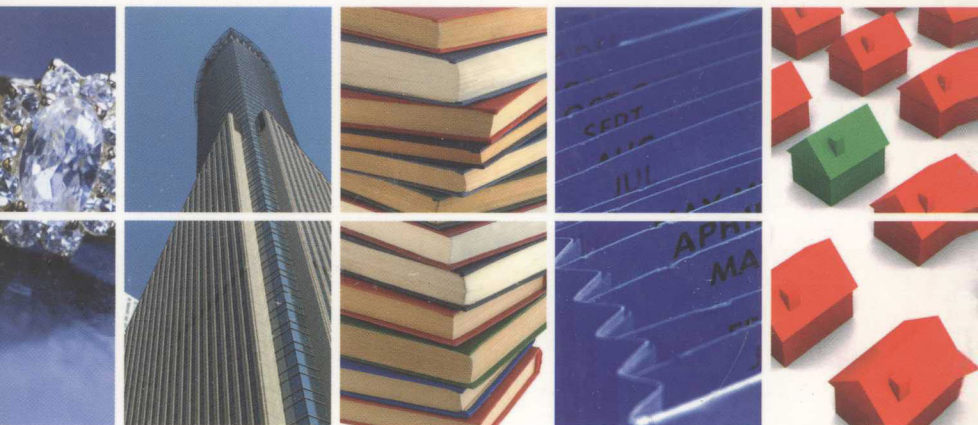


# Davies: Principles of Tax Law

Sixth Edition

Geoffrey Morse and David Williams



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DAVIES

PRINCIPLES  
OF  
TAX LAW

SIXTH EDITION

by

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## PREFACE TO THE SIXTH EDITION

Tax law as a subject for study at university or professional level provokes many different reactions. It is, after all, sometimes seen as a subject which consists of an almost impenetrable mass of very complex, detailed and often obscure provisions, many of a transitory nature—a subject for the specialist, (weird?) tax fanatic. It is also thought to involve the use of complex mathematical skills. To some extent, of course, at least part of that is true, but there is far more to the subject than that. Taxation is a cornerstone of this and every other civilisation—on the grand scale in the UK it has sparked a civil war, a war of independence, riots, rebellions and the fall of governments, but it is also a part of most people's everyday life and not just of non-domiciles, private equity groups or hedge funds. Above all, it is one of the principal relationships between the citizen and the state. As Lord Camden, speaking in the House of Lords, said in 1766:

“Taxation and representation are inseparable . . . whatever is a man's own, is absolutely his own; no man has a right to take it from him without his consent either expressed by himself or his representative.”

Tax law is the foundation of taxation—it sets out the parameters of the subject and regulates that balance between the taxpayer and the government. Moreover, after peeling away the many layers of specialist provisions, detailed anti-avoidance sections and temporary rules, there is a clearly definable core or skeleton of tax law which is concerned with the basics of the subject. Further, this core is concerned with the very principles of tax law. Those do not require the mastery of complex factual matrices but instead require both an appreciation of the social and economic issues which underpin the tax system and an ability to define with some precision the meaning of such words as: emolument; wholly and exclusively; capital; income; dwelling house; gratuitous intent; supply etc. Students find that, far from worrying about some complex financial structure, they are concerned about such things as employee perks, the family home, even chocolate biscuits and the like.

This, the sixth edition of this book, is intended, as was the

first, to explain that core or skeleton of tax law contained in the various statutes and as applied by the courts. We have concentrated on the two major revenue-raising taxes, income tax and value added tax, and the two direct taxes on capital, capital gains tax and inheritance tax, which are currently the subject of political debate. Since the last edition of the book the structure of tax law has changed in two major ways. In terms of legislative structure, the tax law rewrite project is now almost finished and income tax is now contained in a number of separate Acts, dealing with the subject in a sensible and orderly manner. In VAT, the many EC directives were consolidated into one in 2006. We would both like to record our thanks for the unsung, quiet and efficient work of the tax law rewrite team members. Their work will benefit generations of students to come.

In terms of the structure of the taxes themselves, there have been a number of upheavals in capital taxation—one in 2006 on the application of inheritance tax of trusts which was introduced with no warning or consultation and which gave trustees only a short time to limit the damage. The second, in 2008, changed the basic rate of capital gains tax, abolishing the system introduced by the same government 10 years earlier. Protests from businesses were loud and long and a new relief, based on the one abolished ten years earlier was introduced. That change was a hasty response to political pressure from the government's own back benchers. The third was also another knee-jerk reaction in the same year in the introduction of the transferable tax-free allowance for inheritance tax between spouses or civil partners. That was made in response to a very popular opposition proposal to raise the overall threshold and so allow those with modest houses south of the Wash to pass on the full value of those houses to their children. 2008 also saw an alteration in the rates of income tax, with the rather belatedly highly controversial abolition of the lower rate; and a revamp of the capital allowances and national insurance provisions.

Alongside those changes, there have been a number of important decisions by the courts, not least with regards to value added tax. The almost uniquely complicated system of that tax which operates in the UK continues to keep both domestic and the European courts in business. It is in that tax that many of the basic principles are still being honed by litigation.

For the future, one issue which will have to be resolved is how the new harmonised tribunal system in the UK will affect the Special Commissioners and VAT Tribunals and the subsequent hearings in the courts. Whatever else may be in store, and there will be an election, we will continue to keep this edition up to

## PREFACE TO THE SIXTH EDITION

date by the use of a web-based supplement. In the preparation of this edition we have benefited as ever from the understanding and tolerance of both our publishers and our wives, Christine and Elisabeth, and we thank them for it.

The law in this edition is as known to the editors on July 8, 2008.

Geoffrey Morse  
David Williams

Worcestershire and Gwynedd

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