

# How to be a legal eagle

**SIMON GROOM** explains how to make effective use of the legislation in your tax examinations.

- The good news: you can take the legislation into the exams.
- The bad news: additional notes are not allowed in books.
- Get to know your way around the legislation.
- Only highlight the really relevant points.

Although this article is generic in the sense that it can apply to any examination where you are permitted to use tax statutes, it is written with two particular examinations in mind, namely those leading to the Chartered Tax Adviser (CTA) qualification, and those set by the Association of Taxation Technicians (ATT) – my particular areas of interest. I have written it with the reference to the Yellow and Orange books published by Tolley, but it applies in much the same way to those published by CCH, just substitute Red instead of Yellow and Green instead of Orange, with minor exceptions, for example stamp taxes are in the CCH Red books rather than Green.

Students are often delighted to learn that they are allowed to take certain texts with them into the examination hall, but this euphoria soon comes to an end when, having bought their books, they don't actually know what to do with them. Many, feeling that they would be negligent not to take the books with them to the real exam, turn up on the day with a pristine copy, find there isn't enough room for them on the desk and then leave them untouched, gathering dust on the floor. They dutifully return home with them at the end of the exams, exacerbating the back injury they sustained getting them there in the first place.

While the legislation is not the answer to all of your prayers, it can be a valuable addition to your armoury in the exam, gaining you those vital extra marks to get you across the line. But only, that is, if you have prepared properly.

## What have I actually bought?

Let's start with what is actually in the box when you buy your legislation, and let's get the easy stuff out of the way first.

Your Orange book contains all aspects relating to VAT, stamp taxes, and some of the other indirect taxes. By all aspects I mean that it contains all of the primary and secondary legislation (statutes and statutory instruments), relating to that particular tax, as well as non-statutory material such as statements of practice, press releases, interpretations and similar documents.

Now onto your Yellow books. Part 3 contains all aspects relating to inheritance tax, National Insurance and tax credits, so in that respect the structure is pretty similar to that of the Orange book. The remaining Yellow books are divided up slightly differently.

Parts 1A, 1B and 2 all relate to income tax, corporation tax and capital gains tax. Parts 1A and 1B contain all of the primary legislation, whereas Part 2 contains all of the secondary legislation, and all of the non-statutory materials.

Within Parts 1A and 1B, all of the statutes are in chronological order, with the key tax statutes being identified by grey shading on the edge of the page. The pages without the grey shading represent Finance Acts and more minor statutes. So, for example, if I wanted to look up some aspect of corporate tax administration, I have learned that FA 1998, Sch 18 is useful. I know immediately that this is in Part 1A, and I know to look between the shadings that represent TCGA 1992 and CAA 2001. If you work like this while studying you will soon find yourself picking up the correct book without even thinking about it.

It's important that the way your books are structured becomes second nature, so that you know immediately to which book to refer. Many people get used to the fact that there are statutory instruments in Book 2; they then forget that these only relate to income tax, corporation tax and capital gains tax. We get a lot of phone calls from students saying they can't find a particular National Insurance statutory instrument, the reason being that they are looking in Part 2 rather than Part 3!

## Can I write in my books?

You are allowed to mark your books in certain ways. For the ATT and CTA examinations the rules state that:

'Publications brought into the examination must be bound copies. They can be underlined, sidelined and highlighted. Annotating, use of "post-its" and tagging is NOT allowed.' (Although it does go on to say that you are permitted to write your name on the books!)

## So how do I study with them?

Now you know what is in each of your books, let's see how you use them.

You have to realise that in most examinations you will not have time to use the legislation to look up things that you know little about, and unless you have a legal background it's probably fair to say that it will take a long time to translate what is in the book into something that answers the question in a meaningful way.

## If that's the case what use are they?

They are very useful in providing light relief for your brain by relieving it of the need to remember things like definitions, conditions and time limits.

For example, if you are given some information in a question and you're not sure whether or not a company qualifies for the enterprise investment scheme (EIS), it is not that difficult to check a few basic conditions in ITA 2007, Ch 4. I appreciate that there is a lot of detailed information in this chapter, but be guided by your study manuals which will bring out the key issues that need highlighting in your legislation. Just bear a couple of things in mind; first, there is no point highlighting something that you don't understand when you first look at it, as it is unlikely to help you in the exam, and, secondly, don't get carried away and end up highlighting the whole book; you must try to be selective, highlighting is only useful if you can find the relevant information instantly.

So for example, and following our illustration of EIS above, let's say that we have decided that ITA 2007, s 186 will be useful for the gross assets' limits. Don't highlight the whole section just pick out 'single company', '£7 million', 'before', '£8 million' and 'afterwards' from subsection (1). Now do the same for subsection (2), but highlight 'parent company' instead of 'single company'. Now you've got all of the salient points at your fingertips in the exam.

Next, it's all very well knowing that you've highlighted the gross assets' requirement, but are you going to remember it's in s 186 under exam pressure? One way around this is to go to the beginning of ITA 2007; here, as with all statutes, you will find the 'arrangement of sections', effectively a list of all of the sections in the Act. You should highlight s 186. As long as you can remember that EIS is contained in ITA 2007, you can go to the arrangement of sections, and find the relevant section very quickly.

## Look up limits

Students ask me: 'when I'm studying, do I need to look everything up in the legislation?'

No, be selective. As I said above, the legislation is most useful for things like definitions, conditions, dates, penalties, time limits, etc. Most people struggle when it comes to needing an explanation of something. For example, you might use it when you need to check whether something qualifies for rollover relief, this can be found in TCGA 1992, s 155. But if you wanted to find out the rules regarding rollover relief and the situation where you don't reinvest all of the proceeds, you'll probably waste a lot of time trying to get your head around TCGA 1992, s 153 if you've never come across it before. Most people find that particular point easier to learn, though I know that people use the legislation in different ways. Just make sure you know your approach before you go into the exam.

## In summary

Continuing the theme of highlighting the most important points, the box below contains my *Top Five Tips* for using the legislation. Remember, if you use the legislation correctly, and practise using it, it will be a very valuable tool; but if you don't get to know it properly, you can instead end up wasting precious minutes of exam time.

Good luck with your studies!

### Top five tips for using legislation

1. Know your way around the books, i.e. what is in each volume.
2. Get a feel for what each Act contains so that you know roughly where to look even if you can't remember exactly where something is. For example, if it's anything to do with an employee, chances are you will find it in ITEPA 2003. Anything relating to the income tax computation in general, such as loss relief, will be in ITA 2007.
3. Use the legislation while studying, highlight things early on and become familiar with it. Some online study manuals even allow you to click through to the relevant section of the legislation online.
4. Take it with you when you attend courses, particularly revision courses, as this will give you further practice, and of course, use it in all of your practice examinations.
5. Look after it. Be careful about lending it to others in the office who may inadvertently write in the book, therefore making it useless for the exam.

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