

## GANTIP: credit where it's due

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I have received an email from [Prof Judith Freedman](#) of The Centre for Business Taxation at the Said Business School. She says:

*I have noted recent references to GANTIP in your blog. It would be nice if you would acknowledge, as you did at fn 59 of your paper written for the TUC, that the source of this idea, and the acronym, was my inaugural lecture at Oxford University in 2003. The lecture was written up in the Tax Journal that year and in the British Tax Review in 2004. Most recently I returned to the GANTIP in print in the Tax Journal in April 2009. You may not have seen this so here is a link.*

<http://denning.law.ox.ac.uk/tax/documents/Freedman.Av.pdf>

For the record, neither KPMG, which is a donor to the Law Faculty in relation to my Chair, nor any other donor to my employer, Oxford University, of whom there must be many thousands, has ever sought to prevent me from expressing my own views, which is what these are.

Happy to do that. But let me also be clear: there is much I do not agree with Judith on, including her logic which I think very confused. For example, in the note article she says:

*Support of the GANTIP does not imply agreement with the argument that the obligation to pay tax should be based on the 'spirit of the law' (which suggests something coming from outside the law as properly interpreted by the courts) or 'morality'*

She then goes on to say:

*The GANTIP would be broader than a detailed rule and would modify the specific rule in that it would provide the authority to apply the rule in a certain way in certain circumstances. It would be more than purposive interpretation because it would look beyond the language of the statute at the surrounding facts.*

In other words, Judith goes straight outside the law to look at surrounding facts to determine how the law should be interpreted to achieve the spirit of the legislation.

So I am afraid whilst we share a point of departure we do not share a logic or a motivation or, maybe, a destination.