more directive supervision freely provide students with work product examples, templates and sometimes checklists or outlines of workflow. In addition, some clinics provide students with legal analysis shortcut tools.<sup>21</sup>

Our clinics’ treatment of case planning is a good example of our different approaches to templates. At Villanova, students read about various case planning methods as a pre-class assignment.<sup>22</sup> These are then discussed in class, and the group reviews sample legal elements proof charts from a non-tax case.<sup>23</sup> Next, as an in-class small group assignment the students populate a proof chart for a mock client with a qualifying child dispute. They are given the legal elements and must fill in corresponding factual prepositions

20 This quote is reconstructed from contemporaneous notes of a December 2021 exit meeting with an Autumn 2021 Tax Clinic student, on file with author.

21 One such tool is Blue J, which uses artificial intelligence to predict the outcomes of tax cases. See ‘Blue J’ (*Blue J Legal*, 16 May 2022), <[www.bluej.com/](http://www.bluej.com/)> accessed 3 June 2022.

22 For the autumn 2021 semester, the assignment was to read Thomas A. Mauet and David Marcus, *Pretrial* (10th ed., Wolters Kluwer, 2019), [Chapter 1](#).

23 For the autumn 2021 semester, the students were provided with three pages of sample charts one might create for a landlord–tenant dispute from Stefan Krieger and Richard Neumann, *Essential Lawyering Skills* (2nd ed., Wolters Kluwer, 2003).

and potential sources of evidence based on the provided case file.<sup>24</sup> The answers are reviewed as a large group at the end of the class.

The next week, students create and populate a legal elements proof chart for one of their actual cases and turn it in as one of their written assignments. This assignment requires students to determine the applicable legal elements on their own, as well as the corresponding factual propositions and sources of evidence. The students receive feedback on their case plans, and two weeks later must submit a revised chart. At Villanova, student-created case plans are removed from the files at the end of each semester, so they are not available to the next group of students.

Similarly, the tax clinic at Lewis & Clark relies on proof charts and discusses them at length in the seminar.<sup>25</sup> Professor Lora invites an employment law lawyer to discuss how her proof charts are based on jury instructions and are the basis for all her case planning, including at the initial interview stage. While most US tax litigation is not in front of a jury, proof charts are still an essential case planning tool. Professor Lora provides students with proof charts containing the required legal elements applicable to their cases and encourages students to use them to guide their fact and legal investigations. Proof chart templates for common types of cases, such as qualifying child, innocent spouse and worker classification, are made available to students with citations to code sections listed. Students focus their energies on figuring out what is and how to obtain the appropriate piece of evidence, such as a school record or a witness statement. The work product is meant to be a constantly evolving document as facts and evidence are uncovered and, therefore, it is kept in the file and used by other students in subsequent semesters.

Nondirective clinics may find the directive approach to come at the expense of deeper student learning, but more directive clinics find that using templates, checklists, and proof charts more accurately reflects the practice of law after graduation and allows the clinic to move cases forward more quickly thereby providing a greater service to the community.

## Case supervision

Nondirective clinics may emphasise student ownership over cases more than a directive clinic, with the supervising attorney as a sounding board and a

24 This is the same mock client whom the students interview, discussed later.

25 A sample proof chart from the Lewis & Clark clinic is attached as Appendix A. In the Villanova clinic, students are provided with a template without the legal elements listed. For their assignment they must first research the legal elements of their case to create a proof chart.

backstop. Nondirective supervisors use techniques such as parallel universe thinking,<sup>26</sup> modelling, and questioning designed to help the student arrive at alternative approaches or brainstorm solutions.<sup>27</sup> The student is required to actively think through their options and justify their lawyering decisions at each step of a case. In a nondirective clinic, the student quickly learns that the supervisor will never directly answer the question, 'what should I do'?

Supervisors falling on the more directive end of the spectrum may answer that question and may even provide unprompted advice about what steps to take next in each case and how to go about it. Some supervisors may also be willing to answer legal or procedural questions that the student could easily look up.

There are many supervisors whose default approach falls somewhere in the middle of these two extremes. Also, experienced nondirective supervisors will vary their approach depending on the situation and the supervisor's goal for the encounter with the student.<sup>28</sup> Supervisors may also vary their approaches depending on the skill level of the student. Students who struggle to learn the material or who struggle to apply the material to their cases may merit more directive supervision. Another approach, used in the Lewis & Clark tax clinic, is to direct first-semester clinic students more closely, and gradually become less directive as the students gain knowledge and experience.<sup>29</sup>

One discrete aspect of supervision to consider is the supervisor's contact with the clients of the clinic. In some clinics, the supervising attorney rarely (or never) meets or speaks with the clinic's clients. Students handle all client interactions, with minimal exceptions. For example, at Villanova a paralegal screens initial intake callers for basic eligibility, and then students take over all client communications until the case is closed.<sup>30</sup> In other clinics, the supervising attorney is present at the client interview (or at least a student's first client interview) and the attorney may conduct the interview themselves, modelling for the student. As the student gains experience, they may conduct

26 See Sue Bryant and Jean Koh Peters, 'Five Habits of Cross-Cultural Lawyering and More Habit 3: Parallel Universe Thinking' (Yale University, 2022), <<https://fivehabitsandmore.law.yale.edu/jean-and-sues-materials/habits/habit-3/>> accessed 20 June 2022.

27 See generally Alex Hurder (ed.) et al., *Clinical Anthology: Readings for Live-Client Clinics* (1st ed., Anderson Publishing Co., 1997).

28 See Mlyniec, 'Where to Begin?', 114: 'Although engaging in an exploration is properly the "default" method of supervision, it need not be employed in every interaction'.

29 This approach is similar to the three-stages advocated by Professor Peter Toll Hoffman. See Peter Toll Hoffman, 'The Stages of the Clinical Supervisory Relationship', *Antioch Law Journal* 4 (1986): 301.

30 Clinic staff may handle cases during the summer school break if student staffing is insufficient.

interviews with their supervisor present, and finally 'graduate' to conducting client interviews and meetings alone.<sup>31</sup> Even at the most directive end of the spectrum, to our knowledge all United States law clinics give students the opportunity for direct client contact.

### **Tension between client service and student educational development**

Students in directive clinics undoubtedly make faster progress on cases. As demand for free legal services always outstrips supply, service providers often feel pressure to help as many people as possible. There may also be pressure from funders to maximise case numbers. Another positive aspect of more directive clinics is that the use of templates, checklists, and AI tools better mimics what students will encounter in the 'real world' of a law firm. However, advocates of nondirective teaching believe that students do not learn as much in a directive environment, even though they achieve competency faster at the specific tasks to which they are assigned. They may point out that students frequently use templates without fully understanding them, and don't necessarily develop the same level of general lawyering skills or thoughtful, reflective practice as a student who has had to find their way up the steeper learning curve of nondirective supervision. Ideally, a student who has had to research the law and procedure on their own and develop their own options and analysis will be undaunted by the novel legal issues and challenges they will confront in the practice of law. Each clinic must find a way to resolve this tension.

## **15.5 Developing a reflective practice**

In clinics, students gain not only specific lawyering skills, but also general habits and perspectives that will serve them well professionally in any field. One broad goal of clinical education is to help students become reflective, thoughtful advocates, primed to engage in continual professional development throughout their career. We teach students both short-term and longer-term habits and techniques to achieve this goal.

### **Exercising agency over one's professional development**

Before the course begins, students may be asked to reflect on their goals for the semester. At Villanova's clinic orientation students work through

31 This graduated approach was used in the Family Law Unit at Harvard Law's clinical program in the early noughties.



a written exercise in which they reflect on twenty-six factors influencing lawyer efficacy and then set their professional development goals for the semester.<sup>32</sup> About seven weeks into the semester, the students complete a written self-assessment. This includes reflection on their skills inventory and progress towards their goals for the semester, in addition to reflections on their performance on core clinic activities such as client interviewing and counselling. Students are nudged to take responsibility for accelerating their learning. For example, one question asks, ‘how have you experimented (or how might you use the remainder of the semester to experiment) with new techniques to achieve your goals?’ Students meet with their professor to discuss the self-assessment around week eight. A final exit interview around week fourteen provides a final check-in on the student’s goals and individual feedback on next steps for the student’s professional development.

### **Building the habit of reflection**

A common mantra among Villanova clinical professors is *Plan, Act, Reflect*.<sup>33</sup> Students are taught to approach their case challenges first by researching, planning and considering options, next by diving in, putting their plan into action, and finally by reflecting back on the process and its results.<sup>34</sup> Asking students to explain and justify their lawyering choices at each step of a case helps build the necessary muscles for reflective practice.

In our experience, students are very comfortable with the first step, and some would stay in ‘phase one’ researching and planning for half the semester if they could. Students usually require nudging to dive in and take action when it is uncomfortable, before they gain confidence as advocates. Diving into practice is crucial to gaining the most from a clinical experience. But it is not enough to stop there. Repeated emphasis on the final reflective step is

32 Marjorie M. Shultz and Sheldon Zedeck, ‘Predicting Lawyer Effectiveness’, CELS 2009 4th Annual Conference on Empirical Legal Studies Paper. Other taxonomies of relevant skills and abilities are available. See, for example, Susan M. Case, ‘The NCBE Job Analysis: A Study of the Newly Licensed Lawyer’, *The Bar Examiner* 82 (March 2013): 52.

33 Variations on this theme are common. See, for example, Meredith Heagney, ‘Plan, Do, Reflect: Clinical Teaching at the Law School’, *The University of Chicago Law School Record* 59, no. 2 (2013): 42, available at: <<https://chicagounbound.uchicago.edu/lsr/vol59/iss2/15>> accessed 22 July 2022; William P. Quigley, ‘Introduction to Clinical Teaching for the New Clinical Law Professor’, *Akron Law Review* 28 (1995): 463, 477 (describing four stages: planning, consultation with supervisor, performance, and post-activity analysis and evaluation); see also, Kenneth R. Kreiling, ‘Clinical Education and Lawyer Competency: The Process of Learning to Learn from Experience through Properly Structured Clinical Supervision’, *Maryland Law Review* 40 (1981): 284, 294 (charting the process in six stages).

34 See generally Bryant and Peters, ‘Five Habits of Cross-Cultural Lawyering and More Habit 3’. Some clinics also use the helpful reflective framework.

crucial to students becoming excellent advocates, both during their time in clinic and beyond.

To build the habit of reflection, clinics may assign written reflection papers or journaling (in some clinics as often as weekly), while other clinics prompt regular reflection less formally, in case supervision meetings and in occasional self-evaluation assignments.<sup>35</sup> By either method we prompt students to reflect on each action they take for clients and to think creatively about what worked well and what could be improved, to build on their mistakes and their successes. We apply this habit of reflection to all facets of advocacy: for instance, to forming a strong attorney–client relationship; to interviewing; to interactions with the IRS and opposing counsel; and to written communications.

The *Plan, Act, Reflect* mantra instills reflection as a practice habit, constantly asking the students to reflect on their activities. This habit, combined with student ownership over their longer-term professional development, provides a powerful foundation for future growth.

## 15.6 Skills and direct advocacy experience

The many skills and competencies required for excellent lawyering have been catalogued in various ways. In this part of the chapter, we selected examples of several narrower skills and competencies that we aim to teach through our clinic courses.

### Law firm management

Much of the initial days of orientation are spent on teaching the nuts and bolts of how the clinic operates. We suggest using a case management software that tracks clients, matters and timekeeping and provides training for the students on how to use it effectively. The firm should have timesheet drafting guidelines and policies in place for dress code, office protocols (especially for the prevention of the spread of COVID-19). The orientation should spend time discussing any internal communication tools,<sup>36</sup> as well as protocols for external communications through emails, letters, faxes and phone calls. The clinic director should discuss calendaring to ensure all case deadlines are met and appointments can be scheduled. Additional instruction should be given on document management, as well as preferred software for word processing and manipulating PDFs.

35 See Chavkin, *Clinical Legal Education*, 24.

36 Current communication tools include Slack, Trello, Microsoft Teams and Ring Central.

## Ethics

The importance of teaching professional responsibility cannot be understated for the sake of the profession, our clients and our students. The ABA requires that students take a two-credit course 'in professional responsibility that includes substantial instruction in rules of professional conduct, and the values and responsibilities of the legal profession and its members'<sup>37</sup> and that clinical offerings 'integrate doctrine, theory, skills, and legal ethics'.<sup>38</sup> The classroom component of the LITC course provides students opportunities to apply their professional responsibility classroom course to the practice of law.

From the beginning of the course, students are confronted with the reality that they will actually be practising law and that students must constantly check themselves to ensure they are following the rules of professional conduct for the state.<sup>39</sup> Consider sending an email to students requiring that the student review the rules of professional conduct regarding client confidences and sign an agreement that the student will protect client confidences in accordance with the rules. Without this document, students should not be given access to the clinic email, logins, door codes, and so on. Also consider inviting malpractice insurance personnel to give a presentation covering topics such as the role of malpractice insurance, the rules of professional conduct, and common ethics scenarios for practising attorneys.<sup>40</sup> The idea is to encourage students to develop their sixth sense about professional conduct and to understand that the malpractice insurance provider can be a friendly resource for feedback on issues that arise.

Many clinics have their students work in teams of two to four, and most clinics require weekly supervision meetings to review case progress. This time can

37 United States: American Bar Association, standard 303(a)(1).

38 United States: American Bar Association, standard 301(a)(1). In law, 'doctrine' refers to rules, principles and theories. Bryan A. Garner, *Black's Law Dictionary* (Thomson West, 2014).

39 Professor Lora teaches in the state of Oregon. The rules applicable there are different from the rules adopted in Pennsylvania where Professor Speidel teaches. Compare: <[www.osbar.org/\\_docs/rulesregs/orpc.pdf](http://www.osbar.org/_docs/rulesregs/orpc.pdf)> with <[www.padisciplinaryboard.org/for-attorneys/rules/rule/3/the-rules-of-professional-conduct](http://www.padisciplinaryboard.org/for-attorneys/rules/rule/3/the-rules-of-professional-conduct)> accessed 22 July 2022. Most if not all states' rules are modelled from the ABA's model rules of professional conduct. See: <[www.americanbar.org/groups/professional\\_responsibility/publications/model\\_rules\\_of\\_professional\\_conduct/model\\_rules\\_of\\_professional\\_conduct\\_table\\_of\\_contents/](http://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/model_rules_of_professional_conduct_table_of_contents/)> accessed 22 July 2022.

40 The Lewis & Clark LITC invites the director of claims from the Oregon Professional Responsibility Fund (PRF). The Oregon Professional Liability Fund (PLF) is the mandatory provider of malpractice coverage for lawyers in private practice in the state of Oregon. Every lawyer who is an active member of the Oregon State Bar who engages in the private practice of law with a principal office in Oregon is required to carry PLF coverage as a condition of their law licence. As a member of the public who receives legal services from lawyers in Oregon, this means that all lawyers in Oregon have coverage for the legal work they perform.

also be used to flesh out ethical issues that arise as the case develops. Some common issues include conflicts of interest between spouses, maintaining confidentiality, the unlicensed practice of law, and competence.

## Multicultural lawyering

To effectively advocate for clients, students must first understand the motivations and decision-making process of their clients. Without understanding the basics of multicultural lawyering, understanding a client and their case becomes more difficult if not impossible. A popular and instructive piece to teach multicultural lawyering is called 'Five Habits for Cross-Cultural Lawyering'.<sup>41</sup> Professor Lora assigns this article prior to her seminar on the topic.<sup>42</sup>

The first habit encourages practitioners to consider the similarities and differences between them and their clients to help the practitioner to understand the ways in which those similarities and differences influence the practitioner's ability to relate to their client and gather facts. The second habit instructs practitioners to consider how the law might view the client, the lawyer and the client's case. This habit helps practitioners see their client's case through the lens of the legal system and prepare the case in a way that addresses any issues raised by the client's cultural background. The third habit helps practitioners to become less judgemental and more open to viewing client decisions and actions in different ways to give them more context and meaning. This in turn helps the practitioner to advocate effectively for the client. The fourth habit builds tools for cross-cultural communication to prevent meaning from getting lost or distorted. Finally, the fifth habit instructs practitioners to reflect upon their practice and encourage them to improve their cross-cultural competencies in the future while preventing self-judgement.

## Legal skills

Tax cases provide the opportunity to develop many lawyering skills and competencies. Nearly all cases require the student to gain facility in client interviewing, fact investigation, legal research, case planning and development, client counselling and communication, oral and written advocacy,

41 Sue Bryant and Jean Koh Peters, 'Five Habits for Cross-Cultural Lawyering', in Kimberley Holt Barret and William H George, *Race, Culture, Psychology, and Law* (SAGE 2005).

42 Teaching tools and materials can be found on the Five Habits website. Sue Bryant and Jean Koh Peters, 'Five Habits of Cross-Cultural Lawyering and More' (Yale University, 2022), <<https://fivehabitsandmore.law.yale.edu/>> accessed 20 June 2022.

forming effective professional relationships, ethics and professional responsibilities, and law practice management.

While tax cases, like most cases, most often settle rather than going to trial, in some instances students also have the opportunity to practise trial advocacy skills. The US Tax Court's calendar call programme allows participating clinics to advise self-represented taxpayers on the eve of trial. Occasionally, it may be appropriate for a clinic to jump into representation.

Clinic students are taught skills through a variety of methods. The seminar component of the course incorporates readings, lecture, in-class discussions and exercises, simulations, and written assignments. Later in the semester, many clinics incorporate case discussions into the seminar.<sup>43</sup> This practice, modelled after medical school case rounds, encourages students to support each other in analysing and responding to lawyering challenges. Students also practise presenting their cases clearly and concisely to their peers.

### 1. Interviewing

Students will normally open several new cases per semester and take over the representation of several others begun in a previous semester. On the first day of orientation, a significant amount of time may be spent teaching interviewing skills. Clinic directors should consider assigning readings that provide an overview of interviewing techniques and skills. Professor Lora assigns an article that discusses an empirical study of efficient and effective interviewing techniques for interviews of low-income individuals in public benefits cases by Professor Gay Gelhorn.<sup>44</sup>

As an assignment before orientation, she asks the students to reduce the article into a 'Top 5' tips for interviewing clients. Some of the common answers include:

Use broad open-ended questions to begin the interview, listen without interruption, acknowledge client emotion, use continuing phrases to encourage the client to keep going with their story without interrupting the flow of the conversation (such as 'go on,' 'yes,' 'uh huh,' or 'continue'), and do not become preoccupied with forms or paperwork until the client has had the opportunity to share their complete story.

43 See David F. Chavkin, *Clinical Legal Education* (Carolina Academic Press, LLC, 2002), 13; Epstein et al., *The Clinic Seminar*, 'Conducting Rounds', 757–9.

44 Professor Lora assigns Gay Gelhorn, 'Law and Language: An Empirically Based Model for the Opening Moments of a Client Interview', *Clinical Law Review* 1 (1997): 321.

During orientation, Professor Lora explains the goals are when we interview a client: we want to listen, begin to understand, and acknowledge our client's concerns to better understand the way in which their legal issue connects with the client's lived experience so that we may better advocate for the client.

With this background and the tools to draw upon, Professor Lora has the class watch a recording of an interview conducted by a previous student of an actual clinic client. She then works through with the students what went well and what could have gone better. Students also engage in a simulated interview of each other. Feedback from students has shown that this structure of read and reflect followed by watch and reflect allows students to walk into their first interview feeling prepared and competent.

As an alternative, Professor Speidel's clinic uses a mock intake file and hires an actor to play the client. Each student team must plan and conduct an intake interview with the client. Immediately after the interview, the students complete a self-evaluation form. They then write an intake memorandum analysing the case and recommending next steps and whether to represent the client. The interview is recorded, and the actor also evaluates each student. After reviewing the recording, evaluations, and intake memos, Professor Speidel meets with each student to reflect on the experience.

Many clinics also record actual client meetings for purposes of supervision and reflection. With written permission from the client, Professor Lora records and reviews the student's first interview and then spends time with the student reflecting on their performance. Of prime importance is whether the student showed the client dignity and respect by listening to the client's story without interruption. As Professor Gellhorn points out in their article, doing this well is perhaps the most efficient way to obtain the detailed factual nuance you need to effectively advocate for your client.

The students may then watch their recording and draft a reflective memo to discuss areas of strength and improvement. Many students express sincere appreciation for the opportunity to learn interviewing skills in this setting. One third-year law student recently commented, 'I can't believe I almost graduated law school without learning how to interview a client!'

## **2. Fact and legal investigation**

Once students have effectively interviewed their client and obtained the necessary opening paperwork and authorisations, students must then develop a plan for fact investigation. More directive professors may have developed the use of a proof chart to help students organise what they need to prove, that is, the elements of the case, and what evidence they have or need to obtain to prove that fact.

Students may be required to draft legal memoranda for the file in the event legal issues arise. Mind mapping sessions during the case review meeting can be an effective tool for fleshing out potential avenues for fact investigation. Often, obtaining the right piece of evidence will require that students obtain the appropriate authorisations, such as a medical release, or an agency power of attorney. Students will also identify and communicate with witnesses. Some students seem reluctant to call witnesses, but we find that providing students with encouragement and the opportunity to practise helps students find the courage. We speculate that the reluctance to pick up the phone may have to do with the generational transition from voice to text communications.

Some students excel at fact investigation. For example, a Lewis & Clark student needed to prove that a mental health court had placed a client's dependent in his care through a court proceeding that occurred in 1989. This is a very tall order even for seasoned fact investigators, as the records had been purged and were no longer available from the court. After multiple conversations, the student was able to elicit from the client the name of a medical professional involved in the hearing. She then sent letters to all the addresses appearing in a web search for that name. Much to everyone's surprise, the doctor got in contact with the student and offered to provide a witness statement! The student then was able to successfully settle the case with the IRS.

### **3. Client advice and communication**

Both of our clinics require that students conduct most if not all of the client communication. The clinic at Lewis & Clark requires that the professor (or other licensed attorney) be present any time the students are conveying legal advice to ensure that the information is conveyed correctly. At other clinics, including those at Villanova and Georgia State University, the professor never meets the client; students handle all client interactions after initial intake.

With client permission, meetings and calls can be recorded for the supervisor to review afterwards. The supervisor may require students to submit materials in advance of a client meeting, such as a meeting outline with goals, topics, questions and tentative information and advice to be provided. Students also practise client conversations in advance, both in class or in case supervision meetings. This includes practising telling a client that they need to conduct more research or consult with their supervisor before providing an answer to the client's question. It is important for students to explain their role and establish expectations with clients at the beginning of the case and as needed as the representation progresses.

Clients often have a preferred method of communication, notwithstanding, students may find it most effective to initiate communication orally, either

in-person or by phone, and then follow up with a written confirmation of the advice. Students will often be required to convey 'bad news' on a case, such as that the likelihood of success in the case is very low in our opinion. It may soften the blow to offer the chance for a second opinion through referral to the local bar. We find that students that can effectively communicate with their clients obtain the best client feedback, even if the communication conveys negative information.

#### **4. Document drafting**

Students will experience the fact that much lawyering involves writing, whether it be a client letter, a letter to opposing counsel or agency personnel, pleadings or legal memoranda for the file. It is important to have students reflect on their audience and adjust their tone and legal support based on the recipient. For example, in general, students would do better to cite internal agency policy documents such as the IRS Internal Revenue Manual as opposed to the tax code when corresponding with agency officials. But, students would do better to cite the tax code when working with IRS counsel. We have found that a refresher on the basics of a professional letter (for example, the location of the date, address and salutations, as well as formatting protocols) to be helpful as a surprising number of students are new to this skill. Directive clinics may have a number of templates that can be used for the basic steps of a case, such as for letters of engagement and disengagement. Nondirective clinics will have students work out those letters themselves. Both types of clinic provide students with detailed feedback to address the writing, tone and overall effectiveness of the piece.

### **The advocacy mind-set**

Most controversy clinics in the United States teach 'client-centred lawyering' and aim to instil an advocacy mind-set in students.<sup>45</sup> United States law students spend much of their first year reading and discussing court decisions, learning to spot issues and analyse problems from the perspective of a judge.<sup>46</sup> This is quite different from the approach of an advocate, who is responsible for building the factual and legal picture for the judge to analyse (on top of problem solving, counselling and many other tasks one undertakes

45 See generally, David Binder, Paul Bergman and Susan Price., *Lawyers as Counselors: A Client-Centered Approach* (2nd ed., West, 2004); see also Archer, 'Open to Justice', 16: noting that a person cannot 'be a skillful lawyer without embracing the value of client-centeredness'.

46 The Princeton Review, 'What Is Law School Like: First-Year Curriculum', <<https://perma.cc/DV5S-NGCA>> accessed 1 July 2022; see also US Legal, 'Law School First Year Curriculum', <<https://lawschool.uslegal.com/resources-when-you-are-in-law-school/law-school-first-year-curriculum/>> accessed 3 June 2022.



for a client). Clinic students must adjust their perspective to fulfil their professional responsibilities to their clients.<sup>47</sup>

## 15.7 Working with community members

Having students provide services to their local community benefits students and universities beyond the specific lawyering skills that the students gain, and helps the students grow into more effective advocates able to advance justice for their clients.

Student work with community members can take several forms. Obviously, in every clinic students represent low-income individuals in tax disputes. Individual clients are generally members of communities surrounding the university, although this is not necessarily a requirement.<sup>48</sup> Second, many academic clinics enlist students in community education and outreach efforts, in addition to their individual case work.<sup>49</sup> Third, in some clinics, although not often in tax clinics, students engage in community lawyering, representing a group or a coalition of clients in systemic impact projects.<sup>50</sup> Students may also participate in systemic advocacy efforts to raise awareness of problems faced by different groups of low-income taxpayers, such as responding to agency requests for public comments on proposed rules, filing amicus briefs, pursuing systemic impact litigation and submitting systemic advocacy reports to the IRS Taxpayer Advocate Service.<sup>51</sup>

Law students in the United States are disproportionately white and economically privileged compared to the general population.<sup>52</sup> By working with

47 See Archer, 'Open to Justice', 16–17.

48 For example, the Harvard clinic accepts impact litigation cases nationwide. Harvard's Tax Clinic is discussed by Keith Fogg in [Chapter 11](#).

49 LITCs funded by the IRS Taxpayer Advocate Service are required to engage in community education and outreach. See IRS Publication 3319. Educational events are those providing substantive or procedural tax information to individuals. Outreach events are those providing information about the clinic's services and how to access them.

50 Monika Batra Kashyap, 'Rebellious Reflection: Supporting Community Lawyering Practice', *NYU Review of Law and Social Change* 43 (2019): 403, 404; and Afield, 'Social Justice and the Low-Income Taxpayer', 359–61, who describes the tension in law school clinics between individual representation and community lawyering approaches.

51 Afield, 'Social Justice and the Low-Income Taxpayer', 356–7.

52 A. Benjamin Spencer, 'Law Schools, Law Firms Must Share Responsibility for Diversity', *Bloomberg Law News*, 21 July 2021, <<https://perma.cc/4ND9-XZ2Y>> accessed 22 July 2022: 'Blacks and Hispanics continue to be underrepresented [in law school classes] compared with their proportions in the U.S. population'; see generally Miranda Li, Phillip Yao and Goodwin Liu, 'Who's Going to Law School? Trends in Law School Enrollment Since the Great Recession', *UC Davis Law Review* 54 (2020): 613.

clients who are different from themselves, students develop empathy and understanding of others both as a lawyering skill, and as a vector for personal growth.

Public service is an important component of lawyers' professional obligations in the United States.<sup>53</sup> Clinic students see the impact of public service first hand, as they help people who do not otherwise have access to tax lawyers or accountants, access the benefits to which they are entitled and exercise their legal rights. This experience generally leads students to a greater appreciation of bar pro bono requirements, and a greater understanding of the privileges they wield as future lawyers.

Likewise, clinic students who participate in community education and outreach efforts gain benefits beyond the skills required for the event they plan and conduct. For community education to be successful, it must be responsive to community needs and interests. Students can assist the clinic staff in building relationships with community partners, listening to the communities served by the clinic, and providing responsive community information, presentations and materials. Students in some clinics also translate materials into languages spoken in the community.

For example, at Lewis & Clark, students work with a partner on an advocacy project to educate taxpayers about their rights and responsibilities under the tax code. In general, the students are required to create a deck of slides and present those to a group of low-income taxpayers or community partners that work with low-income taxpayers. Students have presented on a broad range of topics such as tax tips for small businesses, the child tax credit and other tax issues for low-income taxpayers.

## 15.8 Conclusion

Academic tax clinics advance the fairness of the income tax system on individual and systemic levels, while providing law students with skills, advocacy experience, greater understanding of the challenges faced by poor and marginalised people, and finally with habits of reflective, thoughtful practice. Students benefit from enrolling in an LITC course whether or not they pursue a career in tax law. Ultimately, the legal system benefits when attorneys enter practice as experienced advocates for justice with public service values.

53 United States: American Bar Association, 'Model Rules of Professional Conduct', Preamble: A Lawyer's Responsibilities.

## **Appendix 15.1: Form template**

### **IRC 6015(f) Equitable Relief Proof Chart**

#### **Lewis & Clark Law School Low-Income Taxpayer Clinic**

##### **Threshold Conditions**

- Joint return filed
- 6015(b) and (c) relief not available
- Timely filed – before expiration of CSED
- No assets transferred as part of a fraudulent scheme
- No transfer from nonrequesting to requesting to avoid tax or the payment of tax
- Requesting spouse did not participate in the filing of a fraudulent return
- Liability is attributable to an item of the nonrequesting spouse or an underpayment resulting from nonrequesting spouse's income.

*Continued on next page.*

<i>Factor</i>	<i>For, Against or Neutral</i>	<i>Facts</i>	<i>Evidence</i>
STREAMLINED RELIEF			
Divorced, Separated, Living Apart			
Economic Hardship			
Knowledge			
Abuse Mitigating Knowledge			
NON-EXCLUSIVE LIST OF FACTORS IF STREAMLINED RELIEF UNAVAILABLE			
Divorced, Separated, Living Apart			
Economic Hardship			
Knowledge			
Abuse Mitigating Knowledge or Influencing other Factors			
Legal Obligation (Divorce Decree)			
Tax Liability			
Benefit			
Compliance			
Mental or Physical Health			
TOTAL		No single factor is determinative, and all of the factors should be considered and weighed appropriately.	

## Chapter 16

# Developing employability skills through practice-based learning

*Eric O. Boahen, Shampa Roy-Mukherjee,  
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### 16.1 Key findings

The COVID-19 pandemic has had severe economic consequences across the globe, affecting the lives and livelihoods of people across countries and communities. In response to the UK national lockdown, the Tax and Accountancy Clinic (TAC) at the University of East London was set up in April 2020, with an aim to provide free financial advice, guidance and support to businesses within the East London community. The purpose of the TAC was to have a positive impact on the well-being of our immediate community and small and medium-sized enterprises (SMEs), to ensure economic and financial inclusiveness, create economic and financial awareness and provide access to government incentives. The clinic was also set up to provide opportunities for undergraduate and postgraduate accounting students to engage in training in the field of professional accounting practice while studying at the University of East London. In this chapter, we explore the impact the TAC has had on student experiential learning and employability by analysing student feedback on their learning in our first two years of operation.

### 16.2 Introduction

The University of East London (UEL) has been a leading anchor institution in the East of London since 1898.<sup>1</sup> We value our history as a people's university and the role we play in connecting local governments, organisations, businesses and communities. We engage with our local communities and civil

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<sup>1</sup> University of East London website, see: <[www.uel.ac.uk/about/about-uel](http://www.uel.ac.uk/about/about-uel)> accessed on 23 June 2022.

society through our teaching, research and partnerships, encompassing a wide variety of projects. Thus, UEL gives back to our local community as an employer, institution, neighbour and centre of opportunity, and welcomes local people to our campuses. At UEL, we provide business and community support through a variety of outreach services and activities such as the TAC,<sup>2</sup> our Legal Advice Centre,<sup>3</sup> and a wide range of community regeneration projects and the employability work we do with young people and youth groups in East London. We are part of existing local authority projects that focus on the health and well-being of communities, particularly focusing on the vulnerable and marginalised.

### 16.3 Rationale for the TAC at UEL

The economy of East London has grown substantially over the past decade, especially after the 2012 Olympics, with many SMEs flocking to this growing prime market area of London, which now includes Docklands and Canary Wharf. In recent times, the East London area has attracted numerous SMEs (including restaurants, professional practice firms, and tech hubs), due to the lack of space for expansion in the central part of London.<sup>4</sup> This widespread regeneration of the area has happened as a result of the London Olympic Games in 2012.<sup>5</sup> Since then, the mayor of London has announced the development of the Royal Docks Enterprise Zone starting in 2018 with an investment of approximately £314 million over the next five years to deliver commercial space, transport infrastructure, connectivity, economic development, place making, estate management and creative projects.<sup>6</sup>

However, COVID-19 has severely affected the growth and regeneration of East London communities and businesses. A recent survey by Simply Business estimates that the average loss in earnings for SMEs due to the crisis is £11,799 and the loss to the UK economy as a whole is £126.6 billion.<sup>7</sup> It is

2 See <[www.uel.ac.uk/our-research/research-royal-docks-school-business-law-rdsbl/tax-accountancy-clinic](http://www.uel.ac.uk/our-research/research-royal-docks-school-business-law-rdsbl/tax-accountancy-clinic)> accessed on 23 June 2022.

3 See <[www.uel.ac.uk/our-research/research-royal-docks-school-business-law-rdsbl/uel-legal-advice-centre](http://www.uel.ac.uk/our-research/research-royal-docks-school-business-law-rdsbl/uel-legal-advice-centre)> accessed 23 June 2022.

4 Gavin Poynter, 'The 2012 Olympic Games and the Reshaping of East London', in Rob Imrie, Loretta Lees and Mike Raco (eds), *Regenerating London: Governance, Sustainability and Community in a Global City* (Routledge, 2009), 132–51.

5 Paul Watt, "'It's Not for Us": Regeneration, the 2012 Olympics and the Gentrification of East London', *City* 17, no. 1 (2013): 99.

6 <[www.london.gov.uk/decisions/md2338-royal-docks-enterprise-zone-delivery-plan](http://www.london.gov.uk/decisions/md2338-royal-docks-enterprise-zone-delivery-plan)> accessed 28 July 2022.

7 <[www.simplybusiness.co.uk/downloads/simply-business-report-covid-19-impact-on-small-business.pdf](http://www.simplybusiness.co.uk/downloads/simply-business-report-covid-19-impact-on-small-business.pdf)> accessed 14 July 2022.

estimated that 67 per cent of SMEs (circa 230,000) have been forced to close temporarily. In London, 76,300 SMEs have been estimated to have permanently closed due to the lockdown. East London-based SMEs are among the worst hit with an average loss of earnings of £17,074, which is £5,000 higher than the national average. London boroughs have seen a sudden increase in the number of people claiming unemployment-related benefits: in East London these figures are among the highest.

In response to the public health crisis,<sup>8</sup> the government, through the HMRC, introduced some economic stimuli for businesses, including employee payroll support and recovery loans schemes.<sup>9</sup> These government interventions were to ensure that businesses received the necessary financial support for them to survive the pandemic. In the backdrop of the crisis as described above, the TAC was set up in April 2020 for two main reasons: to provide community support and to support our students.

### **To raise awareness and provide free guidance in response to the COVID-19 lockdown**

UEL felt that this was something that would have an immediate impact on local SMEs during times of hardship. The TAC has helped numerous SMEs to access HMRC loans such as the Coronavirus Business Interruption Loan Scheme and the Bounce Back Loan Scheme. Post-pandemic, the TAC has been focusing on the following support provision:

- Offering free consultancy to local SMEs on tax compliance, financial management and accounting regulations affecting their businesses
- Holding public events to create awareness of government fiscal policies (including automatic stabilisers) at the grassroots level, which include managing procurements, managing credit facilities with suppliers and customers, and accessing finances for SMEs (filing tax returns, providing advice on subsidies/tax rebates/commercial rates/carbon accounting). TAC to act as a hub and interactive platform linking local employers to trainee accounting and finance students from UEL who are willing to work on a part-time basis. Such adverts are made available on the TAC website and through the university Twitter and LinkedIn accounts.

8 <[www.simplybusiness.co.uk/knowledge/articles/2020/05/new-coronavirus-survey-69-billion-cost-for-small-businesses/](http://www.simplybusiness.co.uk/knowledge/articles/2020/05/new-coronavirus-survey-69-billion-cost-for-small-businesses/)> accessed 14 July 2022.

9 UK Government, 'COVID-19 Financial Support for Businesses' (2020): <[www.gov.uk/government/collections/financial-support-for-businesses-during-coronavirus-covid-19](http://www.gov.uk/government/collections/financial-support-for-businesses-during-coronavirus-covid-19)> accessed on 24 June 2022.

## To support employability of our accounting and finance students

Researchers have concluded that one of the challenges that employers face when hiring new graduates is their inability to hit the ground running with core skills in their profession, especially with the use of modern technologies.<sup>10</sup> Arguably, these skills will be more demanding in the post-COVID-19 era where many jobs will be conducted virtually and with greater use of technology.

Furthermore, accounting and finance students desirous of attaining professional qualifications may find it challenging to get a placement for their compulsory supervised training (see for example, the ACCA website).<sup>11</sup> The professional bodies require that the supervised training be signed off by an experienced member of their relevant professional body. Therefore, currently the clinic is looking forward to partnering with the ACCA and the ICAEW, so that the practical records can form part of the supervised experience relevant for professional membership. To this end, we shall do the following:

- Provide opportunities for undergraduate and postgraduate accounting students to engage in training to become a business/accounting professional while they are studying at UEL.
- Provide some of (if not all) the mandatory supervised training, under the supervision of licensed tax, accounting and audit practitioners. This would be an ongoing exercise.
- Provide our students access to technologies applicable in their profession while studying accounting and finance. This would ensure that our students accumulate the required employable skills through the use of computerised tools like Sage Line 100 and Xero accounting software. Additionally, our students will acquire experience in the writing of engagement letters, preparation of standard cash flow statements, trade credit negotiations, filing of the necessary HMRC and Companies House forms online, and communicating with relevant regulators. This would be an ongoing exercise.

In this chapter, we present an overview of the TAC at UEL, particularly, the impact the clinic has had on students' learning experience and their

10 Warren Bennis and James O'Toole, 'How Business Schools Lost Their Way', *Harvard Business Review* 83, no. 5 (2005): 96; Mohamad Osmani et al., 'Graduates Employability Skills: A Review of Literature against Market Demand', *Journal of Education for Business* 94 (2019): 423; Amr Kotn et al., 'Information Technology in the British and Irish Undergraduate Accounting Degrees', *Accounting Education* 28 (2019): 445.

11 ACCA, 'Practical Experience' (2022), <[www.accaglobal.com/uk/en/student/practical-experience-per.html](http://www.accaglobal.com/uk/en/student/practical-experience-per.html)> accessed 24 June 2022.



employability skills development. We would submit that the benefits of the Tax Clinics are threefold. First, for the skills development of the tax and accounting trainees. Second, to support the less privileged in society. Finally, for practitioners to market the products to potential customers and recruit trainees that exhibit good qualities through the provision of pro bono services.

## 16.4 Relevant literature

### The tax clinic and tax education: fusing theory and practice

Arguably, taxation is the most consistent public policy to affect (directly or indirectly) all individuals and corporate bodies around the globe. Thus, the lifestyle of the poor, middle and elite classes in society are usually controlled by tax policies. This makes the study and practice of taxation an important component of the business curriculum.<sup>12</sup> Meanwhile, the fast-changing business environment has significantly affected tax management, efficiency and transparency.<sup>13</sup> For example, innovative business ventures, including social enterprises pose difficult challenges for taxation because of their complex arrangements.<sup>14</sup>

The Tax Justice Network and several other civil society organisations advocate for stringent legislation that would prevent tax evasion and punish corporate bodies and the individuals behind criminal activities.<sup>15</sup> On the other side of the spectrum, corporate bodies are hoping to avoid huge tax burdens with the aim of creating more wealth for stockholders.<sup>16</sup> When business professionals are properly educated on tax-related developments, they will be better equipped to tackle unethical tax practices in their sphere of

12 Peggy Hite and John Hasseldine, 'A Primer on Tax Education in the United States of America', *Accounting Education* 10 (2019): 3.

13 Galina Shirokova and Tatyana Tsukanova, 'Impact of the Domestic Institutional Environment on the Degree of Internationalization of SMEs in Transition Economies', *The International Journal of Entrepreneurship and Innovation* 14, no. 3 (2013): 193.

14 Alina Ball and Manoj Viswanathan, 'From Business Tax Theory to Practice', *Clinical L. Rev.* 24 (2017): 27.

15 Daisy Ogembo, 'The Tax Justice Network-Africa v Cabinet Secretary for National Treasury and Two Others: A Big Win for Tax Justice Activism?' *British Tax Review* 2 (2019): 105; Alex Cobham, Petr Janský and Markus Meinzer, 'A Half-Century of Resistance to Corporate Disclosure', *Transnational Corporations* 25, no. 3 (2019): 1; Peter Utting, 'Corporate Responsibility and the Movement of Business', *Development in Practice* 15 (2005): 375.

16 Taher Eskanderlee and Taj Mohammad Sadri, 'Impact of Management Ability on Relationship between Tax Avoidance and Firm Value in Companies Listed in Tehran Stock Exchange', *QUID: Investigación, Ciencia y Tecnología* 1 (2017): 1859; Eric Caffee and Karie Davis-Nozemack, 'Corporate Tax Avoidance and Honoring the Fiduciary Duties Owed to the Corporation and Its Stockholders', *Boston College Law Review* 58 (2017): 1425.

work. Such capacity building programmes could be championed by educators through the deliberate incorporation of tax-related activities into the curricula of learners. For example, the tax clinic concept could be used to sensitise students and business practitioners on tax avoidance principles.

The blending of theoretical knowledge and commercial practice in the area of taxation is critical for the training of the business professional.<sup>17</sup> So, over the years, tax clinics have been used by educators to equip learners with academic and practical skills, especially in the fields of accounting, taxation and legal education.<sup>18</sup> Specifically, clinics can improve the employability of our students and the scholarship on employability is rich.<sup>19</sup> It has been defined as: ‘the skills, understandings and personal attributes that make an individual more likely to secure employment and be successful in their chosen occupations to the benefit of themselves, the workforce, the community and the economy.’<sup>20</sup>

This chapter argues that tax clinics can contribute to developing the skills, understanding and personal attributes of our students. Lately, the establishment of tax clinics within institutions of higher learning has gained important recognition in a number of jurisdictions. According to Fogg, and as covered in [Chapter 2](#), the tax clinic concept was a critical part of the United States’ educational reforms in the 1970s, where students were required to attain on-the-job training. The Government of Australia also launched the National Tax Programme in 2019, which was adopted by ten universities, nationwide, on a pilot basis.<sup>21</sup>

17 Keith Fogg, ‘History of Low-Income Taxpayer Clinics’ (*Villanova Law/Public Policy Research Paper*, 2013), <<https://digitalcommons.law.villanova.edu/cgi/viewcontent.cgi?article=1186&context=wps>> accessed 28 July 2022.

18 Ibid.; Rafael Efrat and Scott Plunkett, ‘Evaluating the Impact of the VITA Program on Attitudes and Motives Regarding Volunteering and Civic Engagement’, in Thomas Calderon (ed.), *Advances in Accounting Education: Teaching and Curriculum Innovations* (Emerald Publishing Limited, 2020).

19 See, for example, Juliet Turner, Alison Bone and Jeanette Ashton, ‘Reasons Why Law Students Should Have Access to Learning Law through a Skills-Based Approach’, *The Law Teacher* 52, no. 1 (2018): 1–16; Jessica Guth, ‘The Pasts and Futures of Legal Skills in English Law Schools’, in Emma Jones and Fiona Cownie, *Key Directions in Legal Education: National and International Perspectives* (Routledge, 2020); Francine Cantatore, ‘The Impact of Pro Bono Law Clinics on Employability and Work Readiness in Law Students’, *International Journal of Clinical Legal Education* 25, no. 1 (2018): 147.

20 Mantz Yorke, ‘Employability in Higher Education: What It Is – What It Is Not’ (Learning and Employability, Series One, Higher Education Academy), <[www.employability.ed.ac.uk/documents/Staff/HEA-Employability\\_in\\_HE\(Is,IsNot\).pdf](http://www.employability.ed.ac.uk/documents/Staff/HEA-Employability_in_HE(Is,IsNot).pdf)> accessed 1 October 2022, 8.

21 Van Le and Tina Hoyer, ‘2019 National Tax Clinic Project: James Cook University Tax Clinic’, *Journal of Australian Taxation* 22, no. 2 (2020): 162.

In Poland, scholars chronicle the history of legal clinics and submit that it was an intervention to bridge the gap between theoretical education and hands-on training.<sup>22</sup> Furthermore, poorer people were the key target group to benefit from tax clinic services. The development of Tax and Accountancy Clinics in the UK's Higher Education Institutions (HEIs) are in the formative stages. For instance, the North West Tax Clinic at the University of Lancaster and the University of Central Lancashire was piloted in early 2020.<sup>23</sup> The objective of the Lancaster pilot clinic is no different from those in the US and Australia. Thus, the clinic seeks to expose the students to hands-on-learning under the supervision of tax experts. At UEL, through the clinic, we aim to introduce our students to the practical aspect of both tax and accounting.

The clinic at UEL will in the future collaborate with the Sustainability Research Institute, the arm of the university that supports the development of start-ups and small businesses within the university's community. Here, the students would assist in the execution of services like business plan preparation, competitor market research, bookkeeping management and financial accounting experience, tax return preparation and filing.

### **Voluntary services: student, faculty and practitioner participation**

Taxation is a core module for many business and law programmes at both the undergraduate and the postgraduate levels at UEL. Over the years, tax clinics have been used by universities to help develop the employability skills of students. The tax clinic therefore becomes the platform by which students could apply the theoretical knowledge acquired through taught lessons under the supervision of an experienced professional.

Thus, students directly participate and learn from tax practitioners and experienced faculty members, how tax administration is managed.<sup>24</sup> In instances where students have had some level of professional experience prior to joining the tax clinic, they share this previously acquired knowledge with their colleagues.<sup>25</sup> In addition to their previous exposure, the experienced

22 Kamil Mamak et al., 'The Past, Present and Future of Clinical Legal Education in Poland', *International Journal of Clinical Legal Education* 25, no. 2 (2018): 89.

23 Michał Chodorowski, Amy Lawton and David Massey, 'Mapping Motivations: Self-Determination Theory and Clinical Tax Education', *European Journal of Legal Education* 2, no. 1 (2021): 129.

24 Ibid.

25 Lucia Gatti, Markus Ulrich and Peter Seele, 'Education for Sustainable Development through Business Simulation Games: An Exploratory Study of Sustainability Gamification and Its Effects on Students' Learning Outcomes', *Journal of Cleaner Production* 207 (2019): 667.

students still acquire new skills by exploring areas they might not have been introduced to in the past.

### **Pro bono: the participation of experienced practitioners**

Tax clinics have provided the platform for practitioners to meet with individuals and small businesses that may not be in the position to acquire professional tax advice.<sup>26</sup> Small businesses, especially start-ups that are prone to cash flow volatility, are often not in the position to procure such important professional services. The tax consultancy firms that provide pro bono services at tax clinics do stand the chance of benefiting from the programme in the long-term.<sup>27</sup> Thus, the tax clinic provides the platform for the tax firms to market their products and brands to the participating institutions, that is, the university community, small businesses and individuals and local councils that host the university.

Consequently, through the tax clinic, the professional firms are able to manage and maintain good relationships with clients for future commercial engagements. Furthermore, professional firms may in future have the opportunity to assess the competence of student volunteers for future recruitment.

## **16.5 Clinic design**

### **Director of the tax clinic**

The clinic director is a practising accountant and is supported by qualified accountants from recognised professional accountancy bodies. This provides the clinic direct access to resources provided by these associations to support our students and local communities. Given that our degree programme is accredited by these professional bodies, the clinic further reinforces the desire for students to aspire and work hard to become qualified accountants after their degree programme. This will improve their job prospects and career goals.

The director plays the strategic role in formulating plans, focusing on business relationships with local businesses; keeping tabs on client engagement; liaising with the university leadership teams on growth prospects and opportunities in the community. The director also supervises the casework

26 Ball and Viswanathan, 'From Business Tax Theory to Practice', 27; Efrat and Plunkett, 'Evaluating the Impact of the VITA Program'.

27 Amy Lawton and David Massey, 'Volunteering: Putting Your Skills into Practice', *Tax Adviser* (June 2021): 24–25.

of the student volunteers to ensure that quality is maintained, and clients are satisfied; appoints key staff and practitioners to support students' work in the tax clinic and liaises with other internal parties as necessary. The key support staff provide technical advice on tax and accountancy and coordinate links with the wider staff and students.

## **Student volunteers**

Student volunteers are selected from those enrolled on the BSc Accounting and Finance programme. The student volunteers are required to follow a recruitment process in which application is made by submitting a covering letter and CV and then participating in an interview with the director and support staff. This process provides student volunteers with an authentic experience of applying for a job and enables the clinic director to screen for career conscious and academically outstanding student volunteers.

Each student volunteer attends an induction in which training is provided on administrative issues and tax administration procedures. Student volunteers are required to sign a confidentiality form and commit at least two hours per week to volunteering at the clinic. The student volunteers' key responsibilities under the direct supervision of the clinic's director and key support staff include:

- Research and preparation of tax-related advice
- Attendance at client interviews in person or via teleconference
- Preparation of client interview file notes and follow-up if required
- Facilitation of discussions with clients and appropriate regulatory agencies; contribution to the knowledge bank through documentation of cases and advancing tax awareness and education in the community
- Research and prepare tax-related education material for distribution and presentation to the local community.

Most of these tasks are completed as required but other scenarios are created, in situations where the clinic is less busy, to meet monthly key performance indicators and educate students based on the tax clinic's weekly workshops and activities as shown in Appendix 16.1.

All students, especially at level 5 (second year of study) are given the opportunity to volunteer as this also counts towards grading on the tax clinic module.

## **Practice-led teaching**

Based on inputs from employers and the need to provide our students with key employability skills in the area of accounting and finance, the clinic has

worked with the UEL Employability Offices to develop a tax and accounting clinic module (Appendix 16.1) for our second-year students to provide them with practical skills.

The module extends the knowledge gained in accounting and tax studies, by the introduction of further key concepts for advising clients, principles and techniques in the preparation of tax liability computations and returns for businesses operating both in the UK and overseas and for individuals. Students have the opportunity to learn practical accounting software, such as Xero Accounting and Sage Line 50 also known as Sage 50 Cloud.<sup>28</sup> Again, students are able to revise their knowledge in Microsoft Excel and evaluation of the uses of tax exemptions, reliefs to minimise and/or defer tax liabilities. The practical skills gained in the clinic by students also contribute as a credit for the module.

In addition (and in accordance with the learning outcomes and aims of the clinic), students are to assist the director of the clinic in the daily operation of the clinic which includes, for example: processing client enquiries by email, telephone or face-to-face interactions; organising client appointments with student volunteers and the tax practitioners; creating and maintaining client files and electronic databases; assisting and promoting public seminars delivered to the local East London community; and marketing the clinic by developing and distributing marketing and advertising materials.

The volunteers' learning and performance are assessed via progress reports and a student practical experience record (Appendix 16.2) as well as a final report at the end of term. The student volunteers are also required to complete self-assessment and reflection throughout the term of their engagement and experience in this process to add necessary skills gained to their CV.

In addition to the tax and accountancy module, which engages students in class and seminar sessions with real case studies, students can work in the clinic and work on real cases. The management team and professionals supervise the students' work.

## **External impact, collaborations and partnerships**

The TAC reaches out to the local community through our website and social media platforms. The clinic also operates a helpline through which people

<sup>28</sup> Sage 50 is an accountancy and payroll software developed by the Sage Group. This software was built to improve bookkeeping and financial reporting of SMEs. The number '50' indicates that it was aimed at companies with not more than fifty employees.

can call and book an appointment or submit a query.<sup>29</sup> Once a case is logged in, assigned caseworkers prepare a response, which is reviewed by the key support staff and clinic's director before sending it out to the client. The turn-around period is normally fourteen days, and the work counts as a credit to volunteers in the module.

In this vein, the clinic keeps strengthening its ties with the employability services, the local community and small businesses as it seeks to build its networks and welcome inputs/talks from stakeholders to continuously contribute positively to its community.

### **Student experience**

The UEL tax and accounting clinic provides students, businesses and the local community with practical training in annual accounts preparation and tax services. Through the clinic, students can network with practitioners, employers, academics and professional accounting bodies. Students gain practical experience through the provision of accountancy services by preparing income and expenditure accounts. Again, students can ensure that business accounts are prepared in accordance with acceptable standards and deadlines.

Furthermore, support is provided to analyse business financial performance including statements of financial performance, position and cash flow. Students also provide advice on registration with HMRC and tax return submission, including advice on self-assessment and tax return. Students provide businesses with advice on preparing Value Added Tax (VAT) returns, corporation tax and personal tax planning.

### **The challenges of tax and accounting clinics**

Ideally, tax clinics are not set up to compete with industry players, that is, accountants, lawyers and tax practitioners. Rather, the purpose is to grant the opportunity to individuals and small businesses that ordinarily may not be in the position to afford this professional service. Services are provided on a pro bono level, which is critical for those who cannot afford professional advice.

Since its launch, the clinic has faced challenges. The major challenge was the COVID-19 pandemic which impeded the operations of its on-campus infrastructure and limited much-needed face-to-face contact between students,

<sup>29</sup> Most of the initial contact is through emails and our contact form: <[www.uel.ac.uk/our-research/research-royal-docks-school-business-law-rdsbl/tax-accountancy-clinic](http://www.uel.ac.uk/our-research/research-royal-docks-school-business-law-rdsbl/tax-accountancy-clinic)> accessed 28 July 2022.

clients and the community. This has greatly affected the networking aspect. Another challenge has been the need to firmly position the clinic in a network of professional paid offerings by the acquisition of a valid indemnity insurance cover as a unique policy to boost the confidence in our pro bono offer to the local community.

Notwithstanding these challenges, the clinic has navigated through the COVID-19 scenario by the use of other technological methods like Zoom, and Microsoft Teams to engage stakeholders, encouraging queries to be directed through emails or phone calls. It has also expanded advice to include working from home allowances and any additional support provided by the government during the COVID-19 pandemic. The clinic has appointed an accountancy practitioner with indemnity insurance to lead their affairs.

## 16.6 Data and methodology

The tax clinic provides an excellent learning opportunity and practical experience for the students to enhance their learning, skills, knowledge and practical work-based experience. This, in turn, contributes to the employability of clinic students.

This section of the chapter presents the methodology employed to gather and analyse data for this chapter. We collected qualitative data from students enrolled on the accounting and finance degree programme. There were 95 respondents out of 180 students from the relevant year groups enrolled on the accounting and finance courses (levels five and six). The data collected was in the form of module evaluation forms that sought to ascertain the students' experience in the work of the clinic. In addition to the above participants, we also collected feedback from three businesses, which used the services of the TAC.

This chapter therefore draws on original data to shed further light on questions around skills development and employability in clinical tax education.

The clinic is still building its network of small businesses and has so far offered a handful of webinars in collaboration with the UEL Employability Centre to inform businesses about the services of the tax clinic. The number of businesses in the community using the services of the clinic averages five per week, mostly through emails and face-to-face appointments.

The research method employed for this study was aimed at ascertaining the learners' experience about the TAC. The primary data was analysed manually. To do so, two of the authors read the responses and data in order to identify the main themes and sub-themes. Our approach was informed by



Charmaz and Mitchel,<sup>30</sup> and Clarke's work where both transcribed data and field notes were read repeatedly for the researchers to get acquainted with the data as well as the explanation of meaning.<sup>31</sup> Following this analysis, the major themes that emerged are: experiential learning; readiness for employment; attainment of new knowledge; and exposure and overall satisfaction with the quality of training, teaching and learning. We have made use of pseudonyms to present and discuss the findings.

## 16.7 Results and discussion

### Students' experiential learning from the TAC

The TAC has been useful for the experiential learning of students; through the work of the clinic, the student volunteers were in the position to network with colleagues, the local business community and professional practitioners. Again, the student volunteers were exposed to some practical work, such as the preparation of tax returns. The extract below is evidence of the above assertion:

The Tax and Accountancy Clinic has helped me to learn the basics for calculating tax returns. It provided me the opportunity to learn and experience real-life and practical work experience. The training has equipped me with the necessary skills needed to prepare tax returns, self-assessment returns and the filing of annual tax returns (Student 18).

The guest speakers were knowledgeable. The employer visits also boosted my confidence level and developed further my knowledge in taxation. The Tax and Accountancy Clinic has provided me with great insight into how taxation works and a better understanding of preparing tax accounts. For career choices the Clinic has helped me to make major life choices regarding my career (Student 3).

The UEL TAC has equipped students with the necessary skills to handle tax-related problems. Through this programme, students are able to execute assigned responsibilities on time, confident in contributing to the business decision-making process.

30 Kathy Charmaz and Richard Mitchell, 'Grounded Theory in Ethnography', in Paul Atkinson et al. (eds), *Handbook of Ethnography* (Sage, 2001), 174.

31 Adele Clarke, *Situational Analysis: Grounded Theory after the Postmodern Turn* (Sage, 2005).

## **Tax and accountancy clinic and employability skills development**

Over the years, tax and accountancy clinics have been used by institutions of higher learning to develop the employability skills of learners. At UEL, we observed that student volunteers at the clinic attained critical skills for career development. The following extracts depict students' testimonies on the impact of the clinic on employability skills development in tax and accountancy and future employment. The following are a summary of students' responses:

The Clinic has provided the necessary background knowledge to help me compute tax for different business entities. For example, we [students] learned how to compute the tax liabilities of companies and sole traders. The clinic has helped me to acquire basic skills and life skills for a job (Student 9).

The clinic has equipped me with the knowledge to provide tax advice to taxpayers who cannot ordinarily afford specialised tax support. To me, I have built good skill that would be used in my career. I have improved my communication skills when I had the opportunity to interact with tax advisors (Student 2).

The Tax Clinic has prepared me for future employment by providing practical work-based experiences. It has helped me to possess the fundamental abilities to navigate job demands such as researching issues that affect clients' business environment. So, I can independently analyse a client's data and solve problems through critical thinking and soft skills (Student 6).

The lessons [from the TAC] would definitely help me in my future career in taxation and accounting practice. [The Clinic] has provided me with adequate knowledge that is necessary for employment [in taxation and financial accounting] (Student 4).

For me, the use of a computerised Accounting Software [for tax computation] has prepared me for the future work environment, especially life after university (Student 3).

[The clinic] has equipped me with the necessary skills to navigate the workplace and an insight into computerised accounting. I have developed both soft and work-based skills for future employment (Student 28).

The Tax Clinic equipped me with knowledge and skills that have made me workforce-ready upon graduation. The skills that I have acquired from the Clinic helped us [students] to gain the opportunity for job placement and volunteering. It is

a great opportunity for us to settle on our chosen career pathways (Student 17).

I found the module interesting and satisfactory because the learning materials were excellent and engaging. The knowledge acquired will be useful for my future career. However, I wish I could practice more in order to boost my confidence (Student 03).

Unlike the Taxation classwork, the Clinic provided students with real-life practical examples and illustrations. The hands-on and student-centred approach adopted by the instructors created the room for all the students to get involved and actively participate in the training sessions (Student 41).

Based on the evidence presented, we conclude that the knowledge acquired under the supervision of experienced personnel has provided students with new skills that are essential for their career development. Five students have used this practical experience to secure placements at HNH Consulting Ltd. Two students secured job placements with the UK National Health Service (NHS) as management accountants based on the software and accountancy skills gained.

It should be noted that beyond our students, some SMEs have also benefited from the TAC. Below are extracts of the feedback provided by these SMEs:

Extremely happy with the service I received. All my questions were answered and I had more clarity on preparing my accounts (SMEs – Business 1).

Very happy. I had so many questions and the director answered all of them in a way I could understand perfectly what I need to do with my tax returns (Business 3).

More than satisfied with the assistance from the director as he was very informative with what he produced. This made me feel at ease and in safe hands (SMEs – Business 2).

### **The impact of COVID-19 on student TAC experience**

The global public health crisis (COVID-19) that started in 2019 affected the operations of the clinic significantly. This is because all face-to-face interactions between UEL and other stakeholders of the clinic were suspended. The movement of the clinic's activities onto a virtual platform like Microsoft Teams impeded its growth. For example, respondents commented that their learning experience was limited because of the pandemic, which did not

allow face-to-face interactions. Generally, the pandemic affected the computerised accounting software (XERO, SAGE Line 50) training and impacted on knowledge and skills gained.

Despite the challenges and significant changes in the forms of teaching and delivery, some of the respondents claimed they were satisfied with the content of training materials.

### **The measurement of students' satisfaction: quality of the TAC training**

The views of the respondents were sought to evaluate and understand the level of satisfaction and quality of delivery.

We adopted an accessible and active learning strategy and pedagogical approach to engage and enhance students' learning experience. The accessible and active learning covered areas such as inclusive teaching and learning practice, designing inclusive teaching and learning resources, inclusive assessment and activities, timely student feedback and organisational behaviours, procedures and policies. The accessible and active learning and teaching strategy took into consideration the vast array of learning styles of our student body. We adopted a 'student ready' approach to develop an organisational culture, which enables students to engage with meaningful learning in an environment that is welcoming and encouraging. This empowered students to engage in the training and learning in a meaningful way.

The feedback was aimed at identifying areas that needed proper attention and improvement. The views of the students presented below:

The Clinic's training and teachings have challenged me in so many ways. The training materials on Moodle [Virtual Learning Platform] were useful and supported my learning. I surely want to progress on this pathway. The clinic has prepared and equipped me to deliver tax related educational seminars to educate and build the capability of future clients, my peers and the community about tax related topics (Student 19).

The Lecturer makes it look so easy and that in itself is motivating. The Clinic is a very interesting module. There are several taxation issues and calculations to remember. However, the Lecturer provided excellent materials and other learning resources. For example, the wide range of topics and the tutorial questions have been extremely helpful (Student 13).

I have had an excellent exposure to real-life practice that will support my future job search and career progression. The skills and knowledge I have developed are extraordinary. ... Overall, I am satisfied with the Tax and Accountancy Clinic Module (Student 33).

## 16.8 Concluding remarks

The UEL Tax and Accountancy Clinic was established as a platform for students and practitioners to provide tax and accountancy services for individuals and small businesses that may not be in the position to acquire professional tax advice. In this chapter, we outline the TAC and examine the impact of the clinic on students' experiential learning; readiness for employment; attainment of new knowledge, skills and exposure; and overall satisfaction with the quality of training, teaching and learning. Using original, qualitative data from students that have had direct benefits from the clinic, we document further evidence that demonstrates the positive impact of the tax clinics on students, local businesses and the wider community.

The data suggests that the clinic has been useful for the students' experiential learning. Students have been able to build strong networks with employers, local businesses, professional practitioners and their peers. Students have acquired skills and professional knowledge to prepare tax returns, tax accounts, file self-assessments, make quality and good career decisions and provide tax advisory services to clients. The data also suggests a positive impact of the clinic on students' readiness for employment. We show that through the clinic some students have secured internships, job placements, attained employability skills and critical skills for graduate jobs and career development. Students have acquired knowledge, skills and excellent exposure to real-life practice. The clinic has contributed to making students job ready.

Overall, the clinic has a great potential for growth, affords students the opportunity to learn and acquire employability skills, will provide local businesses and the community with advisory services and professional tax advice through the experience gained and learned during the past two years.

Going forward, the clinic intends to target and provide pro bono tax and accountancy services to all SMEs in the East London borough and wider Greater London (a geographical expansion). The clinic will continue to consider how it can equip as many students as possible with the relevant tax and accountancy skills for employability purposes. The clinic will also look towards preparing students to deliver tax and accountancy-related educational seminars – to educate and build the capability of future clients.

## Appendix 16.1

### Example learning objectives for a tax clinic

#### TAX CLINIC WEEKLY WORKSHOP AND ACTIVITIES

<i>TAX CLINIC WORKSHOP (AC5055)</i>	<i>TOPIC</i>	<i>LEARNING OBJECTIVES</i>
Week 1	Introduction to Tax and Accountancy Practice	<ul style="list-style-type: none"> <li>• Importance of confidentiality of clients' information</li> <li>• Client Registration with HMRC – Sole trader, Partnership and Company</li> <li>• Company – Registration with Companies House – Details can be found online from Companies House – Company authentication code to file accounts to Companies House. Companies should have a Tax reference number from HMRC(UTR)</li> <li>• Information to have on file for sole traders and partnership: UTR number, National insurance number, address, date of birth, how long they have stayed in the address, and change of name (if any)</li> <li>• Due diligence and anti-money laundry – Proof of identification such as driver's licence, passport, birth certificate and utility bills</li> </ul>
Week 2	Client Engagement – Signing New Clients and Engagement Letter	<ul style="list-style-type: none"> <li>• New Client Engagement – Engagement Letter – Discuss the details and their importance. Show them examples</li> <li>• Recording of Client Information – Software – Sage, Xero, VT, spreadsheet, FreeAgent, QuickBooks, Access, Iris (Analysis of income and expenditure)</li> <li>• Tax returns – Sole trader and Partnership – Basic and example</li> <li>• Making Tax Digital</li> </ul>

## TAX CLINIC WEEKLY WORKSHOP AND ACTIVITIES

<i>TAX CLINIC WORKSHOP (AC5055)</i>	<i>TOPIC</i>	<i>LEARNING OBJECTIVES</i>
Week 3	Understanding Tax Codes and Deadlines for Tax Returns – To advise Clients	<ul style="list-style-type: none"> <li>• Tax codes and changes of tax code (Normal, Basic rate) – 1257L, BR, D40, K40 – Reasons for changes in tax code. HMRC will send a letter to notify clients (show them a copy of the letter from HMRC)</li> <li>• Letter to file tax returns.</li> <li>• SA302, CT603, CT600 (Show them examples)</li> <li>• Date of submission of tax returns</li> <li>• Penalties</li> <li>• Appeal to HMRC</li> <li>• Meeting Accountant in practice</li> </ul>
Week 4	Completing and Filing Tax Returns for various legal entities (Sole Traders, Partnership Firms and Limited Companies etc).	<ul style="list-style-type: none"> <li>• Dealing with HMRC and Companies House</li> <li>• HMRC tribunal</li> <li>• Actual completing tax returns for sole traders and partnership</li> <li>• Actual completing tax returns for limited companies</li> <li>• Advise clients on tax reliefs and their responsibilities and their agents in reporting taxation to HMRC</li> </ul>
Week 5	VAT and Client Advisory Services	<ul style="list-style-type: none"> <li>• VAT and VAT registration – Types of VAT – Standard, Flat, Cash, Annual – Most of the clients go for standard. Advise clients which one is the best in their individual circumstances. When to register, voluntary, compulsory (£85,000)</li> <li>• Advisory services – Clients</li> <li>• Meeting Accountant in practice</li> </ul>
Week 6	Clients' Employees and Payroll	<ul style="list-style-type: none"> <li>• Employee and Payroll</li> <li>• National insurance</li> <li>• Auto-enrolment and Pension</li> <li>• Employee tax code and National Insurance</li> <li>• Business planning and funding for start-up loan</li> <li>• Capital gain tax</li> </ul>
CLIENT-FACING WORKSHOPS AND MEETING ACCOUNTANTS IN PRACTICE ACTIVITIES TO CONTINUE .....		

## Appendix 16.2

### Example practical experience record

STUDENT PRACTICAL EXPERIENCE RECORD

Course: Tax Clinic

**STUDENT NAME:**

**STUDENT NO:**

<i>Experience gained</i>	<i>Student signature</i>	<i>Director's approval</i>	<i>Date approved</i>
Importance of confidentiality of clients' information			
Client Registration with HMRC – Sole trader, Partnership and Company			
Company – Registration with Companies House – Details can be found online from Companies House – Company authentication code to file accounts to Companies House – Companies should have a Tax reference number from HMRC (UTR)			
Information to have on file for sole traders and partnership: UTR number, National insurance number, address, date of birth, how long they have stayed in the address, and change of name (if any)			



## Chapter 17

# Students' professional identity and a fully online tax clinic

*Brett Freudenberg, Melissa Belle Isle, Colin Perryman, Kristin Thomas and Ashleigh Cohen\**

### 17.1 Key findings

A key benefit of work-integrated learning is the socialisation of students with their future professional career and identity. That is, students can start to appreciate what it means to be a professional in their chosen career, in terms of their conduct and how they identify with that. Due to the advent of restrictions imposed from the outbreak of COVID-19, the students involved at the Griffith University tax clinic had to move from a physical office space with face-to-face interaction with their tax agent supervisor and clients, to a totally online office via Microsoft Teams and YouTube. Activities conducted within this online environment included staff meetings, client meetings, client lodgements, presentations and research.

However, what effect did this online office environment have on the development of students' professional identity as tax advisers? This chapter will describe how the tax clinic was able to operate fully online, and it will provide data as to how students perceived the development of their professional identity as a tax adviser in this online environment. To provide a comparison, data from prior cohorts who participated in the physical office space will also be considered.

### 17.2 Introduction

Due to restrictions of human movement and interaction because of COVID-19, many universities had to either cancel their work-integrated learning (WIL) experiences or move them to a remote online platform.<sup>1</sup> Rasalam

\* Brett Freudenberg, Professor, Griffith Business School; Melissa Belle Isle, Lecturer in Taxation Law, Griffith University; Colin Perryman, Griffith Tax Clinic; Kristin Thomas, Griffith Tax Clinic Office Manager; Ashleigh Cohen, Griffith University.

1 Preeti Sandhu and Maisie de Wolf, 'The Impact of COVID-19 on the Undergraduate Medical Curriculum', *Medical Education Online* 25, no. 1 (2020) <<https://doi.org/10.1080/10872981.2020.1764740>> accessed 30 July 2020.

and Bandaranaike report how simulated patients were interviewed online by medical students as an adjunct WIL experience.<sup>2</sup> Similarly, Goldman and Stirling described how remote WIL was used in a master-level Kinesiology programme to support students' learning in professional placements and development of professional identity (PI).<sup>3</sup> The concept of PI includes the notions of how students start to understand themselves as 'professional[s]', including the notion of what is 'good professionalism',<sup>4</sup> such as complying with a code of ethics and how to conduct oneself in a professional manner. Overall, PI is the understanding of what it means to be a professional.<sup>5</sup>

How professional awareness is included in the curriculum can be a challenge for universities.<sup>6</sup> Such knowledge can be critical for student cohorts who may have limited understanding of what it means to be a professional, due to being first-in-family to attend university, having no professional work experience, or having a different context due to growing up in a different country. This limited professional awareness could subsequently impede their ability to successfully obtain employment.<sup>7</sup>

PI is seen as developing over time and through stages of career progression;<sup>8</sup> and WIL has the potential to be ideally suited to developing PI.<sup>9</sup> WIL is typically described as 'educational programmes which combine and integrate learning and its workplace application, regardless of whether this

2 Roy Rasalam and Suniti Bandaranaike, 'Virtual WIL Clinics in Medicine: Overcoming the COVID-19 Challenge', *International Journal of Work-Integrated Learning* 21, no. 5 (2020): 573.

3 Ainsley S. Goldman and Ashley E. Stirling, 'Becoming a Part While Apart: Building Professional Identity and Membership When Working and Learning Remotely', *International Journal of Work-Integrated Learning* 21, no. 4 (2020): 387.

4 Silva Gilardi and Edoardo Lozza, 'Inquiry-Based Learning and Undergraduates' Professional Identity Development: Assessment of a Field Research-Based Course', *Innovative Higher Education* 34, no. 4 (2009): 245, 247.

5 Beverley Oliver, 'Redefining Graduate Employability and Work-Integrated Learning: Proposals for Effective Higher Education in Disrupted Economies', *Journal of Teaching and Learning for Graduate Employability* 6, no. 1 (2015): 56.

6 Mary Atchison et al., 'Work Integrated Learning Paper' (RMIT University, 2002).

7 Australian Joint Accounting Bodies, 'Submission: Review of Australian Higher Education' (Department of Industry, 2008), <[www.innovation.gov.au/HigherEducation/Pages/Library%20Card/Review/Subs2008/057\]JointAccountingBodies.aspx](http://www.innovation.gov.au/HigherEducation/Pages/Library%20Card/Review/Subs2008/057]JointAccountingBodies.aspx)> accessed 230 June 2022.

8 Daniel J. Levinson et al., *The Seasons of a Man's Life* (Ballantine Books, 1978); Donald Super, Mark Savickas and Charles Super, *Career Choice and Development: The Life-Span, Life-Space Approach to Careers* (3rd ed., Jossey-Bass, 1996).

9 George B. Forsythe, 'Identity Development in Professional Education', *Academic Medicine* 80, no. 10 (2005): S112; Beverley Jackling and Colin Sullivan, 'Financial Planners in Australia: An Evaluation of Gaps in Technical and Behavioral Skills', *Financial Services Review* 16 (2007): 211.

integration occurs in industry or is real or simulated'.<sup>10</sup> In career terms, WIL can enhance student understanding of the work environment and employer expectations,<sup>11</sup> can facilitate career awareness, progression and direction,<sup>12</sup> and can improve graduate employment outcomes.<sup>13</sup> Due to this workplace application WIL can develop students' professional skills and improve their 'work readiness'.<sup>14</sup>

While being able to deliver WIL online allows for students to have some experience, it is not fully understood how an online WIL experience may influence students' development of their PI. Broadly, working remotely online can have its benefits,<sup>15</sup> but there are some potential negative aspects, such as a loss of communication, and perceived decrease in support.<sup>16</sup> Additionally, isolation can occur as there can be reduced social and professional communication, which can be adverse to expectations<sup>17</sup> and decrease performance.<sup>18</sup> It is

10 Atchison et al., 'Work Integrated Learning Paper'. There are a number of terminologies used to describe WIL, including cooperative learning and service learning, however, the term WIL is used in this chapter for consistency.

11 Carol-joy Patrick et al., 'The WIL [Work Integrated Learning] Report: A National Scoping Study' (Australian Learning and Teaching Council (ALTC) Final Report, Queensland University of Technology, 2008).

12 Richard Coll et al., 'An Exploration of the Pedagogies Employed to Integrate Knowledge in Work-Integrated Learning', *Journal of Cooperative Education & Internships* 43, no. 1 (2009): 14.

13 Alison Blackwell et al., 'Transforming Work Experience in Higher Education', *British Educational Research Journal* 27, no. 3 (2001): 269.

14 Lee Harvey, Vicki Geall and Sue Moon, *Graduates' Work: Organisational Change and Students' Attributes* (University of Central England Centre for Research into Quality, 1997); Peter Knight, *Fostering and Assessing 'Wicked' Competences* (The Open University's Centres for Excellence in Teaching and Learning, 2007).

15 Such benefits could include less travel time, ability to work from home and greater flexibility of hours.

16 Tammy Allen, Timothy Golden and Kristen Shockley, 'How Effective Is Telecommuting? Assessing the Status of Our Scientific Findings', *Psychological Science in the Public Interest* 16, no. 2 (2015): 40; Bartel et al., 'Knowing Where You Stand: Physical Isolation, Perceived Respect, and Organizational Identification among Virtual Employees', *Organization Science* 23, no. 3 (2012): 743; Maria Charalampous et al., 'Systematically Reviewing Remote E-workers' Well-Being at Work: A Multidimensional Approach', *European Journal of Work and Organizational Psychology* 28, no. 1 (2019): 51; Sandi Mann and Lynn Holdsworth, 'The Psychological Impact of Teleworking: Stress, Emotions and Health. New Technology', *Work and Employment* 18, no. 3 (2003): 196.

17 Diane E. Bailey and Nancy B. Kurland, 'A Review of Telework Research: Findings, New Directions, and Lessons for the Study of Modern Work', *Journal of Organizational Behavior* 23, no. 4 (2002): 383; Sara Jansen-Perry, Cristina Rubino and Emily M. Hunter, 'Stress in Remote Work: Two Studies Testing the Demand-Control-Person Model', *European Journal of Work and Organizational Psychology* 27, no. 5 (2018): 577.

18 Timothy Golden, John Veiga and Richard Dino, 'The Impact of Professional Isolation on Teleworker Job Performance and Turnover Intentions: Does Time Spent Teleworking, Interacting Face-to-Face, or Having Access to Communication-Enhancing Technology Matter?',

for these reasons Goldman and Stirling argue that 'context' is important to allow for students' PI development with a remote WIL experience:

When students are not able to absorb organizational culture through their presence at placement sites, WIL educators need to be *intentional* in providing students with alternative ways to examine the *contexts and cultures* they are working in (emphasis added).<sup>19</sup>

Similarly, others note how the notion of socialisation is essential for WIL students when working remotely.<sup>20</sup> For employees, remote working can raise concerns about the feeling of isolation due to a loss of communication.<sup>21</sup> This potential remoteness is important as WIL can offer 'students first-hand knowledge of people and the community and introduces them to the complexity of the world beyond the classroom'.<sup>22</sup> WIL has the potential to enhance PI and knowledge, which can provide career direction, as well as understanding of suitability and skills required for students' chosen profession.<sup>23</sup> It is argued that this can be summarised as 'professional awareness', which can be an area that students lack.<sup>24</sup>

This chapter reports the findings of students' perceived development of PI and knowledge at the Griffith Tax Clinic when it moved to be fully online due to COVID-19 restrictions. This development will be compared to prior student cohorts that participated in a physical office space (face-to-face). Interestingly, overall, the online students indicated strong growth in a number of PI dimensions, which provides some assurance about the intentional mechanisms adopted to assist socialisation and mentoring in the online environment. However, for international students or those students with no professional work experience (PWE) their PI development demonstrates some interesting trends. Also, qualitative statements raise concerns

*Journal of Applied Psychology* 93, no. 6 (2008): 1412; Allen, Golden and Shockley, 'How Effective Is Telecommuting?'

19 Goldman and Stirling, 'Becoming a Part While Apart', 396.

20 T. Judene Pretti, Brittany Etmanski and Amie Durston, 'Remote Work-Integrated Learning Experiences: Student Perceptions', *International Journal of Work-Integrated Learning* 21, no. 4 (2020): 401, 406.

21 Bartel et al., 'Knowing Where You Stand'; Charalampous et al., 'Systematically Reviewing Remote E-workers' Well-Being at Work'.

22 Jerry Miller, 'The Impact of Service-Learning Experiences of Students' Sense of Power', *Michigan Journal of Service Learning* 4 (1997): 16.

23 Patrick et al., 'The WIL Report'.

24 Marie Kavanagh and Lyndal Drennan, 'What Skills and Attributes Does an Accounting Graduate Need?', *Accounting and Finance* 48 (2008): 279, 294.

about fewer opportunities for socialisation and feedback with the online environment, which could impede PI development.

What follows is a description of the tax clinic experience either face-to-face or in the online mode. Then the research methodology and the demographics of participants will be outlined. This is followed by an analysis of the results, discussion and considerations for the future.

### **17.3 The Griffith Tax Clinic**

The Griffith Tax Clinic is conducted in each of the three trimesters and has operated face-to-face and online. The clinic allows unrepresented taxpayers to gain free tax assistance from students under supervision. A registered tax agent is employed to supervise the students and client meetings. While the clinic occurs in a university environment, it is not a simulated WIL as the clients are real, and the students are supervised by experienced tax practitioners.

#### **Face-to-face**

The clinic has an open plan office allowing for multiple client meetings to occur simultaneously, and for the tax agent to supervise activities. It is possible for private meetings to occur if it is identified that a client has a particular sensitive issue. Normally, six students would work per day at the clinic, being paired up and provided with an office uniform. Freudenberg et al. provide a detailed explanation of how the clinic operates face-to-face.<sup>25</sup>

#### **Online**

COVID-19 restrictions occurred at the beginning of teaching in 2020 after only three weeks of face-to-face meetings, with the tax clinic then closed for five weeks to determine how to proceed. During this time, it became apparent that continuing the clinic face-to-face would not be possible and steps were undertaken to convert the clinic to be fully online. Tax clinic staff and students were engaged in two days of training about the new online system (covering such things as microphone, camera, chat function, screen sharing and recording), and practice with mock online client meetings.

The clinic opened its online doors from May 2020 and continued in the second trimester of 2020 navigating the continued restrictions to the end of October 2020. Consequently, two cohorts of student tax advisers experienced the online clinic environment.

25 Brett Freudenberg et al., 'The Griffith Tax Clinic', *Journal of Australian Tax* 22, no. 2 (2020): 64.

With the move to online it was important to ensure that all staff (including students) had the correct equipment, including headsets with microphones, two screens for the tax agent (to aid ease of sharing a screen), mobile phones in case of internet problems, cameras on computers and good internet access. In part, this was aided by many of the students having some online educational experience in other courses. However, the tax clinic was a far more intensive online experience, requiring students to be much more interactive and manage many software functions.

To facilitate the online operations, Microsoft Teams was utilised, as it allowed for video conference calling, including the ability to share screens and to record, and the ability to invite clients via a link. Each online clinic day began with an initial thirty-minute planning meeting, followed by four one-hour client meetings, with a thirty-minute break between each, and a common one-hour lunch break. The six students were divided into two teams of three, and each team would have two client meetings per day. Students would take on different roles in each meeting, being either interview leader, note-taker or observer/researcher. The tax agent would attend and supervise each of the meetings. During a client meeting the tax agent would share his screen and discuss with the client the process (for example in Xero Tax), and/or how the tax applied to the client's circumstances. Remote access was possible to the clinic's email system, and client files were in a secure One Drive account.

When not in a meeting, students would prepare for upcoming meetings, contact past clients for any remaining details, and speak to potential clients. This was done in a separate virtual office space, where students could interact with each other, the office manager and the tax agent. During this time, it was encouraged for everyone to have their cameras on. An office manager coordinated the allocation of clients, tasks and meetings between students, as well as 'touching base' with students at various times. At the end of the day there would be a fifteen-minute debrief about the day, discussion of what needed to subsequently occur and to allow all clinic staff and students to reflect about the day's activities.

Pre-COVID-19 students would have done a face-to-face presentation to a community group about a tax topic. As this was not possible during the COVID-19 restrictions, online recordings were developed to assist the community in learning about tax. The Microsoft Teams' recording function was utilised to produce a recording and these were uploaded to a YouTube channel.<sup>26</sup>

26 A sample of video recordings can be viewed at <[www.youtube.com/playlist?list=PLb-DNv-IsbL6q5nbGcNDZgMLUPcsR7ESL](https://www.youtube.com/playlist?list=PLb-DNv-IsbL6q5nbGcNDZgMLUPcsR7ESL)> accessed 1 August 2022.

## 17.4 Research methodology

This study employs a longitudinal survey methodology to examine the impact of the tax clinic in terms of PI for the face-to-face students, as well as those participating online. The survey was administered at the start of the teaching trimester, then readministered at the end of the trimester to gauge the level of student development.

The survey instrument had four parts: demographics; self-efficacy measures; comments, and PI satisfaction measures. Self-efficacy has been described as a person's 'beliefs in one's capabilities to organize and execute the courses of action required to produce given attainments'.<sup>27</sup> Self-efficacy is interrelated to a person's belief of their capabilities and due to this it may influence the way they function and perform.<sup>28</sup>

Some general self-efficacy measures were considered as well as some task-specific items relevant to PI.<sup>29</sup> Refer to [Table 17.2](#) for a full set of items, which were rated by students on a scale of zero (not confident) to five (very confident). The general self-efficacy items were adapted from Chen et al.'s scale,<sup>30</sup> and the task-specific measures included aspects about PI which could give a more accurate understanding of this.<sup>31</sup>

Ethics approval was obtained, which included assurances of the nonidentification of students, and that the survey was optional and would not influence students' grades.<sup>32</sup>

### Participants

In total, there were forty-four students who participated at the clinic, with twenty-five students having a face-to-face experience, and nineteen students operating online. These students were surveyed twice, once at the beginning

27 Albert Bandura, *Self-efficacy: The Exercise of Control* (Freeman, 1997), 3.

28 Albert Bandura, 'Self-efficacy: Toward a Unifying Theory of Behavioral Change', *Psychological Review* 84, no. 2 (1977): 191.

29 Rudolf J. Bosscher and Johannes H. Smit, 'Confirmatory Factor Analysis of the General Self-Efficacy Scale', *Behaviour Research & Therapy* 36, no. 3 (1998): 339; Gilad Chen and Stan Gully, 'Specific Self-Efficacy, General Self-Efficacy, and Self-Esteem: Are They Distinguishable Constructs?' (57th Annual Meeting of the Academy of Management, Boston, 1997); Andrea K. Kirk and David F. Brown, 'Latent Constructs of Proximal and Distal Motivation Predicting Performance under Maximum Test Conditions', *Journal of Applied Psychology* 88, no. 1 (2003): 40.

30 Gilad Chen, Stanley M. Gully and Dov Eden, 'Validation of a New General Self-Efficacy Scale', *Organizational Research Methods* 4, no. 1 (2001): 62.

31 Alvin Y. Wang and R. Stephen Richarde, 'Global versus Task-Specific Measures of Self-Efficacy', *The Psychological Record* 38 (1988): 533.

32 Ethics coding approval is GU Ref No: 2019/524.

**Table 17.1:** Demographics of study participants.

<i>Attribute</i>		<i>Face-to-face</i>		<i>Online</i>	
		<i>Beginning of tax clinic (n = 25) (N = 25)</i>	<i>End of tax clinic (n = 21) (N = 25)</i>	<i>Beginning of tax clinic (n = 19) (N = 19)</i>	<i>End of tax clinic (n = 15) (N = 19)</i>
<b>Gender</b>	<b>Male</b>	10 (40%)	7 (33%)	7 (37%)	4 (27%)
	<b>Female</b>	15 (60%)	14 (67%)	12 (63%)	11(73%)
<b>Age</b>	<b>&lt;20 years</b>	1 (4%)	1 (5%)	1 (5%)	0 (0%)
	<b>20–30 years</b>	19 (76%)	14 (67%)	15 (79%)	12 (80%)
	<b>31–40 years</b>	4 (16%)	5 (24%)	2(11%)	2 (13%)
	<b>&gt;40 years</b>	1 (4%)	1 (5%)	1 (5%)	1 (7%)
<b>Nationality</b>	<b>Domestic</b>	17 (68%)	14 (67%)	14 (74%)	11 (73%)
	<b>International</b>	8 (32%)	7 (33%)	5 (26%)	4 (27%)
<b>First-in-family (parent university graduate)</b>	<b>Yes</b>	15 (60%)	11 (52%)	11(58%)	7 (47%)
	<b>No</b>	10 (40%)	10 (48%)	8 (42%)	8 (53%)
<b>Professional work experience (PWE)</b>	<b>No</b>	14 (56%)	13 (62%)	11 (58%)	8 (53%)
	<b>Yes</b>	11 (44%)	8 (38%)	7 (42%)	7 (47%)

of their clinic experience, and then at the end. This means if all forty-four students did the beginning and end survey there would be eighty-eight responses. In total, eighty students completed both surveys (beginning and end), representing a >91 per cent response rate of all clinic student participants (illustrated in Table 17.1).

Approximately, two-thirds of students surveyed were female, and one-third were international students. Around half were the first-in-family as their parents had not graduated from university, and around half did not have any PWE.

## 17.5 Data results

The results are now discussed in terms of overall observations, and then considering the potential influence of students' nationality and PWE. Where relevant this includes student quotes from comments made in the survey.



## Overall

In respect of general self-efficacy, face-to-face students started with higher scores than online students (3.83 *cf* 3.60: Table 17.2). This might reflect those online students who were living through the uncertainty and stress of a pandemic, and could have affected how they approached the clinic, the time devoted to it, and their confidence about the future. Nevertheless, over the duration of the clinic, both cohorts experienced positive growth, with the face-to-face cohort having stronger growth in general self-efficacy (7% *cf* 4%).

It appears that having low confidence can potentially impede a student's learning experience in the challenging environment of a WIL experience, particularly if they do not have the motivation and perseverance. The first few weeks of the experience may be particularly challenging:

In the early weeks of the clinic, I feel that I made a few mistakes, which led me to questioning whether I was doing the right thing by staying on ... I'm glad that I stuck with it. ... I realised the importance of working in a team, and asking for help, and providing it, when necessary (Face-to-face – Domestic).

[In] the first few weeks ... I lacked confidence in my knowledge and was quite shy and hesitant. As the internship progressed ... I learn[ed] processes, procedures and appl[ied] what I learned in the classroom to real-world situations, significantly improving my confidence and general tax knowledge (Online – Domestic).

Other studies have demonstrated that a change in PI can be experienced by WIL students working remotely,<sup>33</sup> however, it appears the role of the supervisor is critical to decrease feelings of isolation and unclear expectations.<sup>34</sup> It appears that efforts to provide a supportive and informative work environment at the online tax clinic had some success.

When considering the PI self-efficacy measures the trend is different to general self-efficacy. The online students started with greater PI self-efficacy than the face-to-face students (3.95 *cf* 3.84), and the online students experienced greater growth over their clinic experience (7 per cent *cf* 5 per cent).

33 Leopold Bayerlein and Debora Jeske, 'Student Learning Opportunities in Traditional and Computer-Mediated Internships', *Journal of Education and Training* 60, no. 1 (2018): 27; Debora Jeske and Carol Linehan, 'Mentoring and Skill Development in E-Internships', *Journal of Work-Applied Management* 12, no. 2 (2020): 245.

34 Tim Bentley et al., 'The Role of Organisational Support in Teleworker Wellbeing: A Socio-Technical Systems Approach', *Applied Ergonomics* 52 (2016): 207; Debora Jeske and Carolyn M. Axtell, 'The Nature of Relationships in E-Internships: A Matter of the Psychological Contract, Communication and Relational Investment', *Journal of Work and Organizational Psychology* 34, no. 2 (2018): 113.

**Table 17.2:** Self-efficacy: Face-to-face vs online.

	Face-to-face			Online		
	Beginning of tax clinic (n = 25) (N=25)	End of tax clinic (n = 21) (N=25)	Change Over tax clinic	Beginning of tax clinic (n = 19) (N=19)	End of tax clinic (n = 15) (N=19)	Change Over tax clinic
<i>How "confident" are you in your ability to.....</i>						
<b>General</b>						
... accomplish difficult tasks when faced with them.	3.64	4.05	0.41 (8%)	3.58	3.73	0.15 (3%)
... perform quite well under pressure.	3.88	4.05	0.17 (3%)	3.58	3.80	0.22 (4%)
... better manage time.	3.96	4.43	0.47 (9%)	3.63	3.87	0.24 (5%)
<i>Overall average</i>	<b>3.83</b>	<b>4.18</b>	<b>0.35 (7%)</b>	<b>3.60</b>	<b>3.80</b>	<b>0.20 (4%)</b>
<b>Professional Identity</b>						
... begin a career in the Degree I am studying.	3.8	4.10	0.3 (6%)	3.79	4.40	0361 (12%)
... achieve my career goals.	3.76	3.90	0.14 (3%)	3.95	4.33	0.38 (8%)
... understand what is expected of me as a professional adviser.	3.96	4.24	0.28 (6%)	4.11	4.20	0.09 (2%)
<i>Overall average</i>	<b>3.84</b>	<b>4.08</b>	<b>0.24 (5%)</b>	<b>3.95</b>	<b>4.31</b>	<b>0.36 (7%)</b>
<b>Professional Identity (PI) Satisfaction</b>						
Being part of the Tax Clinic provided an insight into professional life.	NA	4.62	NA	NA	4.80	NA
Being part of the Tax Clinic is effective to develop my professional identity.	NA	4.57	NA	NA	4.67	NA

(Scale of zero (not confident) to five (very confident))

This trend is supported by satisfaction scores for 'insight into professional life' (4.80 *cf* 4.62) and 'develop my PI' (4.67 *cf* 4.57). This would tend to suggest that the online clinic did improve students' PI. However, there should be a note of caution, as these scores reflect students' *own perception* (self-reported) of their development. There may be concerns that students in the online environment are remote and may not have an accurate perception of themselves. Prior research has demonstrated that when WIL students have a more immersive experience with industry in the workplace, then their prior assessment of PI was potentially over-inflated and was subject to some correction during a subsequent immersive experience.<sup>35</sup>

This could suggest that socialisation and interaction with industry is an important aspect of developing a more realistic sense of PI. This could be of concern with the move to an online WIL experience, which may mean less interaction with professional colleagues, less mentorship and ability to receive (and understand) feedback.

However, there were a number of specific mentoring and socialisation opportunities developed in the online clinic. This included opportunities for discussions after client meetings, as well as the end of day debrief, which allowed for students to reflect on client interviews, as well as getting feedback from the tax agent. These opportunities are important, as Kram identifies the cultivation of PI as one of the most important functions of mentoring.<sup>36</sup> Although mentoring often occurs on a one-to-one basis, interestingly, multiple mentor relationships are shown to be associated with work satisfaction, improved attitudes towards the workplace, organisational retention and promotion, and career success.<sup>37</sup>

It appears that an important part of developing general self-efficacy and PI is the socialisation that can occur at the tax clinic, and the feedback and observation, whether it be the supervisor, fellow student advisers or clients. The role of the supervisors was noted:

35 Kirsten MacDonald et al., 'Realizing the Professional Within: The Effect of Work Integrated Learning', *Asia-Pacific Journal of Cooperative Education* 15, no. 2 (2014): 159. See also, Miller, 'The Impact of Service-Learning Experiences of Students' Sense of Power', 19.

36 Kathy Kram, *Mentoring at Work: Developmental Relationships in Organizational Life* (Scott, Foresman and Company, 1985).

37 I. J. Hetty van Emmerick, 'The More You Can Get, the Better: Mentoring Constellations and Intrinsic Career Success', *Career Development International* 9, no. 6 (2004): 578; S. Gayle Baugh and Terri Scandura, 'The Effect of Multiple Mentors on Protégé Attitudes toward the Work Setting', *Journal of Social Behavior and Personality* 14, no. 4 (1999): 503; Suzanne de Janasz, Sherry Sullivan and Vicki Whiting, 'Mentor Networks and Career Success: Lessons for Turbulent Times', *Academy of Management Executive* 17, no. 4 (2003): 78; Monica Higgins and David Thomas, 'Constellations and Careers: Toward Understanding the Effects of Multiple Developmental Relationships', *Journal of Organizational Behavior* 22, no. 3 (2001): 223.

I have learned a lot from listening to [the tax agent] deal with the clients and I feel comfortable now dealing with a client on my own. I am aware that I still don't have enough knowledge and [the tax agent] still has to take over at times, but I know I have the basis and the confidence to improve (Online – Domestic).

This included just being able to watch their tax supervisor:

It was amazing to learn one on one with [the tax agent] who is so experienced in the field of taxation that even in the meetings where I said nothing, I was able to learn so much from his example (Online – Domestic).

Also, the interaction with clients was important in terms of self-reflection:

Because it was such a practical experience dealing with real clients and you get to see their prompt reaction, I was able to learn faster and more effectively than any courses from university (Face-to-face – International).

This included seeing individuals benefit from their work:

The free tax seminar which I presented to the unrepresented taxpayers in my community helped me to improve my presentation skills and giving back my knowledge to help them (Face-to-face – International).

The PI satisfaction measures for both cohorts are also strong, with the online students slightly more satisfied. Overall, this would suggest that both cohorts of students were able to develop their PI and knowledge while participating at the clinic:

Honestly, the Griffith Tax Clinic is amazing ... (Online student).

Similar to other research remote WIL students can still miss the personal interaction,<sup>38</sup> as online students expressed a desire for a face-to-face experience, even though they appreciated the valuable online learning experience:

I think that a face-to-face tax clinic would lead to a better learning experience but given the circumstances, I think it was great (Online student).

Through the comments section of the survey, online students expressed that they experienced greater difficulty in leading client meetings. This

38 Pretti, Etmanski and Durston, 'Remote Work-Integrated Learning Experiences', 406.

could be attributed to limitations in technology in addition to the inherent requirement for the tax agent to share his screen for advice predisposing him to dominate meetings, as he had access to the tax software. This can be contrasted to the physical face-to-face environment where the students had more opportunity to directly navigate the client through any online software (even though under direction of the tax agent):

I know it was tough being online and all, but I just wish there was more opportunity to lead conversations and guide the tax return process (Online student).

It is evident that the sense of PI from the tax clinic has assisted students with their future career direction, including the motivation to pursue it:

I have more motivation to follow this career. I am excited to start this career path after graduation and look forward to working within this field (Face-to-face – Domestic).

... after finishing this programme, I started looking at myself more as a professional in the making. ... I used to take studies to pass my subject with good marks, now I study to learn and improve myself professionally. ... This programme taught me interpersonal skills are as important as the technical knowledge (Face-to-face – International).

Note, the experience also made some students realise that they didn't want to pursue a tax career. The PI results are now analysed in terms of students' nationality and professional work experience.

## Nationality

For general self-efficacy, domestic students experienced a similar growth of 4 per cent whether face-to-face or online (Table 17.3). For international students their growth was much stronger when face-to-face (13 per cent *cf* 5 per cent). However, it is important to recall online students were dealing with the uncertainty of a pandemic. This stress may have been greater for international students given their isolation in Australia, being away from loved ones who may have been subjected to a worse pandemic experience, as well as greater financial distress given their potential ineligibility for government financial initiatives to assist during the pandemic.

For the PI self-efficacy measures for domestic students their face-to-face experience appears not to be as strong as their online experience in developing PI (–2 per cent *cf* 9 per cent). In contrast, for international students their face-to-face experience provided stronger PI growth than the online

**Table 17.3:** Self-efficacy: Nationality: Face-to-face and online.

How "confident" are you in your ability to. ...	Face-to-face						Online					
	Domestic			International			Domestic			International		
	Beginning (n = 17)	End (n = 14)	Change	Beginning (n = 8)	End (n = 7)	Change	Beginning (n = 14)	End (n = 11)	Change	Beginning (n = 5)	End (n = 4)	Change
<b>General</b>												
... accomplish difficult tasks when faced with them.	3.65	4.07	0.42 (8%)	3.63	4.00	0.37 (8%)	3.57	3.73	0.16 (3%)	3.60	3.75	0.15 (3%)
... perform quite well under pressure.	3.94	4.00	0.06 (1%)	3.75	4.14	0.39 (8%)	3.79	3.91	0.12 (2%)	3.00	3.50	0.50 (10%)
... better manage time.	4.18	4.29	0.11 (2%)	3.50	4.71	1.21 (24%)	3.57	3.82	0.25 (5%)	3.80	4.00	0.2 (4%)
<i>Overall average</i>	<b>3.92</b>	<b>4.12</b>	<b>0.20 (4%)</b>	<b>3.62</b>	<b>4.28</b>	<b>0.66 (13%)</b>	<b>3.64</b>	<b>3.82</b>	<b>0.18 (4%)</b>	<b>3.50</b>	<b>3.75</b>	<b>0.25 (5%)</b>
<b>Professional Identity</b>												
... begin a career in the Degree I am studying.	3.76	3.79	0.03 (0%)	3.88	4.71	0.83 (17%)	3.79	4.27	0.48 (10%)	3.80	4.75	0.95 (19%)
... achieve my career goals.	3.71	3.50	-0.21 (-4%)	3.88	4.71	0.83 (17%)	3.93	4.36	0.43 (9%)	4.00	4.25	0.25 (5%)
... understand what is expected of me as a professional adviser.	4.18	4.07	-0.11 (-2%)	3.50	4.57	1.07 (21%)	4.14	4.36	0.22 (4%)	4.00	3.75	-0.25 (-5%)
<i>Overall average</i>	<b>3.88</b>	<b>3.80</b>	<b>-0.09 (-2%)</b>	<b>3.75</b>	<b>4.66</b>	<b>0.91 (18%)</b>	<b>3.95</b>	<b>4.33</b>	<b>0.48 (9%)</b>	<b>3.93</b>	<b>4.25</b>	<b>0.32 (6%)</b>
<b>Professional Identity (PI) Satisfaction</b>												
Being part of the Tax Clinic provided an insight into professional life.	NA	4.43	NA	NA	5.00	NA	NA	4.73	NA	NA	5.00	NA
Being part of the Tax Clinic is effective to develop my professional identity.	NA	4.36	NA	NA	5.00	NA	NA	4.64	NA	NA	4.75	NA

experience (18 per cent *cf* 6 per cent). It may have been the case that the domestic students dominated in the online environment due to higher conversational English skills, and that the online environment allowed more opportunity for shy international students to 'hide' and wait for someone to step in. Note the PI satisfaction scores are higher in the online environment for domestic students, whereas for international students the online PI satisfaction is slightly lower (but still high).

It could be that the online environment may limit the interaction with clients (which is true as there were generally fewer client meetings per day), and may mean some more experienced and confident students dominate:

As a non-experienced, shy international student, I needed more practice and more opportunities for leading client meetings in order to overcome my nervousness and lack of confidence (Online – International).

This low confidence could be relevant for international students with English as a second language:

I felt quite overwhelmed on my first day when I saw five other student tax advisers and supervisors on my computer screen. At the end of the workday, I realised that I was quite shy in my interactions and if I stay quiet, then I will not be able to learn more and build stronger relationships with my team. However, I pushed myself out of my student shell and started to participate more in the discussions. This helped me overall in building my confidence and getting to know new people (Online – International).

Fellow student advisers appeared to be important to build each other's confidence:

I have learned how to work as a team to serve one purpose, to meet the client's expectations. I have also gained some leadership skills by taking charge over a list of clients and distributing the work evenly to other student tax advisers (Face-to-face – Domestic).

## **PWE (Professional Work Experience)**

Prior studies have reported that WIL is more likely to increase students' professional knowledge, compared to their university studies,<sup>39</sup> and students

39 Keith Trigwell and Anna Reid, 'Introduction: Work-Based Learning and the Students' Perspective', *Higher Education Research & Development* 17, no. 2 (1998): 141.

who may experience the greatest benefits can be those with limited PWE.<sup>40</sup> Although some of these prior studies involved simulated WIL and their results may be different in an authentic WIL experience. Additionally, studies highlight how 'socialisation' can be compromised by a remote workplace,<sup>41</sup> as there may be limited opportunity to learn from colleagues which can be a key aspect of WIL.<sup>42</sup> In a remote online environment, the ability for students to observe and interact with colleagues formally and informally could be restricted.<sup>43</sup> As discussed earlier, the online clinic format did provide for some socialisation and mentoring feedback to be provided.

As shown in Table 17.4, PWE students with face-to-face experience had greater growth in general self-efficacy than non-PWE students (10 per cent *cf* 4 per cent) and PI self-efficacy (8 per cent *cf* 4 per cent). With the online experience this difference is even greater. When online, PWE students had greater growth in general self-efficacy (12 per cent *cf* -3 per cent) and PI self-efficacy (11 per cent *cf* 4 per cent) compared to non-PWE students. For PI satisfaction, face-to-face, non-PWE have greater satisfaction measures; whereas, when online, the trend is opposite, with PWE students more satisfied. This would suggest that students having some PWE can help to increase their PI at the clinic, especially when the clinic is conducted online. It appears prior PWE can assist students in dealing with the challenges that working at the tax clinic presents, including an increased sense of self-efficacy to deal with learning from challenging situations:

Before starting this trimester, I was confident that I could do it. I did not have any doubts. However, in the first interview I was meant to lead, I got a little nervous and started to freeze. I was having trouble keeping my normal calm and relaxed ... [the tax agent] took over most of the questioning in the first interview

40 Mahmoud Haddara and Heather Skanes, 'A Reflection on Cooperative Education: From Experience to Experiential Learning', *Asia-Pacific Journal of Cooperative Education* 8, no. 1 (2007): 67, 69; David Stern et al., 'Work Experience for Students in High School and College', *Youth and Society* 21, no. 3 (1990): 355; Brett Freudenberg and Anna Mortimore, 'Building Students' Self-Efficacy through the "Tax Firm" Case Studies: The Effect of Prior Professional Work Experience', *Journal of Australasian Tax Teachers Association* 15, no. 1 (2020): 165.

41 Pretti, Etmanski and Durston, 'Remote Work-Integrated Learning Experiences', 406.

42 David Drewery, T. Judene Pretti and Antoine Pennaforte, 'Conceptualizing the Quality of Cooperative Education Work Term Experiences: An Exploration from the Students' Perspective' (19th WACE World Conference on Co-operative and Work-Integrated Education, Kyoto, August, 2015) <[www.waceinc.org/kyoto2015/assets/proceedings/Drewery.pdf](http://www.waceinc.org/kyoto2015/assets/proceedings/Drewery.pdf)> accessed 19 September 2020; Jeske and Linehan, 'Student Learning Opportunities in Traditional and Computer-Mediated Internships'; Peggy Sattler and Julie Peters, 'Work-Integrated Learning in Ontario's Postsecondary Sector: The Experience of Ontario Graduates' (Higher Education Quality Council of Ontario, 2013).

43 Pretti, Etmanski and Durston, 'Remote Work-Integrated Learning Experiences'.



**Table 17.4:** Self-efficacy: Professional work experience: None vs some.

How "confident" are you in your ability to ...	Face-to-face						Online					
	No Professional Work Experience (PWE)*			Some Professional Work Experience (PWE)			No Professional Work Experience (PWE)*			Some Professional Work Experience (PWE)		
	Beginning (n = 14)	End (n = 13)	Change	Beginning (n = 11)	End (n = 8)	Change	Beginning (n = 11)	End (n = 8)	Change	Beginning (n = 8)	End (n = 7)	Change
<b>General</b>												
... accomplish difficult tasks when faced with them.	3.79	4.00	0.21 (4%)	3.45	4.13	0.68 (13%)	3.45	3.38	-0.07 (-2%)	3.75	4.14	0.39 (8%)
... perform quite well under pressure.	4.00	3.92	-0.08 (-2%)	3.73	4.25	0.53 (10%)	3.55	3.38	-0.17 (-3%)	3.63	4.29	0.66 (13%)
... better manage time.	3.86	4.38	0.52 (11%)	4.09	4.50	0.41 (8%)	3.82	3.63	-0.19 (-4%)	3.38	4.14	-0.76 (15%)
<b>Overall average</b>	<b>3.88</b>	<b>4.10</b>	<b>0.22 (4%)</b>	<b>3.76</b>	<b>4.29</b>	<b>0.53 (10%)</b>	<b>3.61</b>	<b>3.46</b>	<b>-0.15 (-3%)</b>	<b>3.60</b>	<b>4.19</b>	<b>0.59 (12%)</b>
<b>Professional Identity</b>												
... begin a career in the Degree I am studying.	3.86	4.15	0.29 (6%)	3.73	4.00	0.27 (5%)	3.55	4.25	0.7 (14%)	4.13	4.57	0.44 (9%)
... achieve my career goals.	3.64	3.77	0.13 (3%)	3.91	4.13	0.22 (4%)	3.82	3.88	0.06 (1%)	4.13	4.86	0.73 (15%)
... understand what is expected of me as a professional adviser.	4.21	4.15	-0.29 (-1%)	3.64	4.38	0.74 (15%)	4.09	3.88	-0.21 (-4%)	4.13	4.57	0.44 (9%)
<b>Overall average</b>	<b>3.90</b>	<b>4.02</b>	<b>0.12 (4%)</b>	<b>3.76</b>	<b>4.17</b>	<b>0.41 (8%)</b>	<b>3.82</b>	<b>4.00</b>	<b>0.18 (4%)</b>	<b>4.13</b>	<b>4.67</b>	<b>0.54 (11%)</b>
<b>Professional Identity (PI) Satisfaction</b>												
Being part of the Tax Clinic provided an insight into professional life.	NA	4.69	NA	NA	4.50	NA	NA	4.63	NA	NA	5.00	NA
Being part of the Tax Clinic is effective to develop my professional identity.	NA	4.62	NA	NA	4.50	NA	NA	4.50	NA	NA	4.86	NA

... After seeing how [the tax agent] conducted the interview  
... I was much more reassured of how to do this effectively  
(Online – Domestic – PWE).

However, non-PWE students are aware of the benefit of the tax clinic experience:

As I was getting towards the end of my degree, ... I always pictured myself being an accounting professional ... There has always been the “How am I going to do that with no experience?” question ... Because of this internship, I have a completely different perspective on accounting in general as well as my skills and abilities. I will take this experience with me once I leave the university and I will keep developing myself as a professional individual throughout my career (Online – International – non-PWE).

## **Limitations of research and future research**

There are limitations to this study, including the low number of students involved. The metrics, especially for the online cohort, could be affected by other external factors, especially the stress and uncertainty of living through a pandemic. Also, some of the online student satisfaction may be attributed to students' appreciation of having a WIL opportunity even in the midst of a pandemic when other WIL experiences were suspended.

Future research could consider the influence of higher academically achieving students and how their general and PI self-efficacy is influenced due to the tax clinic experience. More research could consider the effect of WIL for first-in-family to attend university, as well as subsequent employment outcomes.

## **17.6 Concluding remarks**

COVID-19 has presented many challenges for the education sector, particularly how to continue students' learning experiences. This chapter has described how a WIL experience of a student tax clinic transformed from a physical face-to-face delivery to a fully online office within a matter of weeks. This online transformation enabled the clinic to continue to operate and provide tax assistance to those vulnerable taxpayers in the community. However, it was not certain in what way the move to a fully online platform would influence how students saw themselves as professionals, and what it means to be a professional tax adviser. The notion of PI is therefore important

for students to develop and can help motivate them to pursue their future careers.

Through a comparative longitudinal study, this chapter has presented data about the development of students' PI both online and compared to prior face-to-face delivery. This research demonstrated that regardless of whether students undertake their WIL course in person or online, they still place value on their experience and perceive that their PI has improved as result of their engagement. This appears to be due to the social interaction that was maintained between supervisors, fellow students within the WIL programme and clients. However, for certain groups, such as international students and students with no PWE, the growth in PI is not as strong, especially working at an online clinic. If there is continued growth in remote online work, this could suggest that their PI needs to be developed as far as possible during students' studies, as the opportunities for meaningful interactions could be severely diminished or altered (compared to prior generations) once they enter the world of work.

**Part IV**  
**Moving forwards**



# Chapter 18

## A research roadmap for tax clinics

*Emer Mulligan and Margaret O'Neill\**

### 18.1 Key findings

Tax clinics (and clinical tax education more broadly) are also research environments; they provide lots of opportunities to conduct original research. For example, such research can provide pedagogical insights into a nontraditional learning environment, as well as a unique insight into how a tax system affects its taxpayers. For clinics that provide advice to low-income taxpayers, research provides insight into the voices and experiences of more marginalised groups, where research is less common. A research project on tax clinics needs to be carefully considered and designed; consider the research questions you wish to engage with, the appropriate methods to explore those questions, and theoretical frameworks.

### 18.2 Introduction

In this chapter, we highlight the benefits of a shared roadmap to inspire research and measure impacts, as the tax clinic initiative expands globally. To this end we map out possible methods of research and evaluation. Tax clinics, in which tax students work, sometimes supported by locally based tax practitioners, to provide tax support in their local regions, on a voluntary basis, are a relatively recent phenomenon internationally. While law-school tax clinics have existed in the US since the 1970s, developing beyond academic institutions in the early 1990s as low-income taxpayer clinics (LITCs) and continuing to grow,<sup>1</sup> we have seen recent uptake in this initiative across the globe, including Australia's National Tax Clinic programme and similar initiatives in South Africa, Ireland and the United Kingdom.<sup>2</sup>

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1 Keith Fogg, 'Taxation with Representation: The Creation and Development of Low-Income Taxpayer Clinics', *The Tax Lawyer* 67, no. 1 (2013): 3.

2 Australian Taxation Office, 'National Tax Clinic program', <[www.ato.gov.au/General/Gen/National-Tax-Clinic-program/](http://www.ato.gov.au/General/Gen/National-Tax-Clinic-program/)> accessed 2 September 2022; see also Chapter 2.

For the most part, these tax clinics provide pro bono representation and assistance navigating the tax system for those unrepresented individuals, small businesses, nonprofit organisations, or charities who do not have access to tax practitioners or are unaware of their tax rights and obligations. They represent a bridge between communities and tax systems, and they create a space for student experience and learning, putting theory into practice under the supervision of tax professionals. Tax clinics provide possibilities for research into tax pedagogy, tax policy, the social contract, volunteerism, access to tax justice, United Nations Sustainable Development Goals (SDGs) and more.<sup>3</sup> Multiple stakeholder perspectives can be taken into account whereby the views and experiences of clients, students, tax professionals and firms, administrators and academic staff, can all potentially inform the tax clinic as a research project.

Tax clinics already up and running provide a fertile research terrain to explore these interconnected aspects of the service, with several key lines of enquiry already established. This chapter explores the question of how the synergies between student learning, client experience, practitioner role, project planning, community outreach, state connections and citizenship requirements can be meaningfully linked, when we conceptualise the tax clinic as a research project.

Further, this chapter seeks to create a research roadmap demonstrating how tax clinics open out avenues of enquiry, offering suggestions on the prospective for future research as they continue to burgeon and develop. The chapter refers to the Tax Clinic in the University of Galway, Ireland, and the research avenues evolving out of this clinic as a touchstone throughout this exploration. It considers the theoretical and practical issues involved in how to implement the research element of the tax clinic. It introduces possibilities for pedagogical frameworks, qualitative and quantitative methods, and theoretical approaches that can productively be applied to guide and enhance the research. Nowhere is it proposing to be prescriptive or exhaustive, but instead to open out research agendas to these rich possibilities.

The aim of this chapter is to provide a roadmap to identify the impact of tax clinic research, support international and interdisciplinary collaborations and comparisons, and support research surrounding applied learning and community outreach which applies to and transcends taxation.

3 For more on the SDGs, <<https://sdgs.un.org/goals>> accessed 2 September 2022.

### 18.3 Developing the tax clinic as a research project

The research context of the University of Galway Tax Clinic represents a touchstone within this roadmap. Currently in its third year, the clinic involves students of taxation offering one-to-one consultations, under the guidance of tax experts, for university students and marginalised citizens in the region. Our clinic was set up with the goal of aiding and informing individuals who otherwise would not have access to such taxation supports. The objective of developing the clinic as a research project followed, as questions and ideas emerged through our experiences and through conversations with colleagues setting up and running clinics across the globe.

A research project would enhance opportunities, for instance, to gain real insight into the experiences of our clients, to evaluate the clinic in terms of outcomes and scalability, to develop collaborations, to contribute to tax policy and administration, and ultimately to also inform subsequent development of the clinic. These conversations and reflections led to the tax clinic research roadmap. We are currently exploring the question of how to link the synergies between student learning and community outreach as two of our fundamental goals, as well as how to account for the experiences of our clients and tax professionals.

We are also conscious of the research potential in our daily operations, as connected with all the other facets of the clinic. Data collected from the first rollout of the clinic to the student body shows that although taxpayers are motivated to be compliant with their taxes, student taxpayers often struggle to understand the tax system.<sup>4</sup> Our current more elaborate research project on the clinic is entitled 'Enabling Tax Compliance Through a Work-Integrated Learning Initiative: Understanding and Building on the Case of University of Galway's Tax Clinic'.

This project draws on the tax clinic experience to ask what the State is doing to support taxpayers, how do individuals understand their roles and responsibilities surrounding taxation compliance, and how can a ground-up approach involving work-integrated learning (WIL) enable and enhance citizenship. Having formulated a set of questions, mindful that they may evolve, we are now considering how to address these issues accurately and insightfully, for example, how do we measure the students' or clients'

4 Emer Mulligan and Margaret O'Neill, 'Here Are the 5 Most Popular Queries about Paying Tax in Ireland' (*RTE Brainstorm*, 19 July 2021), <[www.rte.ie/brainstorm/2021/0715/1235280-ireland-tax-queries-clinic-credits-allowances-pup/](http://www.rte.ie/brainstorm/2021/0715/1235280-ireland-tax-queries-clinic-credits-allowances-pup/)> accessed 2 January 2022.



change in knowledge, or develop a conceptual or theoretical framework to assist our interpretation? This chapter works through these research components to share our findings about valuable approaches, frameworks and tools. The variety of approaches presented here are offered as a useful roadmap for a continued discussion aimed at drawing together findings from tax clinic colleagues grappling with connected questions.

It is possible to feel pulled (in a good way) in different directions by opportunities arising from the tax clinic. We have found that while each direction represents new opportunities for client populations, research discoveries and funding, it is important that the different facets of the clinic remain interconnected around a central mission, which also informs a clear research identity and trajectory.

For the tax clinic researcher, your broad area of enquiry – for us, education, citizenship and tax compliance – along with your philosophical perspective, in other words, the beliefs you bring about what can be known and how it can be known, will inform your research design and interpretive framework.<sup>5</sup>

We have met several times as a research team to consider our underlying philosophy, which arising out of transdisciplinary backgrounds will potentially be informed by symbolic interactionism. This is an approach which, without underestimating individual agency, considers how shared meanings, ‘from macrolevel power structures to microlevel daily interactions, all are created through social interactions at various levels’ (for instance in the classroom or clinic).<sup>6</sup> Moreover, that these meanings, developed through previous experiences, may evolve because of new interactions.

We are therefore likely to favour qualitative approaches and social theories, such as Bourdieu’s work on how social structures can inform subjective meanings as well as objective consequences.<sup>7</sup> Or, alternatively, affect theories such as those of Sara Ahmed or Eve Kosofsky Sedgwick that consider emotions, such as happiness or shame, as culturally informed and reproduced through social arrangements to inform our actions. Such theories bridge macro and microstructures in a way that demonstrates the significance of

5 For more on the philosophical underpinnings of taxation research see Lynne Oats, ‘On Methods and Methodology’, in Lynne Oats (ed.), *Taxation: A Fieldwork Research Handbook* (Routledge, 2012).

6 Renée Spencer, Julia M. Pryce and Jill Walsh, ‘Philosophical Approaches to Qualitative Research’, in P. Leavy (ed.), *The Oxford Handbook of Qualitative Research* (Oxford University Press, 2014), 86.

7 Michael J. Carter and Celene Fuller, ‘Symbolic Interactionism’, *Sociopedia.isa* 1, no. 1 (2015): 1, available at <[www.academia.edu/16545413/Symbolic\\_Interactionism](http://www.academia.edu/16545413/Symbolic_Interactionism)> accessed 2 September 2022.

individual interactions in producing meaning, as well as the logic of institutions that enable certain types of behaviour.

Interestingly, elucidating our vision and research agenda also brought focus to the operationalisation of the clinic. While we are excited by the opportunities arising as we develop the clinic as an offering for the public good, to improve the outcomes for marginalised and vulnerable populations in the region, we share a caution about the strains that civic society partners may be under, and the need to build flexibility into the project timeline. We also stress the importance of liaising with stakeholders, including individuals with lived experience, on the complex needs of different client populations.

Consideration of accessibility and inclusivity, particularly in the context of COVID-19, is also vital. Moving the clinic online worked well for the student clients, but we will also hold face-to-face clinics in the future. In connection with our goal of empowering students through real world experience, we are also examining the work-based learning environment, to ask: How do we balance training and experience? Is a research-led teaching module or a voluntary approach the way forward? How do we nurture the public service values that will support the pro bono culture that underpins the clinic? The tax clinic is an exciting, engaging and fruitful project, now being equally matched by a research journey in terms of excitement, engagement and valuable possibilities and outcomes.

## 18.4 Mapping the research field

It is timely to take stock of our knowledge about tax clinics, as they inform and are informed by student learning, client experience, practitioner role, project planning, community outreach and the relationship between states and citizens. This book is one such contribution to our knowledge on clinical tax education.

Tax clinic-based research contributes to literature demonstrating the benefits of WIL, bringing together theory and practice for students to develop their experiences and skills in industry or community settings. In Australia, the Clinical Tax Education Project (CTEP) 'recognised work-integrated learning as the appropriate pedagogical strategy to respond to the evolving demands placed on Australian tax and legal education as a result of the emerging needs of industry', with empirical research underway.<sup>8</sup>

8 Donovan Castelyn, Stephanie Bruce and Annette Morgan, '2019 National Tax Clinic Project: Curtin University – Curtin Tax Clinic', *Journal of Australian Taxation* 22, no. 2 (2021): 1.

Future research on experiential learning and tax clinics can contribute to questions of formal credits versus volunteerism (intracurricular or extracurricular clinical education) when it comes to embedding the student adviser experience in the curriculum, as this dilemma informs teaching and learning, and how students engage with clinical opportunities, civic responsibility or the ethical value of the work. Such research could explore the relationships between higher education and the tax profession, between universities and community organisations, and between students and pro bono tax professionals and mentors (as well as the changing perspectives of these stakeholders over time). As Lawton and Massey demonstrate, the mentoring relationship can be synergetic: 'For more junior tax professionals, the clinic provides a safe environment to work on leadership and management skills ... professionals will also be exposed to new technical tax experience: tax in the low-income context'.<sup>9</sup>

Research could also consider how to improve tax literacy in the general community, as well as who is using online information and what is its value.<sup>10</sup> Connectedly, comparison and contrast of the efficiencies and impact of face-to-face versus online consultations could also inform the research agenda.

Pedagogical frameworks are discussed in more detail in [Chapter 13](#) and provide the basis for lots of pedagogical research. When a clinic was transferred online during COVID-19, Freudenberg and Belle Isle find that students' development of self-efficacy was relatively restricted and note that additional resources may be needed to enhance online WIL experiences.<sup>11</sup> The challenges of running the clinic out of a university as opposed to working with a key existing community stakeholder will also benefit from exploration. Additionally, it will be valuable to consider the potential for students to learn from participation in the clinic as a research project through innovative pedagogy embedding research-based education in the curriculum.

In tax clinic research, consideration of stakeholder benefits will often bring us to issues of social citizenship and social justice. Early clinical programmes were built on a humanitarian ideal. They began in the US in the 1970s as part of an academic movement as well as a social movement to provide services to vulnerable members of the community.<sup>12</sup> Social justice issues

9 Amy Lawton and David Massey, 'Opening Our Doors' (October 2020) *Tax Adviser*, <[www.taxadvisermagazine.com/article/opening-our-doors](http://www.taxadvisermagazine.com/article/opening-our-doors)> accessed 6 December 2021.

10 Sunita Jogarajan, Kate Fischer-Doherty and Julian Panetta, 'National Tax Clinic: Melbourne Law School Tax Clinic', *Journal of Australian Taxation* 22, no. 2 (2019): 27.

11 Brett Freudenberg and Melissa Belle Isle, 'Confidence in a Pandemic: Students' Self-efficacy When Volunteering in an Online Tax Clinic', *New Zealand Journal of Taxation Law and Policy* 27, no. 4 (2021): 279; see also [Chapter 17](#).

12 Fogg, 'Taxation with Representation', 5.

such as reducing poverty and hunger, improving housing and healthcare access, and combating racial discrimination, are intertwined with the tax system.<sup>13</sup> Access to justice can refer to justice carried out through the law, or to the advancement of social causes.<sup>14</sup> As Castelyn, Bruce and Morgan argue: 'Facilitating access to free and reliable tax advice, thereby supporting unrepresented taxpayers, embodies the ambulatory nature of justice'.<sup>15</sup> The question of how the notion of value is quantified relates to access to justice. As Morgan demonstrates, investment by staff and volunteers, debt corrected or written off, and pro bono hours all contribute value – further research is needed in this area.<sup>16</sup> Future studies might also explore the views and experiences of different client populations, marginalised in different ways. There is a growing interest in the medical and social sciences in engaging with research development processes that incorporate the participation of clients, especially marginalised and vulnerable populations.<sup>17</sup>

In a comparative analysis of pro bono tax clinic experiences of Australia, the US, the UK and Canada, Kayis-Kumar et al. developed a novel evidence-based evaluation framework entitled the Tax Clinics Program Logic for an Australian university-based pro bono tax clinic programme.<sup>18</sup> Centrally, they identify the benefit of tax clinics as 'creating a more socially just tax system',<sup>19</sup> demonstrating research opportunities across stakeholder groups including clients, students, tax professionals, society and the revenue collection body. Activities that create measure for improvement and can have broader social, civic and professional impact include advice, representation, education and advocacy. Outputs include the number of clients receiving advice, the number of outstanding income tax returns completed, the amount taxpayers have saved, and the number of educational seminars offered.

13 Edward W. Afield, 'Social Justice and the Low-Income Taxpayer', *Villanova Law Review* 64 (2019): 347.

14 Castelyn, Bruce and Morgan, '2019 National Tax Clinic Project'.

15 Castelyn, Bruce and Morgan, '2019 National Tax Clinic Project', 8.

16 Annette Morgan (LinkedIn, February 2020), <[www.linkedin.com/posts/annette-morgan-30564913b\\_the-australasian-tax-teachers-association-activity-6627410588098273280-lUdi](https://www.linkedin.com/posts/annette-morgan-30564913b_the-australasian-tax-teachers-association-activity-6627410588098273280-lUdi)> accessed 6 December 2021.

17 Christine FitzGerald and Kieran Walsh, 'Capturing Marginalised Voices in Multi-Stakeholder Development Processes: A Participant-Voice Framework' (Project Lifecourse, NUI Galway: 2016), <[www.universityofgalway.ie/media/ilaswebsiteitems/projectlifecourse/NUIG\\_CITIZEN\\_VOICE\\_REPORT\\_163000502.pdf](https://www.universityofgalway.ie/media/ilaswebsiteitems/projectlifecourse/NUIG_CITIZEN_VOICE_REPORT_163000502.pdf)> accessed 2 September 2022.

18 Ann Kayis-Kumar, Jack Noone, Fiona Martin and Michael Walpole, 'Pro Bono Tax Clinics: An International Comparison and Framework for Evidence-based Evaluation', *Australian Tax Review* 49, no. 2 (2020): 110.

19 Kayis-Kumar, Noone, Martin and Walpole, 'Pro Bono Tax Clinics', 110.

The framework guides research with reference to anticipated short-, medium- and long-term measurable outcomes involving changes in, for instance, attitudes or conditions. They note that as the model moves away from measuring short-term outcomes, it will become more difficult to ascribe changes specifically to the tax clinics. Therefore, they focus on contribution – the influence of the clinic as one of many possible factors – rather than direct attribution, to understand the social impact of the tax clinics. The model can involve various methods of data collection from different stakeholders and ‘focuses on techniques such as propensity matching and the triangulation of information from multiple data sources from multiple parties rather than determining cause and effect’.<sup>20</sup>

The tax clinic setting lends itself to interdisciplinary research and international exchange. Those working in tax clinics may come from different disciplinary backgrounds. Tax can interact with law, economics, politics, psychology, history, accountancy, education, social policy, anthropology and more. Researchers from different fields may take different approaches, and interdisciplinary perspectives, adopting the perspectives and approaches of more than one discipline, can enrich research.<sup>21</sup> International comparative studies can provide insights into the cultural contexts of tax. International clinical exchange, shared resources and research collaboration will be increasingly possible in a virtual environment.<sup>22</sup>

It will also be valuable to consider interprofessional collaborative practice, for example, tax clinics and the financial counselling profession.<sup>23</sup> This consideration brings us back to tax justice for marginalised and financially vulnerable individuals, and socioeconomically disadvantaged communities. Tax clinics could engage in research projects with law clinics, disability clinics, human rights clinics and business clinics.

Research can also involve collaborators from nongovernmental organisations, community services, and other agencies and institutions. An example is where tax clinics are offered in prisons. This can be seen in several US law schools (and discussed in [Chapter 12](#)), so that prisoners can access information about business and other taxation issues: ‘Interdisciplinary prison research is a key strength at the University of Central Lancashire, including

20 Ibid., 125.

21 Margaret Lamb, Andrew Lymer, Judith Freedman and Simon Lames, *Taxation: An Interdisciplinary Approach to Research* (Oxford University Press, 2004).

22 Castelyn, Bruce and Morgan, ‘2019 National Tax Clinic Project’, 28.

23 Ann Kayis-Kumar, Gordan Mackenzie and Michael Walpole, ‘Interprofessional Collaborative Practice in Pro Bono Tax Clinics: A Case Study Approach’, *Journal of Australian Taxation* 22, no. 2 (2021): 49, 59; Robert B. Whait, ‘2019 National Tax Clinic Project: Unisa Tax Clinic’, *Journal of Australian Taxation* 22, no. 2 (2021): 137.

demonstrable strong links with local criminal justice agencies and institutions, including prisons, and a strong record of conducting research in prison settings and working with a range of professionals in consultative roles'.<sup>24</sup>

A research agenda should consider the research communities you wish to connect with and why, and how to create and maintain collaborative ties. We will now turn to considering shared processes we might engage as we measure and explore different questions and issues emerging from tax clinics.

## 18.5 Research methods

As mentioned earlier in this chapter, the research method design needs to be suitable for exploring the research question posed and will be guided by the team's philosophy about knowledge creation. Determining whose (stakeholder) perspectives the research will explore, and what it seeks to understand, will guide the data gathering process. For example, given that the University of Galway Tax Clinic seeks to explore how it can enable active citizenship, the collection of client and adviser feedback was important from the outset.

Tax clinic researchers might undertake quantitative or qualitative measures or a mix of both, to understand performance and to go into the individual realities and social practices that lie beneath. This roadmap now describes a non-exhaustive selection of methods of data collection. It embraces the research possibilities available through interdisciplinary methods and, in the next section, we explore critical and theoretical perspectives from other disciplines as potential conceptual underpinnings which can strengthen our understanding of findings.

It can be beneficial to creatively develop an approach by selecting and integrating philosophy (the perspective on knowledge creation), methodology (the broad strategy to create knowledge, for instance by building a hypothesis or creating a theoretical framework), and methods (the techniques of data collection to operationalise the choices made).<sup>25</sup>

Several forms of data collection can be used for quantitative or qualitative methodological approaches. Traditionally, surveys measure individuals'

24 Helen Codd et al., "'The Best of Times and the Worst of Times': Reflections on Developing a Prison-Based Business Law and Tax Clinic in the Midst of a Global Pandemic', *International Journal of Clinical Legal Education* 27 (2020): 39, 43.

25 Kapil Dev Singh, 'Creating Your Own Qualitative Research Approach: Selecting, Integrating and Operationalizing Philosophy, Methodology and Methods', *Vision* 19, no. 2 (2015): 132; and Oats, 'On Methods and Methodology'.

attitudes quantitatively.<sup>26</sup> However, whether these responses truly indicate how they would behave is not straightforward, and a variety of circumstances including capability and the attitudes of others can inform subsequent behaviour.<sup>27</sup> Their value could be maximised, for example through increasing the specificity of measures for the behaviour under exploration, using scales to measure attitudes, or accounting for peoples' tendencies to present themselves in a socially desirable way.<sup>28</sup>

Connectedly, a survey can be applied qualitatively to explore a phenomenon, as much as to describe it quantitatively. As McKerchar describes:

[a] survey can potentially allow a qualitative researcher to 'explore' the research problem in different and possibly larger contexts [...]. The open-ended questions can generate new and at times unexpected responses that can lead to areas for further fruitful research. That is, a survey can provide insights to a qualitative researcher, but they will interpret the data from a different stance than will the quantitative researcher.<sup>29</sup>

In mixed methods research, quantitative data drawn from a survey or administrative data, for example, may demonstrate relationships that could then be further explored by qualitative research.<sup>30</sup> For example, in depth interviews can provide a source of rich data for a deeper understanding of the social reality of participants' worlds.<sup>31</sup> Focus groups, as they encourage discussion about beliefs and experiences, also provide insights for the researcher. Likewise, quantitative data can contribute to qualitative research, for instance applying a quantitative analysis technique such as content analysis to offer systematic quantifying of data, which can be productive in identifying patterns for analysis.<sup>32</sup>

As with data collection, analysis will also follow on from the underlying concepts informing research. The process of coding, or classifying, the data

26 Margaret McKerchar, 'Designing and Administering Surveys', in Lynne Oats (ed.), *Taxation: A Fieldwork Research Handbook* (Routledge, 2012).

27 Diana Onu, 'Measuring Tax Compliance Attitudes: What Surveys Can Tell Us about Tax Compliance Behaviour', in John Hasseldine (ed.), *Advances in Taxation* (Emerald Group Publishing Limited, 2016).

28 Ibid.

29 McKerchar, 'Designing and Administering Surveys', 40.

30 Ibid.

31 Emer Mulligan and Lynne Oats, 'Tax and Performance Measurement: An Inside Story', in John Hasseldine (ed.), *Advances in Taxation* (Emerald Group Publishing Limited, 2016).

32 Margaret McKerchar, 'Using Quantitative Approaches', in Lynne Oats (ed.), *Taxation: A Fieldwork Research Handbook* (Routledge, 2012).

to derive meaning can be undertaken manually or with use of a programme. The meanings and themes derived from the data will depend on the techniques used in the research study, meaning that the choice of methods and analysis is important.

Potential approaches in qualitative research, such as ethnography (focusing on individuals' stories in the context of their shared setting or culture), grounded theory (focusing on the process or action that the theory is intended to explain), and narrative analysis (focusing on the stories told), provide for understanding lived experience.<sup>33</sup> A thematic approach in qualitative analysis focuses on examining patterns of meaning. In an example of thematic analysis in tax research, Onu and Oats analyse comments from online forum discussions about tax obligations, revealing differences between assumptions that underpin the literature about tax behaviour, and naturally occurring discussions about tax, demonstrating areas for new research.<sup>34</sup>

Approaches can be deductive or inductive, applying codes developed from theory or concepts in the secondary literature, or codes developed from the research participants' own words, respectively.<sup>35</sup> These approaches are drawn from anthropology, sociology and interdisciplinary fields. 'An advantage of using ethnography to study tax compliance', Boll explains, 'is that such a study opens up the possibility of analysing the practicalities, artefacts, exciting small details and expressions that are part of tax compliance as it is played out on a daily basis in businesses'.<sup>36</sup>

A case study research approach (where a case is taken to illustrate an issue), can demonstrate revealing insights both quantitative and qualitative.<sup>37</sup> This approach has much to offer our understanding of tax clinics, from their operations to their contextual, comparative differences. It can also help to generate

33 John W. Creswell, 'Five Qualitative Approaches to Enquiry', in *Qualitative Enquiry and Research Design: Choosing among Five Approaches* (Sage, 2013).

34 Diana Onu and Lynne Oats, 'Tax Talk: What Online Discussions about Tax Reveal about Our Theories' (*Tax Administration Research Centre*, 2015), <[https://tarc.exeter.ac.uk/media/universityofexeter/businessschool/documents/centres/tarc/publications/discussionpapers/Tax\\_talk\\_2.pdf](https://tarc.exeter.ac.uk/media/universityofexeter/businessschool/documents/centres/tarc/publications/discussionpapers/Tax_talk_2.pdf)> accessed 2 September 2022, 24; Diana Onu and Lynne Oats, "'Paying Tax is Part of Life": Social Norms and Social Influence in Tax Communications', *Journal of Economic Behavior & Organization* 124 (2016): 29, which demonstrates a discourse analysis approach.

35 Andrea Bingham and Patricia Witkowsky, 'Deductive and Inductive Approaches to Qualitative Data Analysis', in Charles Vanover, Paul Mihás and Johnny Saldaña (eds), *Analyzing and Interpreting Qualitative Data: After the Interview* (Sage, 2021), 133–46.

36 Karen Boll, 'Ethnography and Tax Compliance', in Lynne Oats (ed), *Taxation: A Fieldwork Research Handbook* (Routledge, 2012), 50.

37 Creswell, 'Five Qualitative Approaches to Enquiry'.



hypotheses: ‘There are opportunities to obtain rich, detailed, context-specific information in respect of complex issues, to help to understand the case and also go beyond pure description and to test, support, add to or generate theories that are generally relevant, beyond the case being researched.’<sup>38</sup>

Onu and Oats, looking to the future, emphasise the opportunities of doing research online.<sup>39</sup> This is now especially relevant since the COVID-19 pandemic and the resultant working from home arrangements (for tax professionals offering their services to tax clinics, and low paid workers availing of the clinic services who may also be working from home).

Online tax clinic services also mean the service can be offered to citizens residing outside the immediate geographical region. Public health guidance and the necessity of adopting new forms of communication have had a profound impact on the manner in which our interactions occur and shared meanings arise. Future research to assess their use will benefit all these exploratory methods in tax research.

## 18.6 Theoretical perspectives

We have moved from mapping the research field, identifying various potential problems and related research questions, to research methodology including philosophical perspectives, data collection and data analysis. This section addresses interpretation.

Theoretical frameworks inform an approach to interpreting data, thereby providing insights on, inter alia, the causes or effects of phenomena observed. They can be fruitful when reflecting on the tax clinic, particularly as its communal nature often leads to considering tax phenomena contextually as both institutional and social. As Boden et al. argue: ‘Tax is an organizational, institutional, social and cultural phenomenon that raises important questions around its power effects in society more widely, yet these remain concealed behind a technical façade’.<sup>40</sup> This is a consideration that can productively be brought to tax clinic research.

The selection of theoretical perspectives discussed here is not exhaustive, rather they are offered as examples of how theories might frame tax-clinic research and enhance our understanding of what is happening.

38 Helen Rogers and Lynne Oats, ‘Case Studies’, in Lynne Oats (ed.), *Taxation: A Fieldwork Research Handbook* (Routledge, 2012), 32.

39 Onu and Oats, ‘Tax Talk’.

40 Rebecca Boden et al., ‘Critical Perspectives on Taxation’, *Critical Perspectives on Accounting* 21, no. 7 (2010): 541.

Researchers might delve into any theories or combine them as part of creating a conceptual model to explore the issues being examined. When adopting theories, they should be considered from an early stage to help design the research and guide data collection. Depending on the research agenda, tax clinics can draw on, for example, Actor Network Theory, deriving from the sociology of science and technology, to consider how tax practices are enacted, shaped and changed in specific contexts.<sup>41</sup> Institutional theory, alternatively, aligned with sociology and organisational studies, considers institutions as informed by social expectation, predicting interactions and behaviour, and privileging certain forms of knowledge.<sup>42</sup>

Researchers might apply social theories that can be used to think fruitfully about tax as embedded in social structures that may constrain or enable participation.<sup>43</sup> For example, theories on gender, disability, race and age, informed by the social sciences, the humanities, perspectives in gerontology and more, can provide for considering issues of bias and inclusion, the wider environment, and the process of participation and empowerment. Social gerontology can allow for special consideration of issues of taxation and associated considerations for older citizens. Such explorations might be considered alongside theories of citizenship and tax as an institution associated with such, to explore issues of equality and the rights and responsibilities each citizen holds as a member of a community, as their status in the tax system enables individuals to pursue their goals.

## 18.7 Concluding remarks

This research roadmap has demonstrated the importance of defining the tax clinic's research goals from the outset, mapping the research potential, possibilities and strategies to achieve these goals. Centrally, it emphasises that tax clinics will benefit from approaching the initiative as a fertile research ground. It is however critical that in our research orientation, we

41 Karen Boll, 'Mapping Tax Compliance: Assemblages, Distributed Action and Practices: A New Way of Doing Tax Research', *Critical Perspectives on Accounting* 25, no. 4–5 (2014): 293; Karen Boll, 'Actor Network Theory and Tax Compliance', in Lynne Oats (ed.), *Taxation: A Fieldwork Research Handbook* (Routledge, 2012).

42 Lynne Oats, 'Varieties of Institutionalism', in Lynne Oats (ed.), *Taxation: A Fieldwork Research Handbook* (Routledge, 2012). Emer Mulligan, 'New Institutional Sociology and the Endogeneity of Law', in Lynne Oats (ed.), *Taxation: A Fieldwork Research Handbook* (Routledge, 2012).

43 Sven Modell, 'For Structure: A Critical Realist Critique of the Use of Actor-Network Theory in Critical Accounting Research', *Accounting, Auditing & Accountability Journal* 33, no. 3 (2019): 621.

do not lose sight of core values and objectives underpinning the clinics, such as assisting marginalised citizens.

As an active and constructive process, the tax clinic as a research project can illuminate how the values informing the initiative are realised and experienced, and how pedagogy and professional activity can be enhanced. Drawing on the research roadmap provided here, we suggest tax clinic research programmes may be interpreted and applied within the context of a global community of tax clinics, leading to shared outcomes productive for decision-making and policy-setting across the globe.

In addition, and of particular importance to the academic community, the impact of tax clinic research can transcend the applied tax clinic contribution to impact on, for example, publications and academic and practitioner conferences in clinical tax education, tax policy and administration and more.

The valuable role of research in the development of the clinic can also provide approaches to cope with current and future social changes and challenges. Finally, although beyond the scope of this chapter, it is important to consider funding opportunities for research on tax clinics, and research on many and varied tax related topics, which could draw on data from tax clinics in action.

Such research could and indeed arguably should in many cases be carried out in collaboration with different stakeholders, such as tax administrations, professional tax advisers and civil society partners such as NGOs and community groups, as well as service users, across different social and cultural contexts and countries. Adopting a partnership and social inclusion approach to research in this context will serve to enhance the future design, operation and success of tax clinics worldwide for the public good.

# Chapter 19

## Moving forwards

### *Tax clinics and business schools*

*David Massey\**

#### 19.1 Key findings

Student pro bono work has a long tradition within law schools, but not so much within business schools. Many law schools have an established framework of pro bono clinics that tax clinics can slot into but there are no comparable structures within business schools in the UK. Tax enthusiasts within the accounting discipline often face the twin challenges of selling to their colleagues not only the specific benefits of working on projects within the field of taxation but also the general merits of pro bono work and student volunteering.

A Chartered Association of Business Schools (CABS) Taskforce recently examined what business schools in the UK actually do in relation to the public good.<sup>1</sup> Unfortunately, tax clinics do not merit a mention. They appear to be off the radar even of those business schools that already have a ‘clearly articulated conception’ of their public good.<sup>2</sup> For the moment, the development of tax clinics is in the hands of what the CABS report describes as ‘public good entrepreneurs’ – enthusiastic individuals who drive individual projects within a business school.

This chapter is aimed at those enthusiastic individuals from the accounting and finance disciplines who might wish to set up a tax clinic. It will explore how a clinic can complement and support a school’s existing activities. It will also provide some ideas for small scale clinical tax education projects.

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1 Chartered Association of Business Schools, ‘Business Schools and the Public Good: A Chartered ABS Taskforce Report’ (2021), <<https://charteredabs.org/wp-content/uploads/2021/06/Chartered-ABS-Business-Schools-and-the-Public-Good-Final-1.pdf>> accessed 3 August 2022.

2 Ibid., 3.

The chapter is based on the current UK experience, but the suggestions may provide inspiration to those in other jurisdictions.

## 19.2 Introduction: the civic university

‘Civic universities’ is the label given to institutions that seek to serve their locality in all its diversity and which align their activity to public wants.<sup>3</sup> Tax clinics, which address the wants of low-income individuals or provide public education, can fit neatly within the vision of such civic universities.

A tax clinic is one medium through which we can both establish and meet the wants of our communities. Most directly, this is by way of helping clients resolve their individual tax problems, but it can go wider than that. A tax problem might be the initial prompt that leads the client to the tax clinic. However, in attempting to resolve their tax situation, we can uncover deeper issues, which may not otherwise be detected through the likes of customer surveys or more traditional channels of community engagement. For example, in the North West Tax Clinic we came across signs of modern slavery and identified weaknesses in the support provided for small business. The particular nature of the challenges these clients had would not have been detected outside of the clinical encounter. These sorts of issues may be beyond the scope of the clinic itself to resolve, but they can be usefully shared with colleagues within the rest of the business school to inform decisions about priorities for community engagement or research.

Not all universities will see the serving of local needs as a priority. For these institutions, tax policy clinics may align more closely with their objectives. We will return to tax policy at the end of the chapter. For the moment, we will concentrate on clinics that seek to serve individuals and organisations in the immediate locality of a business school.

## 19.3 Widening participation

When making the case for a tax clinic, one strategy would be to situate it within the school or university’s ‘widening participation’ agenda – an agenda that is an important focus of UK universities. Widening participation involves

3 UPP Foundation, ‘Truly Civic: Strengthening the Connection between Universities and Their Places’ (2021), <<https://upp-foundation.org/wp-content/uploads/2019/02/Civic-University-Commission-Final-Report.pdf>> accessed 3 August 2022, 8.

institutions taking the initiative to recruit (and retain) students from under-represented groups.<sup>4</sup> These include young people who:

- Live in areas where comparatively few school leavers move on to higher education
- Would qualify for the Disabled Students' Allowance (DSA)<sup>5</sup>
- Attended state schools (rather than being privately educated).

As a discipline, accounting is already more effective than business schools (and the HE sector overall) at recruiting students from areas with low participation (POLAR 4) and from those places identified as deprived (see Table 19.1).<sup>6</sup> We also have a broader ethnic mix than business schools generally, which in turn do better than the HE sector as a whole (Table 19.2).

Where business schools do less well is in the recruitment of students with disabilities (Table 19.3).<sup>7</sup> Our recruitment rate is less than half that of the sector as a whole. A tax clinic could be a way of addressing that shortcoming. It provides a setting in which we can address issues of disability. This can show the relevance of business degrees to potential applicants who might not otherwise have considered the discipline as well as providing a more relevant experience to those students who choose accounting or related subjects.

4 Higher Education Statistics Authority (HESA), 'Widening Participation Summary: UK Performance Indicators' (2022), <[www.hesa.ac.uk/data-and-analysis/performance-indicators/widening-participation-summary](http://www.hesa.ac.uk/data-and-analysis/performance-indicators/widening-participation-summary)> accessed 25 July 2022.

5 GOV.UK, 'Help If You're a Student with a Learning Difficulty, Health Problem or Disability – Disabled Students' Allowance' (2022), <[www.gov.uk/disabled-students-allowance-dsa](http://www.gov.uk/disabled-students-allowance-dsa)> accessed 25 July 2022.

6 POLAR 4 = Participation of Local Areas (version 4). It is based on how many eighteen-year-olds from an area started an HE course between 2009–10 and 2013–14. Additional funding is provided by the Office for Students (OfS) for students from areas in quintiles one and two who are statistically at risk of dropping out; IMD = Index of Multiple Deprivation. The UK is divided into over 40,000 local areas. The index is based on a basket of measures including income, (un)employment, education, health, crime and barriers to housing and local services. More information about England is available here: <[www.gov.uk/government/statistics/english-indices-of-deprivation-2019](http://www.gov.uk/government/statistics/english-indices-of-deprivation-2019)> accessed 3 August 2022; Scotland, <[www.gov.scot/collections/scottish-index-of-multiple-deprivation-2020/](http://www.gov.scot/collections/scottish-index-of-multiple-deprivation-2020/)> accessed 3 August 2022; Wales, <<https://gov.wales/sites/default/files/statistics-and-research/2020-06/welsh-index-multiple-deprivation-2019-results-report.pdf>> accessed 3 August 2022; Northern Ireland, <[www.gov.uk/government/statistics/northern-ireland-multiple-deprivation-measures-2017](http://www.gov.uk/government/statistics/northern-ireland-multiple-deprivation-measures-2017)> accessed 3 August 2022.

7 HESA, 'Table WP10 – Percentage of Students in Receipt of Disabled Students' Allowance (DSA) by Subject and Entry Qualifications' (2022), <[www.hesa.ac.uk/data-and-analysis/performance-indicators/widening-participation](http://www.hesa.ac.uk/data-and-analysis/performance-indicators/widening-participation)> accessed 3 August 2022.

**Table 19.1:** UK undergraduate acceptances in the 2021 application cycle, percentage of total students accepted onto courses coming from these areas. Quintile 1 = lowest participation rate or most deprived areas.<sup>8</sup>

	<i>Accounting (CAH 17-01-08)<sup>9</sup></i>	<i>All business (CAH 17)</i>	<i>Law (CAH 18)</i>	<i>All acceptances</i>
POLAR 4 Quintiles 1 & 2	27%	23%	31%	26%
IMD Quintiles 1 & 2	49%	44%	44%	39%

**Table 19.2:** Ethnicity: UK undergraduate acceptances in the 2021 application cycle.

	<i>Accounting (CAH 17-01-08)</i>	<i>All business (CAH 17)</i>	<i>Law (CAH 18)</i>	<i>All acceptances</i>
Asian	33%	19%	21%	14%
Black	12%	11%	10%	9%
Mixed	4%	5%	6%	5%
Other	3%	4%	4%	2%
Unknown	1%	4%	1%	2%
White	48%	59%	59%	68%

There are issues ripe for public education or helping individual clients, such as the low take-up of Blind Persons' Allowance<sup>10</sup> or VAT reliefs for disabled people which have to be claimed by the individual.<sup>11</sup> There are also less obvious opportunities. As Wood (Chapter 12) discovered in their clinical work with prisoners, the rates of dyslexia among prisoners are very high, possibly up to 50 per cent.<sup>12</sup> There is also limited internet access within prisons.

8 CAH = Common Aggregation Hierarchy. The CAH is part of the Higher Education Classification of Subjects (HECoS) system which has been used from 2020–21 to map and code disciplines: <[www.hesa.ac.uk/support/documentation/hecos](http://www.hesa.ac.uk/support/documentation/hecos)> accessed 3 August 2022.

9 Authors' own calculations based on data released by UCAS (University and College Admissions Service) available here: <[www.ucas.com/data-and-analysis/undergraduate-statistics-and-reports/ucas-undergraduate-sector-level-end-cycle-data-resources-2021](http://www.ucas.com/data-and-analysis/undergraduate-statistics-and-reports/ucas-undergraduate-sector-level-end-cycle-data-resources-2021)> accessed 3 August 2022.

10 John Whiting, 'OTS Review of Tax Reliefs', *Tax Journal* 1069 (2011) <[www.taxjournal.com/articles/ots-review-tax-reliefs](http://www.taxjournal.com/articles/ots-review-tax-reliefs)> accessed 3 August 2022.

11 HMRC, 'Reliefs from VAT for Disabled and Older People (VAT Notice 701/7)' (2020), <[www.gov.uk/guidance/reliefs-from-vat-for-disabled-and-older-people-notice-7017](http://www.gov.uk/guidance/reliefs-from-vat-for-disabled-and-older-people-notice-7017)> accessed 3 August 2022.

12 The Centre for Social Justice, 'Dyslexia in the Education and Criminal Justice Systems: Roundtable Report' (2021), <[www.centreforsocialjustice.org.uk/wp-content/uploads/2021](http://www.centreforsocialjustice.org.uk/wp-content/uploads/2021)>

**Table 19.3:** Percentage of students in receipt of DSA by subject (2020–21).  
Source: The author.

	<i>Business</i>	<i>Law</i>	<i>All subjects</i>
Percentage of students in receipt of DSA	3.6%	5.3%	8.4%

Converting basic, online, tax information into a paper format and designed in a way to take into account the reading challenges facing such an audience is a task that can be undertaken by undergraduates. Of particular value to those entering prison would be guidance and support on, say, transferring the Marriage Allowance to a working spouse or civil partner<sup>13</sup> or claiming back PAYE tax deducted before their detention.<sup>14</sup> These are comparatively straightforward claims for those with internet access and who face no reading challenges but can be a serious challenge for those within a secure environment. For those leaving prison, accessing the online Government Gateway and registering as self-employed is an area where additional support from a tax clinic might be welcomed.

The benefits to more privileged students of volunteering in a low-income taxpayer clinic have been explored in Part III of this handbook. But there can also be benefits to students from nontraditional backgrounds. Too often academia treats these students as lacking the cultural capital to thrive in higher education and treats their previous experiences as a barrier to learning. In contrast, a tax clinic can be the place where the lived experience of these students has real value. The fact that they have been in care or prison, have a disability, or are from an ethnic minority is not something that a school needs to start making allowances for; instead these are attributes to be valued.

A tax clinic, in contrast to other university learning experiences is an environment in which the students' nontraditional backgrounds become an asset rather than a liability. A clinic's clients are not individuals whose lives are outside the students' own experience but, rather, they are typical of the students' own lives or those of their peers, friends and neighbours. Our less traditional students can provide valuable insights into the needs of clients and how those might best be met.

[/12/CSJ-Dyslexia\\_Roundtable\\_Report.pdf](#)> accessed 3 August 2022, 4.

13 GOV.UK, 'Marriage Allowance' (2022), <[www.gov.uk/marriage-allowance](http://www.gov.uk/marriage-allowance)> accessed 3 August 2022.

14 GOV.UK, 'Claim Income Tax Back When You've Stopped Work' (2020), <[www.gov.uk/government/publications/income-tax-claiming-tax-back-when-you-have-stopped-working-p50](http://www.gov.uk/government/publications/income-tax-claiming-tax-back-when-you-have-stopped-working-p50)> accessed 3 August 2022.



Conversely, and perhaps more importantly, a clinic can show the relevance of university to those students who come from the more marginalised communities which the clinic serves. The clinical experience permits them to start to see a bigger picture within which to situate their own lives, and to see the relevance of their learning to their own context in a way that a classroom session on, for example, international transfer pricing or inheritance tax never will.

## 19.4 The challenge of professional accreditation

The challenges to university-level accounting education posed by the pursuit of accreditation from the professional accountancy bodies has been well documented.<sup>15</sup> Professional accreditation requirements are not unique to the UK. However, entry into the accounting profession is an effective route to enhance the social mobility of our students; we should think carefully before abandoning professional accountancy body accreditations in pursuit of more academic course offerings.<sup>16</sup>

It would not be right to deny our students this sort of learning. For those who want to enter and thrive in the profession we do need to give them the opportunity to develop their cultural, symbolic and social capital.<sup>17</sup> This requires introducing them to situations that are well beyond their current experiences, but it does run the risk of making our degrees appear irrelevant to them where they cannot also see a connection with their own experience.

Tax clinics can work effectively to complement our current accredited courses. They offer a way of ‘finding time alongside accredited content modules and content within modules to promote generic skills and more liberal or academic aspects of education’.<sup>18</sup> These are skills that can be crowded out in a curriculum geared to maximising exemptions, but they can

15 See most recently, Stephen Daly and Amy Lawton, ‘Another Check of the Temperature of Tax Teaching in the UK’ (2022) 2 *British Tax Review* 202.

16 ICAEW (2021) <[www.icaew.com/insights/viewpoints-on-the-news/2021/sep-2021/accounting-firms-target-socio-economic-pay-gaps](http://www.icaew.com/insights/viewpoints-on-the-news/2021/sep-2021/accounting-firms-target-socio-economic-pay-gaps)>; and ICAEW, ‘Accounting Firms Recognised for Social Mobility Work’ (ICAEW, 25 November 2021), <[www.icaew.com/insights/viewpoints-on-the-news/2021/nov-2021/accounting-firms-recognised-for-social-mobility-work](http://www.icaew.com/insights/viewpoints-on-the-news/2021/nov-2021/accounting-firms-recognised-for-social-mobility-work)> accessed 4 August 2022.

17 Social Mobility and Child Poverty Commission, ‘Non-Educational Barriers to the Elite Professions’ (2015), <[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/434791/A\\_qualitative\\_evaluation\\_of\\_non-educational\\_barriers\\_to\\_the\\_elite\\_professions.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/434791/A_qualitative_evaluation_of_non-educational_barriers_to_the_elite_professions.pdf)> accessed 4 August 2022.

18 Peter Ellington and Amanda Williams, ‘Accounting Academics Perceptions of the Effect of Accreditation on UK Accounting Degrees’, *Accounting Education* 26 (2017): 501, 519.

be developed within a clinical environment running alongside the assessed learning.

Clinics may not address directly what are perceived in some quarters as the big issues in accounting education, such as the apparent crisis in auditing. Moreover, clinics may not, by themselves, be able to decolonise the curriculum. However, they can be used to encourage students to start to question and to challenge the canon of knowledge that we are currently offering them.

ACCA's UK Taxation (TX) syllabus, for example, explicitly excludes:<sup>19</sup>

- Simple assessments<sup>20</sup>
- Tax-free childcare schemes
- The trading allowance of £1,000
- The property allowance of £1,000
- Savings income paid net of tax<sup>21</sup>
- The Blind Person's Allowance.

These are all features of the UK tax system that are of relevance to those on the margins of liability and on the lowest incomes.

On the other hand, students are obliged to study UK inheritance tax, a tax that only applies to estates worth over £325,000 (and in many cases £1 million) and is paid by fewer than 4 per cent of estates.<sup>22</sup>

Tax clinics running alongside the taught curriculum offer the opportunity for students to experience elements of tax, which they may more readily relate to – without trying to cram yet more learning into accredited modules. Through a clinic we can expose them to the relevant elements of tax which the profession deems not worthy of examining, without diluting the modules which support the examination exemptions.

As Freudenberg et al. and Vitale and Medlen explain in [Chapters 17 and 14](#) respectively, there are also great benefits to students through their

19 ACCA is a Professional Accounting Body in the UK. ACCA 'Taxation – United Kingdom (TX-UK) Syllabus and Study Guide, June 2022–March 2023', <[www.accaglobal.com/ie/en/student/exam-support-resources/fundamentals-exams-study-resources/f6/syllabus-study-guide/f6-syllabus-study-guide-united-kingdom-uk.html#](http://www.accaglobal.com/ie/en/student/exam-support-resources/fundamentals-exams-study-resources/f6/syllabus-study-guide/f6-syllabus-study-guide-united-kingdom-uk.html#)> accessed 4 August 2022.

20 Issued by HMRC to taxpayers who are not within self-assessment. They are not as 'simple' as HMRC would like to make out.

21 Of particular concern to those receiving compensation from Payment Protection Insurance (PPI) mis-selling. See David Massey and Amy Lawton, 'Simple Interest', *Taxation* 186, no. 4766 (2020): 12.

22 HMRC, 'Inheritance Tax Statistics: Commentary' (2021), <[www.gov.uk/government/statistics/inheritance-tax-statistics-commentary/inheritance-tax-statistics-commentary—regional-breakdown](http://www.gov.uk/government/statistics/inheritance-tax-statistics-commentary/inheritance-tax-statistics-commentary—regional-breakdown)> accessed 17 April 2022.

interaction with established professionals. Even though the technical issues in a tax clinic may be far removed from the students' intended careers, these relationships can go a long way to making up for any deficiencies in the students' accounting cultural capital.

## 19.5 Practical experience

Another area where tax clinics can support an accredited degree programme is in the area of work experience. The clinics offer opportunities for students who may not be free to commit to a traditional work placement or internship, because of, for example, caring obligations or financial constraints on travel.

A clinic is unlikely to be able to offer much towards the total three years' qualifying experience required by ACCA but the variety of work does lend itself towards completing specific performance objectives (POs). A carefully constructed clinical experience would allow a student to have some of ACCA's POs signed off before they graduate. These Practical Experience Requirements can be a particular challenge to complete where our graduates join smaller firms after leaving us or find themselves in a restricted finance role within a commercial organisation. Having one or two of these POs under their belt may ease their move into employment and early entry into full membership of the professional accountancy bodies.

An ACCA associate must complete five 'Essential' POs and four out of the fourteen 'Technical' POs before they can advance to membership.<sup>23</sup> Of the Technical POs, three relate to tax.<sup>24</sup> PO17 'Tax Planning and Advice' would probably be beyond the scope of a low-income taxpayer clinic, but the five elements of PO16 'Tax Compliance and Verification' have been commonplace among our clinics. The only element that has been missing from PO15 'Tax Computations and Assessments' has been item (c) relating to the computation of indirect liabilities. It would require a different model from the one adopted at the North West Tax Clinic or the Scottish Tax Clinic (discussed in [Chapter 2](#)) but it is likely that there will be business schools who already work with, for example, Third Sector organisations where it would be possible to find opportunities for students to gain the appropriate experience.

There is one of the Essential POs where a clinic could allow a student to demonstrate the appropriate attributes and skills: PO2 'Stakeholder

23 ACCA, 'Performance Objectives' (2022), <[www.accaglobal.com/uk/en/student/practical-experience-per/performance-objectives.html](http://www.accaglobal.com/uk/en/student/practical-experience-per/performance-objectives.html)> accessed 17 April 2022.

24 ACCA, 'Achieve Performance Objectives' (2021), <[www.accaglobal.com/content/dam/ACCA\\_Global/Students/per/PER-Performance-objectives-achieve.pdf](http://www.accaglobal.com/content/dam/ACCA_Global/Students/per/PER-Performance-objectives-achieve.pdf)> accessed 4 August 2022.

Relationship Management'. Amongst other things, this objective requires students to demonstrate effective communication and listening skills and to display 'sensitivity, empathy and cultural awareness'. A tax clinic, attracting clients from all communities, each with different challenges, both personal and fiscal, will probably give more opportunity for this than would a standard, professional, office environment. Students also need to show they can work with a range of stakeholders: the tax clinic experience requires its volunteers to communicate not just with clients but also professional mentors and Revenue authorities. A clinic that introduced a public education element would give further opportunities for students to develop their communication skills and demonstrate their abilities to use a range of mediums to do this.

## 19.6 Some ideas for clinics going forwards

### A minimalist tax clinic

There is no need to be overambitious when first setting up a tax clinic. A tax clinic can include student volunteers who have nothing much more to offer than a willingness to help. It need not require any detailed knowledge or experience from either the students or the supervising academics.

Originally, as part of their Making Tax Digital (MTD) programme, from April 2024 HMRC would have required every business with an annual turnover of more than £10,000 to report their income and expenses online.<sup>25</sup> With the personal allowance at something over £12,000, this would have required many non-taxpaying individuals to make quarterly returns to HMRC. Even with the delay to MTD and the increase in the initial threshold, there are still concerns around digital exclusion: this will still catch individuals who were able to make annual paper returns in the past but who will struggle with the transition online.

These are not clients who require any tax advice, but they do need help getting online. A university with its rooms full of computers lying idle outside of teaching hours can help here. An 'Access to Government Services' clinic need not offer any support beyond guiding clients through the process for registering for online services and showing them the 'Help' features within HMRC systems.

The clinic could also offer support in accessing other services, which are now offered online – such as applying for a driving licence or passport or registering to vote. Our students can provide this assistance with minimal

25 For more on digitalisation and digital exclusion, see Wood (Chapter 12).

training. A clinic like this could run for, say, just one weekend (or weekday) every three months while you get a feel for what the demand might be for more specialist tax support. It can run with minimal outside support, but it would be an opportunity to start working with local professionals from which to recruit mentors.

## **Replacing High Volume Agents (HVAs)**

High volume agents help individuals to claim tax refunds for a fee (that usually comes from the refund). This clinic would require some tax knowledge (although still not a lot). In the UK context, it could assist clients with claims for:

- Marriage Allowance
- Flat rate expenses (for uniforms and tools)
- Professional subscriptions
- Employee travel expenses.

Travel expenses can be complex, but the other items are comparatively straightforward. However, many taxpayers use claims companies rather than applying direct to HMRC. Even the honest companies may take up to almost 50 per cent of the repayment due,<sup>26</sup> while other agents will make inflated claims (with the taxpayer having no redress when HMRC come to investigate) and ask for the excess back; abuse the repayment assignment authorisation to take all future repayments the client may receive; or even appropriate the client's HMRC record.<sup>27</sup>

HMRC research has identified four types of HVA users:<sup>28</sup>

- Opportunists
- Time Optimisers
- Financial/Language barrier customers
- Uncertain customers.

26 GOV.UK, 'HMRC Launches Consultation to Address Concerns about Repayment Agents' (2022), <[www.gov.uk/government/news/hmrc-launches-consultation-to-address-concerns-about-repayment-agents](http://www.gov.uk/government/news/hmrc-launches-consultation-to-address-concerns-about-repayment-agents)> accessed 4 August 2022.

27 David Byers, 'Oil Workers Sunk by £30k Tax Bills' (*The Times*, 15 January 2022), <[www.thetimes.co.uk/article/oil-workers-sunk-by-30k-tax-bills-wtkhftb3f](http://www.thetimes.co.uk/article/oil-workers-sunk-by-30k-tax-bills-wtkhftb3f)> accessed 4 August 2022.

28 HMRC, 'The Use of High Volume Agents to Claim Tax Rebates: Qualitative Research to Better Understand the Motivations and Experiences of Customers of High Volume Agents', HMRC Research Report: 631, <[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1029797/The\\_use\\_of\\_High\\_Volume\\_Agents\\_to\\_claim\\_tax\\_rebates\\_research.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1029797/The_use_of_High_Volume_Agents_to_claim_tax_rebates_research.pdf)> accessed 4 August 2022.

The 'Time Optimisers' are those who are confident and capable of applying to HMRC directly but prefer to use the process offered by the HVA. These would not be the clients a clinic would aim to reach.

The other three categories, though, are ones where a student-led clinic could do a lot of worthwhile work.

'Opportunists' are those who responded to an HVA advert and thought they had nothing to lose from making a claim through them. A clinic could run public education events to raise awareness of the potential claims and provide guidance on how to claim through HMRC's own webpages.

Taxpayers with language and literacy barriers, or those in financial difficulties, are those who might best be helped by students on a one-to-one basis.

The 'Uncertain' group were those lacking confidence in their ability to apply direct to HMRC. These clients could be helped through the minimalist clinic approach but with some tax technical support alongside assistance with the Government Gateway.

## **Child Trust Funds**

Child Trust Funds (CTFs) were a creation of the New Labour government of the 1990s.<sup>29</sup> Children born between 1 September 2002 and 3 January 2011 were given a long-term tax-free savings account.

The government sent a voucher for up to £500 to the parents or guardians of each child. Parents could add up to £9,000 a year to those accounts. Where parents did not use the voucher, HMRC opened an account for the child instead.

When the child reaches sixteen they can manage the account themselves. Once they reach eighteen, they can take out the funds or reinvest them in an Individual Savings Account (ISA). These children started turning sixteen in 2018, and eighteen in 2020.

Many young people do not know they have such an account. Over 700,000 accounts are dormant and up to a million may have the wrong contact details.<sup>30</sup> Those most likely to have lost track of their funds are those from the least financially sophisticated families, or with no family at all.

Although the issue is not strictly tax related, HMRC are the organisation that a young person needs to contact to track down their account. They have

29 GOV.UK, 'Child Trust Fund', <[www.gov.uk/child-trust-funds](http://www.gov.uk/child-trust-funds)> accessed 4 August 2022.

30 OneFamily, 'How to Trace a Lost Child Trust Fund', <[www.onefamily.com/child-trust-fund/how-to-trace-a-lost-child-trust-fund/](http://www.onefamily.com/child-trust-fund/how-to-trace-a-lost-child-trust-fund/)> accessed 4 August 2022.

many of the same challenges as our tax clinic clients. Even getting online to start tracing their fund can be a barrier. Many will not have a driving licence, passport or recent payslip that will allow HMRC to verify their identity. A clinic could just restrict itself to guiding them through this process. But more excitingly, it also provides an opportunity to provide public education in all elements of financial literacy: basics of the tax system, spending now versus saving and investing, and so on. This could be offered just to your own students or taken out into the community.

If young people can start managing their funds from sixteen, then ideally we should be out into schools and other institutions before then. I would suggest that such an outreach project, where a university actually provides something of immediate value to its audience is likely to be more effective at encouraging young people to consider higher education than many other initiatives. There may be opportunities for clinics to access funding under the likes of the UniConnect scheme which targets resources at areas in England with low participation rates – or similar schemes elsewhere.<sup>31</sup>

The Share Foundation charity works in particular with children leaving care, but they also run a ‘CTF ambassadors’ programme to increase awareness of the funds more generally.<sup>32</sup> They are a good source of information as to what projects might already be running locally and can offer advice and materials to support any clinical initiatives.

There is the potential for running a CTF project in collaboration with a law clinic. Where a young person lacks the mental capacity to manage their own finances a parent or guardian must apply to the Court of Protection to manage the funds on the child’s behalf. Although the government has now waived the actual court fees the process of applying to the court can still be a challenging one.<sup>33</sup> There are proposals for reform, but these have been slow in coming. Even if the system is improved, it is likely that carers may still need assistance. Specifically, where the cost of paying for professional advice would be significant when viewed in relation to the value of the child trust fund, there is a role for tax clinics.

31 Office for Students, ‘UniConnect’, <[www.officeforstudents.org.uk/advice-and-guidance/promoting-equal-opportunities/uni-connect/](http://www.officeforstudents.org.uk/advice-and-guidance/promoting-equal-opportunities/uni-connect/)> accessed 18 April 2022.

32 <[www.sharefound.org/](http://www.sharefound.org/)> accessed 4 August 2022.

33 Ministry of Justice, ‘Child Trust Fund Court Fees Waived for Parents’ (2020), <[www.gov.uk/government/news/child-trust-fund-court-fees-waived-for-parents](http://www.gov.uk/government/news/child-trust-fund-court-fees-waived-for-parents)> accessed 4 August 2022; Society of Trust and Estates Practitioners, ‘Access to Child Trust Funds May Be Granted without England and Wales CoP Order’ (2021), <[www.step.org/industry-news/access-child-trust-funds-may-be-granted-without-england-and-wales-cop-order](http://www.step.org/industry-news/access-child-trust-funds-may-be-granted-without-england-and-wales-cop-order)> accessed 4 August 2022.

## Cryptocurrencies

Again, this is not strictly a tax issue but it is an area where the tax authorities have taken a lead in considering the implications and an area where young people may inadvertently bring themselves into contact with the tax system.<sup>34</sup> The volatility in the price of cryptoassets means that a comparatively small investment may easily take someone over the capital gains tax threshold (which will reduce to £3,000 in April 2024) when the asset is sold or exchanged for another type of cryptoassets. It is also an area that is rife with scams.<sup>35</sup>

Although research by the Financial Conduct Authority (FCA) suggests that most holders of cryptoassets are aged over thirty-five,<sup>36</sup> anecdotal evidence from our students suggests that many younger individuals are also investing or speculating in cryptoassets. The FCA research also showed that the level of understanding of cryptocurrencies is declining.

This is an area where a university clinic could contribute to public financial education. One where accounting and finance students may be particularly valuable. We have found that student appreciation of cryptoassets and nonfungible tokens is running ahead of that of the faculty. More than many other topics, it is one where the learning could be student-led, with genuine opportunities for co-creation.

## 19.7 Policy clinics

Policy clinics offer an alternative route for student involvement for institutions that do not see their primary focus as serving the local community, or where serving individual clients is impractical.

34 HM Treasury, 'Cryptoassets Taskforce Final Report' (2018), <[www.gov.uk/government/publications/cryptoassets-taskforce](http://www.gov.uk/government/publications/cryptoassets-taskforce)> accessed 4 August 2022. HMRC (2022) *Cryptoassets Manual* <[www.gov.uk/hmrc-internal-manuals/cryptoassets-manual](http://www.gov.uk/hmrc-internal-manuals/cryptoassets-manual)>.

35 Federal Trade Commission, 'What to Know about Cryptocurrency and Scams' (2022), <<https://consumer.ftc.gov/articles/what-know-about-cryptocurrency-and-scams>> accessed 4 August 2022; Gye Hugo, 'Crypto and NFTs Could Face UK Regulation Crackdown in 2022 Due to Fears Young People Risk Losing Money' (*iNews*, 4 January 2022), <[https://inews.co.uk/news/politics/cryptocurrency-and-nfts-could-face-uk-regulation-crackdown-in-2022-amid-fears-young-people-risk-losing-money-1370008?ico=in-line\\_link](https://inews.co.uk/news/politics/cryptocurrency-and-nfts-could-face-uk-regulation-crackdown-in-2022-amid-fears-young-people-risk-losing-money-1370008?ico=in-line_link)> accessed 4 August 2022; Grace Gausden, "'Pig Butchering': New Crypto Scam Targets Victims through Online Dating Apps' (*iNews*, 14 March 2022), <<https://inews.co.uk/inews-lifestyle/money/pig-butchering-new-crypto-scam-victims-online-dating-apps-1515345>> accessed 18 April 2022.

36 Financial Conduct Authority, 'Research Note: Cryptoasset Consumer Research 2021' (2021), <[www.fca.org.uk/publications/research/research-note-cryptoasset-consumer-research-2021](http://www.fca.org.uk/publications/research/research-note-cryptoasset-consumer-research-2021)> accessed 4 August 2022.



Freudenberg et al. have set out the benefits of clinical education in allowing students to develop their professional identities in [Chapter 17](#). By way of a contrast, our students' current lack of a strong professional identity makes them ideal individuals to introduce fresh ideas into the formation of tax policy. We can harness their relative naivety as a means of counteracting the 'deformation professionnelle' or 'occupational psychosis' of tax professionals, whether they be administrators, advisers or academics. On a practical level, students may be better placed than experienced tax professionals to explain tax issues in a way accessible to nonspecialists precisely because they are not yet conditioned to communicate in 'taxspeak' and are still conscious of what it is like to know little or nothing about tax.

I describe below the way our students at UCLan have been involved in policy issues over the years. These were ad hoc assessed coursework rather than part of a formal clinic, but they may give some ideas of the sort of problems that can be tackled.

### **Desk research for the Office of Tax Simplification**

In 2011, we contributed to the review of small business taxation by the newly formed Office of Tax Simplification (OTS).<sup>37</sup>

One of the issues OTS were looking at was the potential of presumptive taxation for the very smallest businesses, where the tax due could be determined without the need to keep detailed records. We were pleased to be acknowledged:

We are grateful to the students at the University of Central Lancashire who carried out a research project for a module on taxation during their 2011 autumn term, guided by their lecturer, David Massey. The project was to identify and research alternative small business tax systems around the world. Although this was only at an initial level and based on desktop research, we were impressed by the quality of work produced by many of the students. Their work helped us identify trends and alternatives for further investigation.<sup>38</sup>

Although the students did not have the time (or necessarily the skills) to research in great depth, we did have the advantage that, collectively, we

37 Office of Tax Simplification, 'Small Business Tax Review: Final Report' (2012), <[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/199180/02\\_ots\\_small\\_business\\_tax\\_review\\_simpler\\_income\\_tax\\_280212.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/199180/02_ots_small_business_tax_review_simpler_income_tax_280212.pdf)> accessed 4 August 2022.

38 *Ibid.*, 47 (see footnote 87 in the report).

could cover a lot of ground. The students produced short reports on some four dozen jurisdictions. It also provided opportunities for our international students to research their own countries and for them to access sources in their first languages, rather than us being restricted to what might be available in English. The student reports allowed OTS to identify those jurisdictions which were worth further exploration. Their limited resources meant that they had to be selective in how many overseas tax authorities they could contact for further information. Even those students who may have found very little in their own research still made a valuable contribution to the project.

OTS spent half the day with our students and the other half at meetings we hosted with local accountants. These meetings made some small contribution to mitigating the potential London bias which often informs potential tax reforms (or at least may be perceived to).

## Educating policy makers

In 2012, Reuters published its report into the tax affairs of Starbucks, the coffee chain.<sup>39</sup> Later that year the House of Commons Public Accounts committee (PAC) began investigating Starbucks' tax arrangements.<sup>40</sup> The Reuters report revealed some basic misunderstanding of both accounting and tax fundamentals and the chair of the PAC, Margaret Hodge, seemed to take pride in her ignorance of both subjects.

As part of their coursework our third-year students were asked to explain international transfer pricing so that even Margaret Hodge could understand it. One of the students, Parris, designed a very impressive poster that I shared with the editor of *Taxation* magazine for possible use in their 'Adopt-an-MP' campaign where tax advisers would offer to spend time with politicians to give neutral explanations of the workings of the tax system. The poster wasn't perfect (it would be asking too much of our undergraduates to expect that) but it was an excellent starting point for others to refine.

As the editor reported:

We hope to provide more resources in future to help our adopters to explain tax to MPs.

39 Tom Bergin, 'Special Report: How Starbucks Avoids UK Taxes' (*Reuters*, 15 October 2012), <[www.reuters.com/article/us-britain-starbucks-tax-idUSBRE89E0EX20121015](http://www.reuters.com/article/us-britain-starbucks-tax-idUSBRE89E0EX20121015)> accessed 4 August 2022.

40 Public Accounts Committee: Minutes of Evidence (HC 716, Session 2012–13, 12 November 2012), <<https://publications.parliament.uk/pa/cm201213/cmselect/cmpublicacc/716/121112.htm>> accessed 4 August 2022.

In particular I'm hoping to provide a modified and checked version of a detailed poster produced by a student who has just finished her Accountancy and Finance degree at the University of Central Lancashire. Parris Innis-McKenzie produced it as part of the coursework for a taxation module of her degree [...]. The poster analyses and summarises all the issues surrounding the Starbucks controversy, drawing on the Reuters report and other publicly available material. We need to be able to explain the complex issues behind these stories in a way which people can understand, but without dumbing the story down. Parris's poster does exactly that.<sup>41</sup>

The campaign didn't make as much progress as we had hoped. A decade on, the time may be right to try again, but with tax students, rather than tax professionals, offering to 'adopt' their local MP. Students are likely to be perceived as more neutral than tax professionals and more effective at using language and techniques appropriate to busy people without the time to get to study tax in any depth.

### **Drawing on students' experiences of the tax system**

Another project saw students conducting a review of the taxation of employee expenses and benefits, providing a balance to the representations made by FTSE 100 companies and similar. The OTS acknowledge the students' work in one of their reports:

In framing our recommendations we have responded to the evidence we have found in another wide ranging set of meetings and workshops and the many comments and submissions received (for all of which we are very grateful): We found that we have had views from almost all of the FTSE 100 companies, directly or indirectly; at the other end of the scale the ideas we had from a third year group of students at the University of Central Lancashire, developed during their degree course, were creative and valuable.<sup>42</sup>

One of the contributions the students made was in articulating what made tax complicated for them: a particularly important issue to understand in the context of tax simplification. This meant that even the students who

41 Mike Truman, 'Adoption Papers', *Taxation* 4404 (2013): 8.

42 Office of Tax Simplification, 'Review of Employee Benefits and Expenses: Second Report (2014)', 4, <[www.gov.uk/government/publications/review-of-employee-benefits-and-expenses-second-report](http://www.gov.uk/government/publications/review-of-employee-benefits-and-expenses-second-report)> accessed 4 August 2022.

were not particularly strong could make a valuable contribution. Even if they couldn't develop a creative reform for the topic they were struggling to research, they could still inform the review by working out what it was they were having difficulty with.

The students were given a free choice of which aspects of the subject to work on but were encouraged to pick those where they could draw on personal experience or which would complement their career plans. They presented their findings at a poster exhibition which meant they received feedback not only from OTS and the tax lecturer but also from fellow students; local accountants (who we had again invited to meet with OTS separately); lecturers from other disciplines and passing members of the public.

A number of students also took the opportunity to invite their parents to the event. For some, this was the first time that their relatives seemed to have taken an interest in their studies. Especially for first generation students from nonprofessional families, the likes of Financial Reporting and Audit may be very far removed from their home life, but tax can be accessible to everyone.

The event had not meant to be competitive, but OTS asked if they could award prizes to the best presentations. The two winners were very different. One pair had prepared a very detailed scheme on how to replace the accommodation benefit calculation with a simpler one based on council tax bands.

The second pair looked at expense allowances for those working in care homes. Henna and her colleague contrasted that with the much more generous treatment given to unionised workers in the NHS. Their poster graphically illustrated the state of Henna's uniforms at the end of the shift and the perils of travel going to and from the care home with no tax relief for taxis (unlike Treasury officials in London working late on the Budget), and the precarious nature of the engagements where dismissal was common at the point when they would have been there long enough to acquire employment rights so length of commute was not really a matter of choice for the employee: this was in contrast to the situation of the barrister in *Ricketts v Colquhoun* and the current legislation's assumptions about travel patterns and temporary workplaces.<sup>43</sup>

The prize included a tour of the Treasury and a short meeting with one of the Treasury ministers. We often have to advise students in traditional coursework to take care to avoid anecdotes but, in this instance, it was entirely

43 HMRC Employment Income Manual, 'EIM31641 - The General Rule for Employees: Expenses: Each and Every Holder: Ricketts v Colquhoun', <[www.gov.uk/hmrc-internal-manuals/employment-income-manual/eim31641](http://www.gov.uk/hmrc-internal-manuals/employment-income-manual/eim31641)> accessed 4 August 2022; UK: Income Tax Earnings and Pensions Act 2003, Part 5, Ch. 2.

appropriate for Henna, when speaking with the minister, to explain the inequity in the system and directly draw on her own experience. She may not have got anything changed but it does illustrate the valuable, alternative, perspective that our students can bring to the debate about tax reforms.

## 22.8 Concluding remarks

It is hard to identify the most appropriate projects for students to be involved with. Formal consultations by the UK Treasury are traditionally launched in July and responses required well before the students come back from vacation. A policy clinic would have to rely on lecturers getting a feel for what is in the air or developing formal relationships with other institutions.

It is unlikely that a clinic would be able to influence changes to major parts of the tax structure, but there may be opportunities on small features within it. Areas where everyone agrees something should be done but it is too far down the list of priorities for anyone in government to be able to spare the resources to address the issue.

A recent example of reform is the change in the capital gains tax rules when married couples separate.<sup>44</sup> This has been an area where it has been clear for decades that the current rules could produce great unfairness, but it has clearly taken a long time for someone either to gather the detailed evidence or to come up with a workable reform. Similar potential improvements remain.

It would be worth talking to the professional bodies, third sector organisations, tax authorities and others to establish what is on their wish list for research or reform, but where the issue is always pushed down in priority by more urgent or important projects. If we can find such challenges then it will be a great achievement if our students manage to make an impact, but equally we need not be disheartened if we run into difficulties. What we will have done will always be better than the nothing that was the alternative.

<sup>44</sup> Association of Taxation Technicians, 'ATT Welcomes Easing of Tax Rules for Divorcing Couples' (2022), <[www.att.org.uk/technical/news/att-welcomes-easing-tax-rules-divorcing-couples](http://www.att.org.uk/technical/news/att-welcomes-easing-tax-rules-divorcing-couples)> accessed 4 August 2022.

## Chapter 20

### Concluding remarks

*Amy Lawton\**

*Paying taxes is a civic duty and taxpayer education is a means to empower taxpayers and to improve tax morale.<sup>1</sup>*

This handbook has explored a number of tax education projects that are taking place around the world, with a special emphasis on clinical tax education. The variety of projects is exciting, and they highlight the importance of innovation in higher education tax teaching. Reflecting on the way we teach tax is critical if we are to develop our students (or even our local communities) with skills and lessons beyond the substantive tax rules. It is also critical for the future of tax academia, inspiring students to study tax who will then inspire and teach future generations.<sup>2</sup>

Despite the high number of projects in different jurisdictions and institutions around the world, this handbook has identified common areas of benefit, with similar themes emerging from all the projects. These main benefits centre around the two key stakeholders of tax education projects in higher education: our community and our students.

It is important to listen to our communities and shape any clinical tax education projects to their needs. If this is done, then clinical tax education projects can have a number of positive impacts on our local communities. They can help to contribute to the improvement of tax literacy: a global problem that inhibits engagement with tax systems all around the world. They can help improve the compliance levels of taxpayers, either by supporting the completion of individual obligations, or by increasing tax awareness. Finally, clinical tax education projects can contribute to the bigger picture. They can feed into policy debates and consultations or shape the law through litigation.

When based in a higher education setting, clinical tax education projects can help support developmental growth in our students, whether or not live clients are involved in the clinic. Both simulated and live client clinics can help develop soft skills, professional identity, employability and a deeper

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1 OECD, *Tax Culture, Compliance and Citizenship: A Global Source Book on Taxpayer Education* (OECD, 2021), Chapter 1.2.

2 Stephen Daly and Amy Lawton, 'Another Check of the Temperature of Tax Teaching in the UK', *British Tax Review* (2022): 202.

understanding of tax rules. These students are the future of the tax profession and tax policymaking. It is thus important that as tax teachers, we reflect upon the way that we are teaching our students. For those outside higher education, the way students are taught during their university career influences who they will become when they leave. Supporting these projects both within and outside a university will help develop young people, improve levels of tax understanding and help improve compliance for those who really struggle to engage with the tax system.

It can be difficult to know where to begin when designing your own clinical tax education project. This book provides a starting point but there are other networks and sources where you can find out more. For example, the Center for Taxpayer Rights has the 'Low Income Taxpayer Clinic Support Centre' and runs an annual conference on taxpayer rights.<sup>3</sup> The Tax Research Network is an international network of tax academics: their annual conference has a Tax Education Day, where tax educational projects are presented and discussed.<sup>4</sup> Finally, the Australasian Tax Teachers Association also runs conferences and has its own journal, where tax education articles are published.<sup>5</sup>

#### **Tips to move forwards:**

1. Reach out to tax teachers to find out more about their projects. You can do this by attending tax education conferences, reading their published work or reaching out for a conversation.
2. Consider who you would like to help through tax education projects. By knowing who you want to help and how, you can shape the project around your aims and values. If you are not a tax educator, consider how you can support these projects in your own way.
3. If you want to introduce your own tax education project, have conversations with all stakeholders. If you work in higher education, you will need to have conversations very early on with your institution to discuss issues such as resources, insurance and data protection.
4. Consider running (or supporting) a tax education project on a pilot basis. This can be easier for stakeholders to commit to and provides a natural opportunity to pause and reflect after the end of the pilot phase. Reflect on what went well and what went less well:

3 <<https://taxpayer-rights.org/litcs/>> accessed 5 September 2022.

4 <<http://taxresearch.network>> accessed 5 September 2022.

5 <<https://www.atta.network>> accessed 5 September 2022.

as administrators of clinical tax education projects, we are also learning. Do not be afraid to change your project to improve it.

5. Use a clinical tax education project as a springboard for research. The tax projects in this book have all provided opportunities to research and explore both pedagogical and tax questions in more detail. If you are working with live clients, your project will provide you with a unique insight into how your tax system interacts with those who need the most support.



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