A Taxing Blog: The Uneasy Case for Blogging Taxation

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News and Commentary

**A Taxing Blog: The Uneasy Case for Blogging Taxation**

Posted on Sep. 26, 2003

By Victor Fleischer and Jeffrey Kahn

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It was only a matter of time before tax nerds began to congregate on the nerdiest medium of all.

**An Intro to Blogs**

Web logs, called "blogs" for short, are frequently-updated personal Web sites -- essentially online diaries or journals. Like everything on the Web, blogs vary widely in quality, content, and purpose. Some blogs are just straightforward personal commentaries on the world. Others are amusing and Seinfeldian in their obsession with the mundane details of life.¹

More serious blogs serve as personal op-ed/news clipping services centered around particular topics like politics, economics, journalism, computers, or music. Most include links to news articles or other blogs so an interested reader can read further. Many of the most popular blogs, such as InstaPundit (http://www.instapundit.com) and the Volokh Conspiracy (http://volokh.blogspot.com), are run by law professors, who seem to be disproportionately represented in the blogosphere.²

**A Taxing Blog**

Inspired by the success of these lawblogs, we recently started *A Taxing Blog*,³ a blog devoted to tax policy. A typical post might read as follows:

David Cay Johnston has an article in today's NYT exposing the recent spate of corporate inversions. A possible solution: taxprof Gregory Helvering presented a paper at UCLA last month proposing a political "shaming" solution to shutting down corporate expatriation.

*posted by Vic 4:35 pm*

The idea is to serve as a resource for anyone who is curious about recent tax legislative developments, current academic papers and ideas, and how academics view the tax world. Sometimes we just post links to what other tax folks are thinking; often we add our own analysis. For example, some topics have included the Bush administration's dividend exclusion...
[P. 483] proposal and a link to a recent memo on the topic from a New York law firm; debate about corporate inversions and a link to a Treasury study; and a link to and criticism of a New York Times op-ed about charitable deductions.

We've been getting more traffic -- about 200 hits a day -- than we expected, given the narrow topic. Established blogs with broad topics get something like 5,000 hits a day, so 200 hits seems like a good start to us. The anonymity of the Internet makes it tough to know exactly who reads the blog, but we've been getting emails from practitioners, other bloggers, other taxprofs, and even some government policy makers. (For what it's worth, the blog is aimed at "taxprofs, policy wonks, and other shameless tax nerds.")

Why are law blogs popular? Are blogs -- and law blogs in particular -- just another Internet fad, like Matt Drudge or Salon.com? We think law blogs will survive as a medium of expression, as they have some unique characteristics:

- **Blogs are personal, plentiful, and diverse.** Anyone with Internet access can start a blog, so commentary is no longer limited to professional pundits. Blogs trust the reader to distinguish the wise from the wackos. They're also refreshingly personal -- people are more willing to speak sincerely in cyberspace than in print.

- **Blogs are current.** Whereas the wait for most traditional academic commentary on the real world takes months or years, blogs offer readers an initial reaction to changing world events.

- **Blogs are noncommercial.** No one makes a living from blogging. Not only does this ensure that the content won't be corrupted by bias or interrupted by pop-up ads, it encourages risk taking.

- **Blogs can be specialized.** A daily journal dedicated to a highly specialized topic, like appellate litigation (How Appealing, http://appellateblog.blogspot.com), would be hard to keep up without serious subsidies. Blogging makes it possible because of the low costs of production (that is, nothing but the blogger's spare time).

- **Blogs aren't filtered.** The transient nature of the postings allows bloggers to speak first and think later. Unlike a law review article, no one's likely to beat you up over a mistaken citation or comment. There is a drawback, of course: With no filter on the speech and no editors, we end up with more typos, mistakes, and half-baked ideas than in more traditional media.

As bloggers, we enjoy an excuse to keep up on what's current in the tax world and to read more widely than we might otherwise. We also hope to make a connection with an audience that we
might not otherwise reach with traditional legal scholarship. There is a potential downside to blogging: It's possible that blogging consumes intellectual energy that might better be spent doing the more carefully considered analysis of traditional academic commentary. But we think of blogging as a supplement to -- not a substitute for -- our more traditional scholarship. And blogging might even enhance our scholarship by giving us access to and feedback from a broader, more diverse audience than, say, the readers of the Harvard Law Review. Moreover, as shameless tax nerds, we feel a right -- nay, a solemn duty -- to introduce the world of tax policy to the blogosphere. So surf over to our blog at http://taxpolicy.blogspot.com. At the very least, you should find an interesting and informative discussion on several tax topics. We encourage you to pass along your comments and opinions. But if you want to discuss your purchase of the latest Eminem album, you are just going to have to start your own blog.

by Victor Fleisher

and Jeffrey Kahn

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FOOTNOTES

1 See, e.g., http://blog.stanthecaddy.com (a Seinfeldian Seinfeld blog).

2 Law professors, after all, express strong opinions on topics about which they know quite a lot -- or very little. Also, practitioners accuse us of having too much time on our hands.

3 http://taxpolicy.blogspot.com. You try coming up with a clever title for a tax blog. Or, for that matter, a title for an article about tax blogging. We stole our title for this article, of course, from the seminal article about progressivity, Blum and Kalven, "The Uneasy Case for Progressive Taxation," 19 U. Chi. L. Rev. 417 (1952). It remains to be seen if Fleischer and Kahn's writings share that same enduring quality, but we are optimistic. After all, we are the Bittker and Eustice of the blogosphere.

4 This is the beauty of low expectations. We're ecstatic if 200 people read our law review articles in a year.

5 Also called "blawgs" for short. Bloggers are rather fond of bad puns. See, e.g., Eugene Volokh, The Volokh Conspiracy, April 18, 2003 (http://volokh.blogspot.com/2003_04_13_volokh_archive.html#200167270):

TODAY IN CLASS, one of the problems involved the Ku Klux Klan challenging a law that bars people from appearing in public in masks. The question was whether this law violates people's rights to speak anonymously, but the case was different in some significant ways from the Court's past anonymous speech cases -- and I wanted the students to identify those differences. Which of course led me to ask:
How is this knight different from all other knights?

How Appealing should not be confused with another popular website, Hot or Not (http://www.hotornot.com).

It is true that there is also the opportunity cost of blogging, i.e., the fact that if we were not blogging, we might be engaged in more socially useful activities, like tricking liberal arts graduates into becoming corporate lawyers, or dreaming up new tax shelters.

END OF FOOTNOTES