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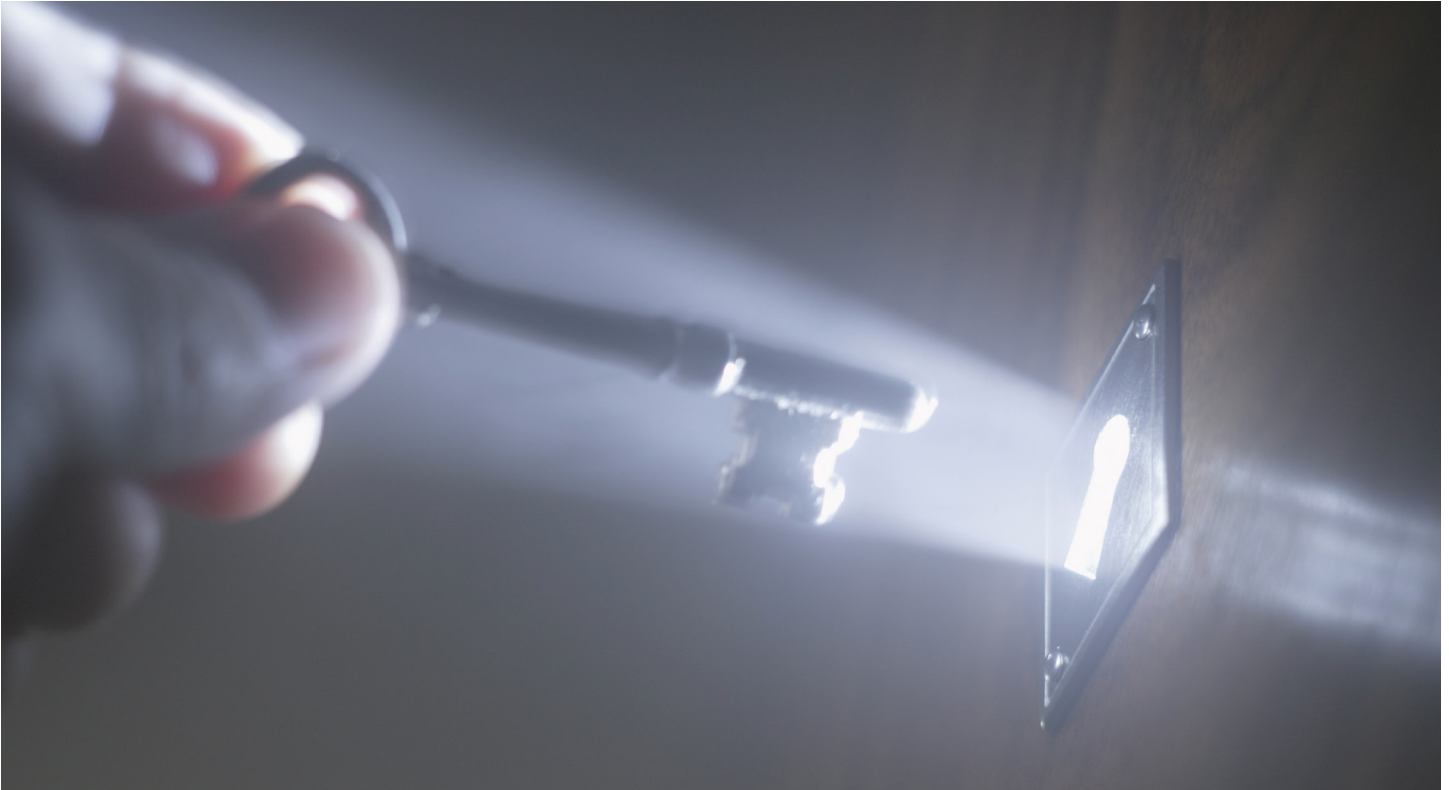
UNLOCKING THE LIMITS
OF THE KEYWORD:

5 WAYS TO BE A BETTER TAX RESEARCHER

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Answering tax questions in the information age seems more difficult than ever. Pressure on professional fees, increased complexity in tax laws and business operations, and information overload all add significant difficulty to providing tax planning and tax compliance advice today.

Fortunately, examining the evolution of the typical tax research process from the old days of print to the intelligent digital platforms now available provides some useful insights into effective modern tax research strategies.

This paper discusses key challenges to answering complex tax questions, as well as the ways in which new tax research technology both solves and exacerbates those challenges. Finally, the paper explains 5 ways to be a better tax researcher by taking full advantage of tax research technology, using it efficiently without getting bogged down by irrelevant information.

Read on to understand the key challenges to answering complex tax questions and 5 ways to tackle them head on.





A. The Key Challenges of Tax Research Today

- Tax research seems like it should be easy in an age of obtaining instant answers to almost any type of question with ease. Businesses and individuals want fast, accurate answers to their tax questions without incurring high fees. They expect their expert advisers to know the tax law without resorting to research, and may be reluctant to pay for time for junior members of the tax team to get up to speed.
- Tax law is too complex for even the most seasoned tax practitioner to know everything. This is especially true as businesses become more global and more complex. Today's businesses often operate in multiple states and countries and face numerous varied tax issues in areas from partnership tax to state tax nexus to taxation of intellectual property. The best tax advisors understand this. As Gary Kaufman, an international tax attorney with his own firm notes,

"To enhance your value with clients, you want to present them with the big picture – that it's not just federal income tax law in the abstract, but there are often social security, estate and state specific tax consequences. You can spend all of this time coming up with a terrific federal tax solution, but if it has a negative state tax implication, then you would save a lot of time knowing that up front."

Further, applicable tax laws change more frequently than ever, often with provisions expiring on short notice, such as the more than 50 tax provisions that expired at the end of 2013. Many rules are now more complicated, making it difficult to provide a quick, simple answer. For example, a client's capital gain rate for 2014 could be 0%, 15%, 20%, 25%, or 28%, plus a potential 3.8% Medicare tax, depending on the type of property being sold and the client's total taxable income. Answering most tax questions correctly requires at least a bit of research and a thorough understanding of the facts.

- The ease in finding a vast amount of available information related to a tax question often leads to a false sense of security when it comes to tax research. Finding the most helpful resources among many "hits" takes time. As Catherine Orr, a Staff Accountant at WithumSmith+Brown, PC notes,

"The huge downfall of Google is it brings up all of these sources that aren't reliable. It could be forums where people just put in answers, and that's not reliable. I prefer Checkpoint for tax research because the actual tax source documents are there, which ensures accurate answers."

And, even if a quickly located article or blog posting seems to address and resolve a tax issue, in reality it probably fails to consider the full complexity presented by the facts. These potential pitfalls are especially present for less experienced tax researchers who have grown up in the Google age and are used to keyword searching to answer any question. With respect to their tax research skills, many have not learned a research methodology to help them identify and define issues, find the most relevant sources quickly, and check results for accuracy.



B. From Print to Digital: Evolution of the Tax Research Process

Pre-Digital to Early Digital Age

Tax research in the pre-digital age typically involved a series of steps designed to go from the broad to the narrow to identify important tax issues and find primary sources of law relevant to resolving them. Generally tax researchers would begin with editorial materials or secondary sources to help define the issues and identify which code sections applied, learn key terms, and find the leading primary sources of law on the issues. Then, they would begin reading these primary sources, using the sources to help locate others that might be even more relevant based on the facts. Next, they would check citators to make sure the authorities were still valid and to find even more sources. Finally, perhaps they would conduct a keyword search in an electronic database to make sure they had not missed anything.

Early Digital Age to Today

In the early 2000s, publishers created tax specific databases such as RIA Checkpoint, CCH Tax Research Network and BNA Tax and Accounting. These platforms offered frequent updating, the ability to link between editorial materials and primary sources, and easy keyword searching of many different types of materials. This electronic access offered several advantages, such as the chance to research the most current materials from any physical location and the ability to move between sources with ease.

For experienced researchers, these platforms offered a real improvement. They could replicate their typical research methodology in a faster and more efficient manner. For inexperienced researchers, electronic platforms have made it too easy to go straight to keyword searching without first gaining context, a basic understanding of the issues, or the correct keywords.

Today — Keeping the Keyword Search Viable?

Recently, many have begun to question the efficacy and efficiency of keyword searching. With the vast amounts of online information available, keyword searching often yields too many sources to cull through, without regard for which are the most authoritative or helpful. It's too easy to find a source that may seem to provide "the answer" at first glance, but hard to find the best few authoritative, high quality sources that may really be needed. While this may be merely annoying when choosing a restaurant for dinner, it can prove quite costly in tax research.

Tax research skills are best acquired with practice, but unfortunately beginning researchers often learn bad habits thanks to their natural inclination to keyword search.

It is difficult to get tax students who have grown up keyword searching to take the time to follow a step by step tax research plan, even after encouraging them to do so. Instead, they often jump right to keyword searching in various databases and typically make one of two mistakes. Sometimes, they find what they think is the answer easily and quickly, but their conclusion is too simplistic and does not really address the correct issue or take the facts into account. Other times, they follow a lead that is not really relevant, spending hours researching a red herring that does not really apply based on the facts. Tax research skills are best acquired with practice, but unfortunately beginning researchers often learn bad habits thanks to their natural inclination to keyword search. Experienced researchers often have enough frame of reference to choose the correct keywords to search and generally know enough to keep looking until they find a source thorough enough to answer a complicated question, but this may take a lot of time.



In her 2009 article in the Law Library Journal, *Not Just Key Numbers and Keywords Anymore: How User Interface Design Affects Legal Research* (“Not Just Key Numbers and Keywords”), Cornell law librarian Julie Jones explains that while searching can retrieve specific documents very quickly and efficiently (especially by using well informed search terms), it often yields too many extraneous results returned without any context. Search engine designers understand this problem and have been working to solve it.

The Future: New Improved Keyword Search?

New search engines take advantage of semantic search, in which the engine improves accuracy by understanding the user’s intent and the contextual meaning of terms to yield more relevant results. These intelligently designed search engines use context, word variations, synonyms and past queries from many users to understand user intent. Results are ranked in terms of relevance, rather than keyword, so that the user does not have to take the time to sort through a long list of hits to determine what is useful. Tax practitioners seem to appreciate research tools that learn from users. Michael Greenwald of Friedman LLP explains,

“I don’t want search tools to be an impediment to my research in that I have to be so specific in how I phrase the search terms. I want the search tool to learn from me, learn from the way I formulate my thoughts, and help me do fast and comprehensive research.”

Jones has also discussed emerging information literacies as applied to online legal research, arguing that these literacies should inform how search engines adapt themselves to human needs to produce the most useful results.

- **Graphic Literacy.** People think visually and process data better with visual representations of information.
- **Navigation Literacy.** People have to maneuver online information in a disorganized nonlinear text screen. This creates comprehension and memory problems.
- **Skepticism Literacy.** People must critically evaluate their research tools and the sources of information within them.
- **Context Literacy.** People need to see connections both between and within information in a hyperlinked environment. Simply providing hyperlinks is good, but graphically visualizing the connections is better.

Ideally, new and improved versions of tax research platforms will consider these information literacies by making interfaces and search results more graphic, creating tools to remind researchers where they have been and where they should be going next, indicating the relative credibility and authority of various sources, and helping users see connections not only between sources but also between topics. In a 2011 annual tax software survey by the Journal of Accountancy and the

Tax Adviser, respondents indicated that ease of finding answers to their tax questions and breadth of material are the most important features in tax research software. These two facets are related, as great breadth of material is only useful if users can easily find the most helpful pieces. Improving tax research software to better serve emerging information literacy needs increases the likelihood that tax researchers will find the information they need efficiently.

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Thomson Reuters recently made two important enhancements designed to address many of these emerging needs based on observation of the user research process and extensive customer feedback. The enhanced “intuitive search engine” in Thomson Reuters Checkpoint® incorporates semantic searching, drawing on past searches conducted by users to better understand what users are looking for when using keywords, and to widen and expand the search beyond those keywords to make it more likely that users will find what they need. Answer hits are returned in order of relevance, taking into account equivalencies between terms and relationships between topics, saving users time in finding the best sources to answer their questions.

Checkpoint Catalyst™, recently released by Thomson Reuters, goes further and addresses many of the emerging digital needs for context, visualization of complex topics, cohesive organization and incorporated authorities. It also improved Checkpoint’s interface functionality with a more intuitive right hand toolbar that makes it easy to understand where the user is in the library, easier access to information in footnotes without disrupting reading progress in the main source, and tools to better integrate with workflow, such as the ability to highlight information, take notes, and generate client letters and forms, all from within source documents.

Checkpoint Catalyst™ addresses many of the emerging digital needs for context, visualization of complex topics, cohesive organization and incorporated authorities.

Finally, Checkpoint Catalyst offers improved features designed to give practitioners landscape overviews of various topics and to draw necessary connections between them. Topics are designed by subject matter, rather than more narrowly by issue. The interface is designed to alert the user to everything he should be doing in the tax research process on one screen. New expert editorial content offers quick, high-level views of tax topics, often with diagrams, flowcharts, questionnaires and lots of examples to facilitate efficient understanding. Checkpoint Catalyst also makes suggestions for related tax issues to examine, including state tax or U.S. international tax issues, based on feedback from tax expert editorial staff.



C. Five Ways to Be a Better Tax Researcher

Many of the important steps to take to be an effective tax researcher are the same as when most tax research was performed using dusty books at a library table. However, current technologies allow savvy researchers to leverage those fundamental skills to research more efficiently and accurately than ever — even in the context of today’s complex, global tax environment. Marrying old economy and new economy tax research skills to follow the five key recommendations below will enhance the tax research results of anyone, whether novice or expert.



1. GET THE LAY OF THE LAND

Taking the time to gain a quick overview of a tax topic before delving into specific authorities is almost always worth the time. Perhaps a client needs a general answer quickly, to make a decision or to decide if it looks worthwhile to ask the tax advisor to undertake a complete analysis of a tax issue. For more thorough research engagements, looking first for an overview makes the rest of the research process much more efficient, particularly when researching an unfamiliar area. Understanding the larger context in which more narrow issues arise reduces the chance of going on an unwarranted tangent or missing important pieces.

Understanding the big picture when you’re researching a complex tax issue is key.

The best way to obtain a landscape view depends on the tax research platform, but the way the information is organized can make a big difference in being able to understand the basics quickly. Graphically presented information sources such as decision trees, charts, and outlines of key issues are efficient tools. These can also be efficient ways to convey complex information to non-tax experts. CJ Stroh, Staff Accountant at WithumSmith+Brown, PC says,

“The diagrams and charts that Checkpoint Catalyst delivers not only make it easier for me to understand the information and help me in my research process, but also deliver that information to clients so they can understand the material easily.”

Similarly, tables of contents in editorial materials can be indispensable. They are substantive outlines of all major issues within a tax subject, typically written by practitioners expert in the area. Tables of contents spot the issues for you, making them a fast way to get up to speed. Obviously, the more expert and authoritative the editorial content, the better.



2. CONSULT THE EXPERTS

Many times if more than a quick answer is needed, tax experts are consulted on complicated “grey areas” without an obvious answer. The tax adviser adds value in this common situation by using her knowledge and experience to synthesize various rules into a conclusion as to how all of the pieces fit together. Often the tax adviser must make a judgment call, as an obvious answer will not emerge even after doing research. As Michael Greenwald of Friedman LLP explains,

“The more information you have on what’s been tried and succeeded, and what’s been tried and failed, the more you have in the way of opinions and practical experience, and the better you’re able to formulate an answer and recommendations.”

Some tax rules make sense on their own but become more challenging when intersecting with other rules. Familiar rules may have a different effect in a new context. When rules seem inconsistent, which tax rule trumps the other? Even the smartest intelligent search engine can't answer those questions yet. To do so requires knowledge, experience and judgment. For tax researchers who don't yet have that expertise themselves, authoritative and reliable secondary sources are invaluable.

Having authoritative editorial content is critical to the tax research process and helps you make important connections.

Beginning the research process by consulting expert editorial sources is the most efficient and thorough way to identify all tax issues presented by a client's transaction or event. The best authoritative editorial content helps draw connections between different code sections to help the adviser begin to consider how tax rules might apply to complicated questions and to highlight areas for necessary further research. Spending the time up front to browse expert editorial advice will save research time later. Rather than wasting time on tangents not really presented by the facts, targeted research placed into context by reviewing expert secondary sources yields accurate answers quickly. As the *Not Just Key Numbers and Keywords* article notes, ". . . browsing can serve as a useful tool to assist users in formulating searches, familiarizing themselves with a topic, and providing an improved vocabulary. A great deal of information and context can be obtained along the browsing path itself, not just at the final page."



3. STAY PERSISTENT

As noted above, clients often consult tax experts to help answer their most complicated questions. Finding "the answer" right away should make a savvy researcher suspicious. Often, there is more than one way to look at the issue. To feel really confident in the tax advice being offered, one must consider the weaknesses and counterarguments in preliminary conclusions, and try to address them. Continuing the research process to find and review other sources may help resolve these uncertainties, to lead to more solid conclusions. And if ambiguities remain after considering multiple sources, the taxpayer should know that the position is a riskier one.

When performing tax research, junior tax staff may quit too early, thinking they have found the answer after reading one or two sources yet failing to consider the full complexity of the issue.

Many experienced tax practitioners have been well trained to keep digging until they have confirmed their conclusions in multiple sources, or until they have read everything available to know that a clear answer is really not there. As noted above, junior tax staff may quit too early, thinking they have found the answer after reading one or two sources yet failing to consider the full complexity. Sometimes their managers will send them back to the drawing board to try again, but this is not an efficient research process.

Not Just Key Numbers and Keywords explains that "browsing materials arranged by subject or accessing materials via an index can reap significant information-gathering rewards." It also explains that the user interface of a research platform can either encourage or discourage such effective browsing behavior. The article concludes that databases that heavily emphasize keyword searching at the expense of broader browsing behavior make it difficult for beginning researchers to learn to intelligently select databases and impede the development of efficient research strategies beyond the keyword search. On the other hand, a user interface could also encourage efficient and successful research techniques, leading to the development of good habits. Convenient links to read underlying primary sources and footnote content from editorial materials, pop ups that suggest differing treatment of the same issue or related issues to research, and "maps" to provide a context for where the user is in the database (e.g., primary or editorial sources) all increase the likelihood that a researcher will go the extra mile to get to a thorough, well-researched conclusion.



4. FOCUS ON THE FACTS

Once the tax practitioner has narrowed in on the correct question, he needs to find one or more primary sources of law to answer the question. Editorial materials generally cite to the leading case or ruling standing for a proposition, and this is often a great starting point. After reading the cited primary source (an absolute must!), the tax adviser may conclude that while it does state the rule very clearly, the facts of the case are different in some important respect from the facts of the situation being researched. Tax conclusions are heavily dependent on the facts. The Internal Revenue Code offers numerous code sections full of rules. The challenge is understanding how those rules apply in the different factual contexts. To know that, tax practitioners must research to find primary sources whose facts are as close as possible to those being researched. A good tax researcher does not just look for any primary source, but instead looks until he finds the **best** primary source — hopefully as quickly as possible.

Using a citator or doing a keyword search to find the sources that have cited those leading cases and rulings is one way to find additional primary sources with closer facts. One can enhance this type of keyword search by also including key relevant factual terms. Unfortunately, it is often time consuming to scan through a long list of search results, especially when the “hits” may not even be citing the leading case for the point of law in question. Intelligent semantic search engines offer some improvement in this regard as they automatically search related terms, including terms other users may have used in their similar searches.

Annotations can help you quickly find the best source of information, since they summarize cases and are more succinct.

Annotations of primary sources seem to be an underutilized tax research tool. Annotations help quickly locate that “needle in the haystack,” that relatively obscure Tax Court Memorandum case or PLR with facts very close to the client’s. They are short — typically one to two sentence — summaries of the key facts and rulings of primary sources. They are prepared by editorial publishing staff and are available in code-based reporter services offered by leading tax publishers. They may be browsed by subtopic, accessed directly from a code section, or keyword searched. By only searching summaries rather than entire cases, it is easier to scan through search results, and the “hits” are more relevant because the key terms are important enough to make it into a two sentence summary.

Taking the time to locate and carefully read the most relevant primary sources with the applicable facts in mind will help a tax practitioner feel more confident in the advice provided.



5. SEE THE BIG PICTURE

To provide complete and helpful advice, the tax adviser must address all relevant issues presented by the facts, rather than only those issues initially presented. Perhaps the scope of the engagement has been limited to a few select issues, but the tax practitioner should not assume this without highlighting other potential concerns. If an adviser fails to inform a client about significant state tax consequences associated with his transfer of real estate to a joint venture because the client only asked about federal tax, explaining that he had never asked probably won’t help ease the client’s frustration. Tax advisers are typically asked to analyze transactions and events rather than discrete “tax issues.” A good tax practitioner considers the full picture when offering advice.

Having a broad understanding of tax issues is important for providing thorough advice.



Today, many businesses operate in multiple states and countries. While it's not possible to be an expert on everything, it is quite helpful to have a broad understanding of major tax issues in as many areas as possible in providing thorough tax advice. Tax practitioners appreciate research materials that add value in this regard.

"The more information that is baked into the page that I'm on, the simpler it is and the more likely I'm not going to miss anything — so I don't have to leave what I'm doing to go find new developments or multi-jurisdictional implications," explains Michael Greenwald, of Friedman LLP.

As noted in the first tip mentioned above, authoritative editorial sources can be a great tool for avoiding traps for the unwary outside one's primary area of expertise, particularly if the sources alert the user to important related issues to research. Checkpoint Catalyst seems especially effective in this regard, possibly because its authors and editors spent a good deal of time considering how different tax areas and issues intersect with one another, and then provided an interface to make it easy to see those connections while researching.

Five Ways to Be a Better Tax Researcher

1. Get the Lay of the Land
2. Consult the Experts
3. Stay Persistent
4. Focus on the Facts
5. See the Big Picture

Conclusion

Increased complexity in business operations and tax law, information overload, and expectations for fast yet accurate answers all make performing tax research difficult in today's environment. Even in the digital age, thorough and efficient tax research requires a "back to basics" approach, to first gain context and define issues, then find the most relevant primary sources and apply them to the facts, and finally to check results for accuracy. Following the five tips listed — taking the time to gain an overview, considering expert opinions, sticking with the research process long enough to consider all angles, focusing on the facts, and looking at the big picture — will lead to timely, accurate and value-added tax advice.

Using an intelligent tax research platform designed to encourage these key skills makes the process easier for all researchers, from novice to expert. David A. Springsteen, CPA, MBA, CGMA, partner in charge of tax services at WithumSmith+Brown, PC appreciates this fact.

"Checkpoint Catalyst is a must-have in any practice — because you have experienced researchers and you have inexperienced researchers. And a lot of research goes down to the lower staff ... and if we can make their jobs easier, like Checkpoint Catalyst will do, then we can get a quicker solution and add more value to our clients."



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ABOUT THE AUTHOR

This paper was developed in collaboration with Jennifer Kowal, tax professor and the director of the graduate tax program at Loyola Law School in Los Angeles since 2003. Professor Kowal teaches courses in advanced income taxation, corporate taxation, and tax research, and is a recognized expert on tax research. Her article, the Virtual Tax Library, co-authored with Daniel Martin and Katherine Pratt and published in the Florida Tax Review, received the outstanding article award from the American Association of Law Libraries in 2009.

Prior to teaching at Loyola, Professor Kowal taught in the International Tax Program at Harvard Law School. She also practiced law with the firms of Irell & Manella in Los Angeles and Ropes & Gray in Boston, advising clients on the taxation of various business transactions, including cross-border, partnership and corporate structures. Professor Kowal holds a BS in Accounting with distinction from the University of Kansas, and a JD from UCLA School of Law where she was a member of the Order of the Coif.

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