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The Progressive Direct Expenditure Tax (Fiscal Policy) as a Tool of Inflation Targeting

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This paper challenges conventional wisdom in that only monetary policy can act as a tool of inflation targeting by proposing ‘fiscal policy’, or a progressive direct expenditure tax - as a tool of inflation targeting. At present the literature is deficient in the sense that fiscal policy, namely a progressive indirect tax can act as a tool of inflation targeting, and more importantly, provide for price stability despite a higher inflation target and achieve full employment, without the costs of inflation.

More specifically, by extending Nicholas Kaldor’s progressive direct expenditure tax (DET) with a c.p.i adjusted cost of living allowance tax credit or rebate (expenditure and savings/investment based), most of the costs of inflation can be overcome, thus the argument in raising the inflation target and implications for macroeconomics generally, but also fiscal and monetary policy.

The paper discusses and illustrates with a model tax return the operation of the direct expenditure tax (DET) and provides a solution to both the purchasing power of salaries and wages index and the Fisher equation. The paper argues that a higher inflation target can act as a buffer against deflation and overcomes some of the problems associated with monetary inflation targeting thus the necessity in the raising of the inflation target. An increased inflation target and its benefits associated with the transmission mechanism (both traditional and balance sheet channels) are addressed to illustrate some of the major macroeconomic benefits to be achieved of raising the inflation target. Both the Keynesian and Monetarist causes of inflation are addressed to serve as a background to the paper.

The Phillips curve relationship is also addressed in arguing for both a short and long run tradeoff between inflation and unemployment and thus potentially overcoming Milton Friedman’s expectations augmented Phillips curve problem where the two most significant macroeconomic problems present themselves, respectively, thus questioning the natural rate hypothesis from a demand side perspective.

The Progressive Direct Expenditure Tax (DET)—a viable tool of inflation targeting?
Defining Income: The Broader Reach of Taxation Law

Colin Anderson and Catherine Brown

When terms are defined in tax legislation, the implications extend beyond that which is traditionally considered to be in the realm of tax policy. One such example is contained in Division 4B of the Bankruptcy Act 1966 (Cth) (the Bankruptcy Act), which provides a regime under which a bankrupt is required to contribute a certain percentage of derived income towards the bankrupt’s estate. The contribution payable is calculated according to a statutory formula, which essentially requires contributions of a percentage of income the bankrupt derives, or is likely to derive, during the relevant contribution period. The term “income” is defined by s 139L to have its ordinary meaning, subject to certain inclusions, such as fringe benefits and superannuation payments, and exclusions, such as child support payments. Though not specifically stated in the legislation, the Explanatory Memorandum accompanying the introduction of the income contribution regime makes it clear that the term ‘income’ equates to “income according to ordinary conceptions and usages” as that term is understood in taxation law. Therefore, the term “income” as defined by taxation law overlaps both tax and bankruptcy policy.

To the extent that fundamental tax concepts, such as “income”, are used in other legislation to achieve different policy objectives, careful consideration of the broader tax politics need to be considered. This paper will examine how the tax concepts have been used in bankruptcy law and evaluate its effectiveness.
Investigating the Determinants of Corporate Tax Avoidance among Malaysian Listed Companies: An Explanatory Mixed Methods Approach

Ibrahim Aramide Salihu

Although the issue of tax avoidance practices is as old as tax itself, the manners and ways they are being perpetrated in recent times have transmuted so sophisticated among the corporate taxpayers. A report by the Global Financial Integrity in 2011 ascribes sixty to sixty-five percent of the global illicit flow of fund to commercial tax non-compliance. Unfortunately the report ranks Malaysia fifth among the developing economies with the most illicit outflow of fund. This study, thus, investigates the determinants of corporate tax avoidance among Malaysian large companies using an explanatory mixed methods approach. Specifically, the study investigates whether tax avoidance practices differ among three forms of corporate ownership and whether internal corporate governance could mitigate such practices. The study is among the very few studies on corporate tax avoidance both in Malaysia and internationally. The quantitative data were obtained from the annual reports of the top 100 companies based on FTSE Bursa Malaysia Top 100 Index over a period of three financial years. The findings from the analysis of the dynamic panel data using Generalised Method of Moment (GMM) estimator were subjected to further qualitative empirical investigation through face-to-face personal interviews with ten tax auditors in the Inland Revenue Board of Malaysia (IRBM). The overall findings show that family oriented and foreign related firms are more tax avoidant but government–linked companies (GLCs) are less tax avoidant. However, the directors on the boards have little impact in mitigating firms’ tax avoidance practices given their financial interests in the companies. While the quality of external audit could reduce the chances of tax avoidance practices, the size of audit firms was found to be of relevant importance in this respect. It was concluded that tax avoidance practices are more of cost–benefit analysis rather than the issue of organizational legitimacy. The findings of this study are of relevant importance in the selection of cases for tax audit and investigation by the IRBM.

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The paper examines the use of the term ‘market value’ in the *Income Tax Assessment Act 1997* (ITA97). Although this term is used in a number of sections in the Act, the Act does not provide a sufficient definition of what the term actually means. The result is that the interpretation of the term is open to dispute between the Australian Taxation Office (ATO) and taxpayers, leading to uncertainty in the enforcement of Australian tax law. The paper considers the guidance which might be obtained on the interpretation of the term from various court and Administrative Appeal Tribunal decisions as well as from ATO rulings and determinations.

A number of questions arise. In determining ‘market value’, do we consider a ‘seller’s market’ or a ‘buyer’s market’? Do we consider the group price which is set when a number of products are sold together or do we apply an individual product price? What about the retailer setting the price – do we take into account the price that might be offered by a new retailer entering the market or do we apply the price set by an established retailer? These are some of the questions which taxpayers have had to grapple with without clear guidance from the Act.

The most significant and frequently cited authority to give clarity as to the ordinary meaning of ‘market value’ is *Spencer v Commonwealth of Australia* [1907] HCA 82. This authority however, does not shed light on the factors that should be taken into account when assessing value in an existing market. The application of the ‘Spencer test’ has led to conflicting decisions as to whether offers are relevant indicators of market price, as to whether demand and supply fluctuations should be taken in to account and as to the relevance of the existence of a ‘buyer’s market’ or a ‘seller’s market’.

A further issue concerns the underlying evidentiary process adopted in the decisions. The onus is on the taxpayer to prove that the Commissioner’s valuation is incorrect. Any technical flaws in the taxpayer’s valuation (such as lack of valuation experience on the part of the taxpayer’s valuer or accounting errors) will often lead to a finding for the Commissioner by default. As a result, there is little analysis in the decisions as to the appropriate principles that taxpayers should adopt when conducting their valuations.

The paper attempts to shed some light on these questions by addressing key policy considerations such as tax simplicity and efficiency.
GST on imports—does the cost outweigh the revenue?

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Australia’s GST rate is low by international standards and does not have as broad-ranging coverage as many other countries. Despite this, both sides of politics approach increasing the rate or broadening the base of GST with trepidation – largely because of the taxpayer backlash that will invariably follow.

The GST was not within the terms of reference of the Henry Review. The GST base was also beyond the terms of reference of the GST Distribution Review released in 2012. However, this does not mean that GST has not been in the political spotlight. The Taxation Institute went as far as saying (in relation to the 2013 federal election campaign): “There has been a lot of political sparring over the GST in the last week and most of it has been part of a tried and true scare campaign.”

It is true that as the 2013 election draws closer, the GST has increasingly been in the media spotlight. However, one area of the GST that was receiving attention even before the federal election campaign was the exemption for low-value imports. Currently, goods purchased from overseas for less than $1,000 are exempt from customs duty and GST.

With increased online shopping, and the increased value of the Australian dollar, more and more Australians are buying items from overseas. For the large majority of these overseas purchases, GST is not required to be paid because the goods fall below the $1,000 threshold. There are increasing calls to reduce this threshold, which is very high compared to international standards. The Australian National Retail Association has been very vocal on this issue, calling on both sides of government to commit to reducing the threshold, which they believe is having a significant adverse effect on Australian retailers.

However, any change to the GST must be evaluated in terms of how much revenue will be raised. In terms of low-value imports, it has been suggested that the increased compliance and administrative costs would outweigh the revenue collected. Further, considering the voter backlash that is to be expected from any move to ‘increase’ a tax (even if the ‘increase’ is removing an exemption), the political cost must also be considered.

This paper will first provide background to the current low-value import exemption. Government commissioned papers that have examined the exemption will also be reviewed. Through these papers, a number of options for reform have been suggested. However, it is our conclusion that as a result of the limited increase in revenue that can be expected, the best solution for the moment (and the near future) is no change at all. We suspect that this may also be the response of the government (regardless of which party takes power), as a result of the negative voter backlash that would result from any change.

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Equity in the Amoral State: the Nexus between Charities, Gambling and the Taxation-Redistribution System

Jonathan Barrett and John Veal

Charities may plausibly be characterised as moral institutions (they are commonly motivated by religious belief, but must always promote a public benefit); neoliberal government as amoral (it is interest in proscribing traditional ‘sins’ is limited to the extent that they represent a costly health hazard); and gambling operators as immoral firms (they profit from the apparent economic irrationality of many and the addiction of a significant few). These three morally distinguishable social institutions do however interact with one another. Charities fill the gaps in social provision left by the ‘hollow state’; they receive grants from government, and benefit from tax concessions, while often criticising government’s social policies; they also receive funds from gaming trusts. Government establishes the regulatory structure for both charities and gambling operators; it taxes the latter and hypothecates some tax revenue to remedying the social mischiefs caused by gambling (certain charities may receive funding from this source); government also licences lotteries as a means of indirectly raising revenue. Gambling operators may bring fleeting pleasure to many but also abject misery to a substantial minority. Gaming trusts, which raise money through pernicious electronic gaming machines (EGMs), are significant benefactors of non-for profit organisations, including some charities. Where does equity fit in this nexus?

This paper considers equity in the interactions between charities, gambling operators and government, both in the technical sense, as used in taxation theory, and in a sense of overall justice in society.

First, the New Zealand context of charity, gambling and government is sketched. An overview of relevant law and taxation is given, and the connections between charities, gambling and the tax-redistribution system outlined.

Second, equity (horizontal and vertical), as used in taxation theory, is applied to EGM taxation. A third facet of fairness – geographical equity – is noted.

Third, a broad concept of equity as overall justice in society is applied to the interactions between charity, gambling and government.

In conclusion, the paper argues that a morally neutral stance is difficult to maintain in relation to overall equity and proposes adherence to fundamental values which are largely incompatible with both the moral disinterestedness of neoliberal government in relation to gambling and charities’ benefiting from EGM trust distributions.
Tax Rationality, Politics and Media Spin: A Case Study of New Zealand’s Failed Car Park Tax

Jonathan Barrett and John Veal

In 2013, the New Zealand government introduced an omnibus tax Bill, whose provisions included an initiative to levy fringe benefits tax on employer-funded car parking in the Auckland and Wellington central business districts. Plausible reasoning underpinned the proposal but government displayed remarkable ineptitude in presenting its case to the media and thus the general public. In contrast, a hastily formed FBT Action Group effectively captured media attention and the proposal was scrapped even before the action group could become fully mobilised. Despite having tax rationality on its side – that, beside an army of ‘spin doctors’ – government was defeated by an unlikely coalition of business and trade union leaders. This was not a Web 2.0 media phenomenon – there is no evidence of use being made of the new media, such as Twitter, which have ignited mass protests around the world – rather, it was an example of ‘old school’ public relations manipulation by a small number of media-aware insiders.

This paper uses the car park tax proposal as a case study to illustrate how tax rationality is insufficient to win public debate in the contemporary polity: tax proponents need to ‘out spin’ their opponents. The tax rationality of the car park tax is first outlined. The tax would have removed unjustified distinctions and brought a clear fringe benefit into the tax net; furthermore, its credentials as an environmental tax were well-grounded but not promoted.

The paper then tells the story of the failed tax proposal using a timeline of media reports. This demonstrates the lackadaisical introduction of the proposal, unsupported by strong media-friendly arguments, and the effective opposition by a small alliance of disparate interest groups.

Finally, the consequences for rational tax measures of this case study are discussed and conclusions drawn.
Cash Flow Benefit from GST: Is it realised by small business entities in Australia?

Melissa Belle Isle

Since the introduction of the Goods and Services Tax (GST) in Australia in 2000 there has been an abundance of research into the compliance cost burden borne by small business tax payers as a result of complying. However studies into whether any benefits are realised as a consequence of complying are limited with the exception of managerial benefits gained from complying with the Australian tax system as a whole completed by Lignier.1 The Federal Government expressed that there is potential for business operators to gain a cash flow benefit from holding the GST revenue collected on behalf of the Australian Tax Office for a period of time before remittance of the liability falls due.2 It is not clear whether this assumption by the Government is realisable by all business sizes.

It is argued that micro and small businesses may struggle to realise such a cash flow benefit due to a number of commercial circumstances.3 Considering that small business is a major contributor of employment in the private sector and recognised as being capable of having a major influence on future economic stability of the nation, it is important to determine how the GST affects small business cash flow and assess whether a benefit is in fact obtainable.4

In evaluating whether cash flow benefit is realisable for micro and small business it is necessary to investigate whether there are other factors that may aid or deter the attainment of the benefit. This paper identifies and discusses those factors that may have the greatest impact on realisation of the benefit.

1 Lignier, Philip. 2008. “Identification and evaluation of the managerial benefits derived by small business as a result of complying with the Australian tax system.” Phd diss., University of New South Wales.
Who should decide whether the apple is rotten? Corporate political agency, social responsibility, AND (tax) disclosure

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Enron-type corporate financial accounting scandals in the beginning of this millennium gave rise to a renewed interest in corporate tax disclosure. Anecdotal evidence suggesting a connection between corporate fraud and aggressive tax planning motivated academics and policymakers to reconsider tax disclosure as a way to monitor corporate governance and limit tax avoidance. This Article offers a different perspective on tax disclosure—tying it to a broader question of how policymakers should monitor the political impact of corporate business activities. The tax planning strategy of corporations is an inherent part of their political impact on social issues. This impact results from the difficulty to bifurcate corporate business decisions from their political ones because pursuing profits requires many judgment calls that relate to individuals’ moral and political preferences. Under this view, tax planning is a corporate–governance decision that depends on each corporation’s preferences and as such should be analyzed through the corporate–governance lens.

To establish this inquiry, this Article explains why the investor–shareholder relationship gives rise to political agency problems, which both traditional and critical corporate law literatures do not recognize. It argues that, while the separation between corporate ownership and management results in many social benefits, it also imposes certain costs on the democratic process. The corporate structure requires managers, as agents, to maximize their principle–shareholders’ wealth—a requirement that is insensitive to the principals’ political preferences on how profits should be pursued. This Article demonstrates how these costs could be reduced via disclosure of information about the impact of corporate activities on issues of political concern (e.g., tax compliance). It uses insights from efficient financial markets theory to explain how disclosure of non-financial information would help align corporate actions with the political preferences of shareholders despite their rational passivity and apathy. The analysis then illustrates how policymakers can use its theoretical conclusions to formulate a real-world policy proposal with respect to corporate tax planning using Google’s “tax sandwich” as an illustrative example. Through its use of a wide range of interdisciplinary resources, this Article aims to reformulate the multilayered inquiry over the benefits and costs associated with corporate tax disclosure. This debate ties this emerging issue in public finance with broader questions about corporate activity in our society.

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Politics and Tax Reform: A comparative analysis of the implementation of a broad-based consumption tax in New Zealand, Australia and the United Kingdom

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Significant tax reform requires leadership, courage and determination on the part of politicians. It requires sufficient concession by significant vested interests for such reform to proceed. The introduction of a broad-based consumption tax in the form of a value added tax (VAT) in the United Kingdom (UK) and goods and services tax (GST) in New Zealand and Australia was no exception. Not only have these taxes not suffered reversal, but they have now survived successfully for many years. This paper examines the introduction of a goods and services tax (GST) in New Zealand and Australia and a value added tax (VAT) in the United Kingdom. It provides the rationale for their introduction and the process of that introduction. It shows how the success of the introduction and the extent of the implementation as originally intended were driven significantly by the politics of taxation at the time.

The paper highlights the differences in the political environments of each country at the time the taxes were implemented and discusses whether there are lessons that can be drawn as to the political indicators that may need to be present for implementation of significant tax reform. It then identifies the factors that contributed to successful implementation of the taxes over time in each jurisdiction. Again it analyses the political dimension of that process, focusing particularly on the differences that provided a smoother implementation in New Zealand as compared to the UK and Australia.

In the final section, the paper reflects on the success of the current state of implementation as measured against the original intention. In doing so it identifies how any subsequent extensions of the scope of the taxes overcame political impediments that prevented their earlier introduction. The paper concludes by analysing political impact on the introduction of a broad-based consumption tax in each jurisdiction and the lessons it has for future significant tax reform.
Changing use of business forms: Have university business law teachers failed to reflect this in their teaching

Dale Boccabella and Brett Freudenberg

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For various commercial, legal and family reasons, the pattern of use of the various legal entities or business forms has changed over the last 20-years. For example, the statistics show a faster rate of growth in the use of the discretionary trust compared to the partnership and company vehicles. In addition, there has been a sharp increase in the use of the self-managed superannuation fund.

Anecdotal evidence indicates that the business law curriculum does not reflect the changing use of the business forms. In particular, there still seems to be a heavy emphasis on the rules governing companies in business association law courses that are required to be undertaken by undergraduate commerce students at Australian universities. Given that many commerce graduates end up working in tax or business services divisions of accounting firms where they necessarily deal with the business forms that are in current use, a legitimate question may arise as to the appropriateness of the teaching curriculum for undergraduate students.

This project has two main aims. First, the project seeks to obtain a picture of the coverage of the law of the various business forms in undergraduate commerce degrees at Australian universities. It does this mainly through a survey questionnaire of business law teachers. Where available, course documents are also cited. Importantly, the project surveys both non-tax business law teachers and tax teachers. The reason is that quite often, tax teachers feel obligated to spend some time on the non-tax issues associated with the business forms in order to be able to better teach the tax law in regard to these business forms.

Textbooks prescribed by business law teachers for use by students can be a good indicator of topic coverage in business law courses. Accordingly, this project also explores the coverage of the law of the various business forms in the established business law texts.

The second aim of the project explores what can be seen as a recurring question of whether the university curriculum should only “train” students for a career with highly relevant discipline specific knowledge, or whether a more generalist university curriculum is sufficient preparation for a commercial career. In the context of this project, does it really matter if the topic coverage of the law of business forms at university does not match up with the use of the business forms in the commercial world?
Why Does Australia’s Trading Stock Regime provide Deductions and Assessable Income Inclusions for Unrealised Losses and Unrealised Gains under a Realisation based Income Tax?

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Australia’s income tax regime is overwhelmingly a realisation–based income tax, where losses and outgoings are only recognised as deductions when realisation of the loss occurs and gains are only taxed (e.g. assessable income inclusion) when the gain is realised. Yet, the trading stock provisions provide a stark exception to this so that unrealised gains and losses on items of trading stock can respectively create an assessable income inclusion or deduction. Further, the assessable income inclusion or deduction for an unrealised gain or loss is at the complete discretion of the taxpayer, rather than from self–executing rules.

This article explores the meaning of a realisation–based income tax. From there, the article surveys Australia’s income tax to test the proposition that it is overwhelmingly a realisation–based tax. The trading stock rules relating to “realisations” of gains and losses are then set out. The article then examines whether there is a plausible policy justification for such a position. The search for a rationale focuses on the history of the provisions and the policy supporting similar provisions in other jurisdictions, as well as the usual tax policy criteria.
Teaching Taxation: Changing Toast to Tiramisu

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The purpose of this research paper is to demonstrate that teaching students taxation topics that are traditionally perceived as “dry as toast” can be changed into something as enjoyable as tiramisu. And that the prescribed learning outcomes are also achieved in the process.

A qualitative case study using a Moot Court, discussions, filming and direct observation was undertaken. It involved five separate cohorts of third year Bachelor of Business students from semester 2, 2010 to Semester 2, 2012 as well as the Staff from one of New Zealand’s Tertiaries. The study found that there was a change in perception from taxation being “as dry as toast” to actually being an enjoyable subject. The students preferred the Moot Courts that were used as one of the summative assessments as opposed to the traditional summative assessments of Assignments, Tests and Exams. The overall outcome was that both students and staff alike found the subject matter of taxation to be enjoyable.

Extant literature indicates that teaching should be delivered in a manner that caters to learners’ different learning styles. The Moot Court addresses all of these issues. This paper also highlights the benefits of both self-directed and peer learning.

Further research opportunities exist to explore the benefits of collaborative learning.
The Debt Ceiling Disasters: Understanding Recent US Fiscal Policy Gridlock

Professor Neil H. Buchanan

Since 2011, a radical new strategy by the opposition Republican Party has created an unprecedented series of political crises in the United States, centering on three related issues: the appropriate amount of annual spending by the federal government, the size of annual fiscal deficits, and the total public debt. The crises have been worsened by Republicans’ attempts to use a formerly-obscure law, the debt ceiling statute, to extract political concessions from the President and his Democratic Party colleagues in Congress. The ensuing standoffs have raised the prospect of a first-ever default by the United States government, an outcome that was avoided at the last minute in each case, through measures that merely perpetuated the long-term failure of governance. In late 2013, there will again be a political confrontation over fiscal policy. This issue is unlikely to be permanently resolved in September and October of 2013, with the more likely outcome being continuing political dysfunction, with attendant economic damage. In this presentation (scheduled for January 2014), I will discuss the measures that will have been adopted by Congress and the President in late 2013, assess the likelihood that the budgeting process can be returned to sanity, and consider the long-term damage that the Republicans’ strategy – and the Democrats’ tepid response to that strategy – have caused.
The Politics of Tax

Mark Burton

The purpose of this (proposed, and at this stage very much a figment of my imagination!) paper is to explore the breadth and significance of the subject ‘the politics of tax’.

I will propose that ‘political’ means ‘any subject with respect to which questions cannot be resolved by a determinate outcome that fits ‘our’ understanding of empirical or moral truth’.

I will briefly describe what I see as the allure of the ‘noble dream’ – the view that questions relating to taxation are not political or that at least the political aspects of tax can be quarantined to a limited field of the subject (ie the compromises between competing policy objectives that arise during the law making process).

I will argue that this restriction of ‘tax politics’ (deliberate or otherwise - I will emphasise that this rhetoric is not necessarily the product of a cynical elite) serves a rhetorical function in the hands of key participants in the taxation system because it allows those participants to frame their role as ‘impartial’ and hence legitimate. This rhetorical sleight of hand serves to legitimate the role of those actors in the taxation domain.

The thesis of the paper is that all aspects of a taxation system are ‘political’ rather than just those aspects that fall within the realm of law making; and that in each of these political realms of taxation there are questions that do not have clearly right answers.

Given the time constraints, I will illustrate this thesis rather than attempt to prove it by a comprehensive review of the taxation field. To this end, the presentation will mention the uncertainties with respect to the political philosophy of taxation – the substantive aspect (ie the distributive aspect of taxation) and also the procedural aspect (ie the relationship of government, Parliament and people in the framing of taxation laws).

The politics of knowledge as this subject applies to several facets of a taxation system:

- empirical aspects of the assessment of taxation policy, and in this regard the selection of tax as a discrete subject of study as opposed to a holistic approach to government policy is relevant;
- the regulatory theory underpinning tax administration models; and
- the interpretative aspect - many judges adhere to the view that the law is there to be found (by applying textual/purposive models of communication), rather than framing their role upon pragmatic communicative models (such as sharing a responsibility in shaping a community’s laws to achieve a particular pragmatic objective).

The final section of the paper will consider some aspects of why the breadth of the politics of taxation and why the depth of disagreement within this broad field of ‘tax politics’ matters.
The roles and responsibilities of accountants as managers of tax knowledge

Shirley Carlon, Kevin Holland and Chris Evans

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The paper will report the findings of a series of nine interviews conducted in 2013 with individuals drawn from industrial companies, tax advisory firms and the Australian Tax Office. The range of specialisms represented comprised of Accounting, Remuneration Planning, Scientific – R&D and Taxation. The work in this paper is part of a wider research project funded by the Institute of Chartered Accountants in Australia.

Although there is an increasing literature which examines knowledge sharing in a taxation setting, the focus has primarily been on the relationship between companies and tax administrations e.g. Oats and Tuck, 2008. Hasseldine, Holland and van der Rijt (2010, 2011) are exceptions in taking a wider approach by also focusing on tax knowledge sharing within companies. It might be expected that effective tax knowledge exchange and co-operation within companies will lead to benefits to tax administration in general (Hasseldine, Holland and van der Rijt, 2011) in addition to the benefit from companies’ managers and shareholders becoming more informed.

Knowledge management is critical to the efficient functioning of tax systems and the ability of companies to manage and control their tax obligations. As corporate tax systems are increasingly used to influence decision making in a range of non-financial fields e.g. Research and Development (R&D) activity and Remuneration Planning (RP), in the provision of employee benefits, tax experts within companies, and where appropriate, any external advisers, must now be able to interact effectively with experts across a range of fields as well as within their own traditional domains of accounting and finance.

A knowledge market perspective is adopted by the authors. Davenport and Prusak (2000) argue that knowledge is an economic asset and in the transacting of this asset, several players are active. These players are described as knowledge buyers, sellers, and brokers. The tax knowledge market is however distinguishable from the general management knowledge market because, participation of knowledge buyers, primarily tax payers, is compulsory and significant explicit penalties for error exist.

The aim of the research is to answer the following four questions: (1) What are the roles of accountants and non-accountants in knowledge sharing within companies? (2) As suppliers of tax knowledge to companies, how do external tax advisers facilitate knowledge sharing within companies? (3) What changes can be made to improve knowledge sharing? (4) How do accountants assess tax risks that can arise within the specific R&D and RP functional activities and more generally throughout companies?
What is the level of tax literacy in Australia?  
– A Politician’s guide.

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As economies have begun to recover from the global financial crisis, financial capability of populations has become an increasingly important area for Government funding and research. If lessons are to be learned, the focus for both Government and society more broadly, should therefore be creating an environment where consumers have the knowledge, skills and confidence to protect them from financial risk. This importance has been recognised in Australia, and resulted in the development of the 2011 National Financial Literacy Strategy\(^1\). The strategy outlines the importance of having sound financial literacy skills in the context of “changes in demography, and increased consumer responsibility for superannuation decisions and retirement incomes”\(^2\). Basic taxation issues (and to a lesser extent superannuation) have to date, largely been excluded from both the measurement and education aspects of financial capability. It is argued therefore that this additional element of financial capability should be further explored. Specifically, this paper reports on the outcomes of an Australian survey which explored tax literacy. The paper will present findings in relation to overall levels of tax literacy as well as briefly report on specific aspects of basic taxation or superannuation which were found to have low levels of understanding. Though having more worthy implications such as a basis for the inclusion of certain aspects of tax and superannuation in financial literacy education programs, these findings may also be of particular importance to politicians hoping to “sell” tax policy reforms to voters. If politicians are aware of the basic areas of tax which are poorly understood by the general population, they may be able to use this to their advantage when attempting to gain public support for proposed tax reform measures.

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Linking the Australian Emissions Trading Scheme

Associate Professor Justin Dabner

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The 1997 *Kyoto Protocol* envisages a World with each national emissions trading scheme (*ETS*) linked to achieve a global market for carbon. Under this vision a carbon price is factored into commercial decision making motivating a trend towards green energy whilst a global market ensures efficiencies – funds flowing to those jurisdictions where green energy is cheapest.

Unfortunately this vision has been blunted by real World politics, greed and ignorance. A World populated by national ETSs has yet to materialize, nor a global market for carbon.

However some jurisdictions have enacted ETSs. In particular, the European Union (“EU”) has had an ETS for nine years, in 2010 the Tokyo Metropolitan Government (“TMG”) established an ETS, New Zealand established a scheme in 2008 which it broadened significantly in 2010, California introduced a regime on 1 January 2013 and since 1 July 2012 Australia has had a comprehensive nationwide ETS.

The emergence of these regimes raises the possibility of linking the respective carbon markets. The EU and Australia have already committed to full bilateral linkage from 1 July 2018.

This paper explores the issues that arise with linking the Australian regime. It will be demonstrated that whilst there are some barriers to linkage, with appropriate “fixes” linkage between the Australian and other regimes might be achievable. The question is whether the political will to do so exists.
The deterrent Impact of public disclosure: An Australia/Norway comparison.

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An examination of the tax compliance literature reveals that tax authorities around the world have attempted to tackle tax evasion in a number of ways. A combination of both persuasive and enforcement measures have been applied with varying degrees of success. With increasing pressure upon governments to raise revenue in the current economic climate it is timely to assess which compliance measures are having the greatest deterrent effect. This preliminary paper will present and analyse the results of strategies adopted by both the Norwegian and Australian tax authorities with regards to the public disclosure of tax information and the likely deterrent impact upon taxpayers. In Norway there is evidence of improved revenue figures through increased disclosure on the internet, whereas in Australia they have banned the reporting of tax evaders in the Commissioners annual reports some years ago and deterrence is achieved via various media outlets amongst other avenues. It is suggested that the results of this study will provide useful information for the Australian taxation authority and have implications for tax policy development.
Strange political bedfellows: Australia’s conduit foreign income concessions and the global response to BEPS

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Australia persists with a tax policy to develop as a financial service centre by providing for income earned by Australian entities from foreign sources and distributed to foreigners to be tax free. This domestic tax base erosion continues, despite current international and domestic activity to address base erosion and profit shifting (‘BEPS’). The Australian rules applying to companies are from Review of International Taxation Arrangements (‘RITA’), enacted 2005, while the trust rules arise from the 2008 Australian Financial Centre Forum’s report: Australia as a Financial Centre (the ‘Johnson Report’) enacted 2011 and amended 2012 with some adjustments contained in an August 2013 exposure draft.

This paper explores the scope of these concessions and seeks to address the question of whether such a concession is consistent with both Australia’s and the wider global response to BEPS.
Complexity, Compliance Costs and Non-Compliance with VAT by Small and Medium Enterprises (SMEs) in Bangladesh: Is there a Relationship?

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Although small and medium sector enterprises (SMEs) constitute some 90% of all businesses in Bangladesh (Alam and Ullah, 2006) and play an important role in the country’s economic growth and employment (Mintoo, 2004), SMEs appear to be under-represented in terms of their registration for Value Added Tax (VAT) and their contribution to VAT revenue collected.

One reason why SMEs may be under-represented in terms of their contribution to VAT revenue collection could be that compliance costs (cf. McKerchar, 2003), whether actual or perceived by Bangladeshi SMEs, are excessive. These compliance costs could be the result of VAT complexity – again, either real or perceived; inefficient VAT administration1; or other factors. Non-compliance with the Bangladeshi VAT legislation by SMEs could be either intentional or unintentional (National Board of Revenue, 2009–2010; Bangladesh Economic Review, 2010). Another reason why SMEs may be under-represented in terms of their contribution to VAT revenue collection could be under-enforcement of the VAT legislation by the Bangladeshi taxation authorities, which itself could due to a perception on the part of regulators that any so-called demonstration effects are minimal.

The purpose of this study is to explore whether there are any interrelationships between the complexity of Bangladesh’s VAT legislation, the costs of compliance with VAT in Bangladesh, and non-compliance (either intentional or unintentional) with the VAT legislation by SMEs in Bangladesh; and, if so, the nature and extent of those interrelationships. This proposed paper is a part of author’s PhD research and its aim to present results of the analyses of qualitative data that has been gathered from focus group discussions with thirty SMEs’ VAT payers (both compliant and non-compliant) and fifteen VAT officials in Bangladesh.

It is expected that the study will make four key contributions to the literature. Firstly, most of the empirical studies on compliance costs and tax non-compliance in developing countries have dealt with personal or corporate income tax, rather than indirect taxes such as a VAT. Secondly, there has to date been no in-depth empirical research into potential interrelationships between legislative and regulatory complexity, VAT compliance costs and VAT non-compliance by SMEs in Bangladesh. Nor, thirdly, has there to date been any in-depth empirical research into whether, or to what extent, VAT non-compliance in developing countries such as Bangladesh is intentional or unintentional. Fourthly, the findings of this research have practical policy implications, in that they can assist policy makers and administrators in their understanding of the potential interrelationships between legislative and regulatory complexity, the costs of complying with VAT legislation, and non-compliance with VAT legislation by SMEs – not only in Bangladesh, but also in similar developing economies.

1 For example, there are over 18,000 pending court cases related to VAT and Customs in the Bangladeshi High Court, representing – according to the taxation authorities – about 30 billion taka in potential VAT collections outstanding (Mustafiz, 2012).
Are you still here Mr Haase?: A study of Australia’s tax rebates for residents of isolated areas.

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In 1945, Ben Chifley, the Australian Labor Party (ALP) Treasurer, introduced ‘an income tax concession in recognition of the disadvantages to which [the residents of prescribed areas of Australia] are subject because of the uncongenial climatic conditions, isolation and high cost of living . . . in comparison with [other] parts of Australia.’¹ When considered in the light of personal incomes, and tax liabilities of the period, the 20 pound rebate of tax was a significant concession indeed.

There were further increases in the 1940s, and in the mid 1950s, its boundaries were changed to broaden its application. Reviews of the rebate paused in the 1960s. However changes continued at reasonably regular intervals throughout the 1970s, 80s and 90s. A particularly significant change took place under the stewardship of the then Liberal Party Federal Treasurer, John Howard, in 1981.

However despite many subsequent submissions to successive Federal Governments, including a recommendation by the Henry Review, that ‘the zone tax offset should be reviewed,’² this paper notes that no further increases of the Zone Rebate have taken place since 1994.

This paper suggests that the primary factor influencing the reluctance of Federal Governments to address the, now trivial, tax concession is that the political capacity of rural and remote voters has waned. Interestingly, when John Howard, as Prime Minister in 2006, was questioned as to when the rural and remote taxpayers might expect an increase in the Zone Rebate, he expressed an opposing view to the one he put forward in 1981 and even suggested that the rebate may be unconstitutional.³

Further, the current ALP Prime Minister gave the same answer, to the same question, in May 2013 – that is, that the Zone Rebate may be unconstitutional. She also reiterated a statement made by Liberal Treasurer Peter Costello in 2006, that ‘it is the preferred policy of the Government to cut taxes for all Australians . . . rather than provide geographically targeted tax cuts through increases in the zone tax rebate.’⁴

This paper suggests that the ‘concession in recognition of the disadvantages to which [rural and remote taxpayers] are subject’⁵ has been surpassed by the political expediency that the number of taxpayers in the Bush is now numerically inferior to the number of voters in the cities of Australia. In other words – ‘Are you still here Mr Haase?’⁶

¹ S 79A Income Tax Assessment Act (1936) (Cth).
³ Letter from Peter Costello to Barry Haase, 21 February 2006.
⁴ Costello, above n 2.
⁵ S79A, above n 1.
⁶ An answer given to Barry Wayne Haase, Federal Member for Durack by the then Treasurer Mr Peter Costello in 2006, when pursuing an answer to when the zone rebate might be addressed.
Tax Compliance Costs for Small Businesses in New Zealand: Some Recent Findings

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This study reports the results of an investigation of the tax compliance cost burden for New Zealand small businesses. It is one part of a larger continuing international project (across six countries), which is evaluating and comparing tax compliance costs affecting the small business sector. This study differentiated tax compliance activities from core accounting activities in order to identify the managerial benefits of tax compliance. It also investigated whether various New Zealand small business tax concessions are perceived to be achieving their objective of relieving the tax compliance burden for small businesses.

To determine New Zealand small businesses tax compliance cost burden, an on-line survey was conducted during the period late 2012 to early 2013. The New Zealand results reinforce prior studies that tax compliance costs as well as core accounting costs are regressive with respect to business size, with the compliance burden being proportionately greater for smaller businesses. It was also found that a majority of the respondents perceived significant managerial benefits in tax compliance for their business. The findings reveal that the respondents seemed to be unaware of the eligibility rules for the various small business tax concessions. Overall, the survey results concerning the small business tax concessions cast some doubt as to whether they fulfil their objective of simplification of the tax system for small businesses.
Base erosion and electronic commerce 
(there must be 50 ways to tax the Internet)

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The elimination of double taxation was one of the driving factors behind the development of our existing model of international taxation. However, in recent years with the emergence of new technologies and new business models based on those technologies, the challenge for governments has become how best to address the problem of double non-taxation. Electronic commerce facilitates the creation of transaction flows where no or very limited taxable presence is created. Taxable presence can be eliminated because assets, risks, and functions can be easily located in tax jurisdictions that best serve a company’s tax objectives. Increasingly these tax objectives may not coincide with the tax gathering objectives of governments or the tax equity viewpoint of their citizens. The pressing issue for tax policy makers is whether the international tax model needs to be modified to address this issue.

To date, responses have ranged from:

- do nothing, because there is no problem (the taxpayer viewpoint);
- increased audit activity, sometimes employing new approaches using new technologies such as social media, search engines, and websites to gather data about what firms are actually doing; and
- more radical proposals that consider whether some of the underlying assumptions of our international tax model need to be changed.

- General and specific anti-avoidance rules, imposition of electronic transaction taxes, a wider application of GST and customs duty have all been suggested as possible solutions to the problem. But each of these proposals involves the establishment of special rules to apply to electronic transactions, based on their form and not the item being transacted.
- If we accept that taxation should coincide with economic activity, then any proposed change should consider:
  - where does economic activity actually reside under the new business model of e-commerce? and
  - how should relative values be assigned to different parts of the value chain? (e.g., are we currently allocating too much value to intangibles, and not enough to the activities performed by workers in a jurisdiction?).

This paper analyses the taxation issues arising from the e-commerce business model and discusses responses from different governments and the OECD’s Base Erosion working party. Our conclusion is that, while it may be relatively easy to find (at least) 50 new ways to tax the Internet, finding a solution that is both practical and that governments have the political willpower to enforce may be more difficult.
Balance of Power Politics and Tax reform

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Australia’s political system incorporates a number of veto points that may create barriers to the implementation of tax reform. In particular, legislation must pass the Australian Senate. Although Australian politics is dominated by the two major political forces of the Australian Labor party and the Liberal/National Coalition, over the past thirty years the passage of legislation in the Senate has more often than not been dependant on the votes of Senators from other, minor, political parties – most notably the Australian Democrats and the Greens.

In this presentation I will explore the dynamics of negotiating tax legislation through a parliamentary system where the passage is not guaranteed. I will discuss the reasons why voters elect the representatives of minor parties; the extent to which governments are required to compromise on “good” policy when negotiating with minor parties to pass legislation; and how this process impacts on the development of tax policy.
Shake, Rattle and Roll: Lessons from the classroom during a major catastrophic event—the University of Canterbury Tax Teaching Experience

Alistair G Hodson, Associate Professor Andrew J Maples and Professor Adrian J Sawyer

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In the early hours of 4 September 2010 Christchurch residents awoke to violent shaking and destruction with an earthquake centred on the outskirts of the city. Several sizeable neighbourhoods in the city suffered from liquefaction, rendering their homes unliveable both without power or potable water. University of Canterbury students were amazingly resilient and established the famous ‘Student Volunteer Army’ assisting the community, which was a real credit to them. The city endured varying aftershocks between September and the end of the 2010 year.

2011 brought the start of a new academic year, and on the second day of teaching, on February 22 at 12:51pm, a massive earthquake struck Christchurch city itself. It generated a vertical 2.2G force; the highest peak ground acceleration ever recorded in the world, and sadly resulted with the loss of many lives.

From a campus perspective the University of Canterbury was initially shut down pending safety inspections and concerns. When the campus reopened staff had less available teaching space and a reduced semester for course delivery. As a consequence course changes had to be made almost immediately. On 13 June 2011, just before the commencement of exams, a significant aftershock hit and final course assessments had to be drastically modified.

Over the last two years, despite frayed nerves from over 13,000 aftershocks, staff at the University of Canterbury have taught in tents, taught tax classes on Saturday mornings, ‘hot desked’, relocated to shared offices, moved into student flats, and by the time of this conference will finally be back into a permanent office space on campus. Students have proved resilient. Grades levels have been maintained, alternative assessment methods have brought pleasing results and now as the 2014 academic year approaches lessons learned can be built upon.

This paper considers the ‘earthquake experience’ from a classroom perspective and includes comments from students in relation to the impact of these events on their lives. Delivery methods and assessment at the University of Canterbury have become more flexible as a result of the earthquakes. The paper concludes that despite the earthquakes and their consequential disruption, overall the student learning experience during this time has been very positive.
A Comparative Analysis of the Environmental Tax Reforms of China and Australia

Benny Hu and Richard S Simmons

China¹ and Australia, two major economies in the Asia-Pacific region, are both ecologically fragile countries confronted by significant environmental degradation and climate change issues. In many ways, the responses of the two countries to these threats have been similar: both have joined the Asia-Pacific Partnership on Clean Development and Climate (AP6), and both have signed up to pollution reduction targets under the Kyoto Protocol. Also, in common with many countries around the world, China and Australia have both employed tax reforms as one of the main means of fulfilling their commitments under the Protocol.² However, great contrasts in the economies, cultures, legal systems and politics of the two countries have meant that considerable differences in their environment-related tax reforms have emerged. These differences are worthy of study, to help policy makers in the two countries and elsewhere in the region decide on the future direction of their reforms.

Accordingly, this article undertakes a critical evaluation of the environment-related fiscal measures the two countries have introduced in recent years. It first explains and evaluates the recent environmental tax reforms in China and Australia respectively, focusing in particular on consumption taxes relating to transport and taxes on the extraction of natural resources. It then compares and contrasts the two countries’ sets of reforms. The article concludes by commenting on the role of these reforms in the overall responses of China and Australia to their environmental challenges.

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1 “China” here refers to the People’s Republic of China (PRC), excluding the Hong Kong and Macau Special Administrative Regions and Taiwan on account of their separate legal and tax systems.

2 In particular, the introduction of environment-related market-based reforms such as carbon pricing mechanisms constitutes a further primary means of fulfilling these commitments in both countries.
The Minerals Resource Rent Tax: A public choice account

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In 2010, the Australian government, acting on advice from the Australian Treasury, proposed a new tax to apply to the mining industry. The proposed tax was endorsed by Treasury, the International Monetary Fund and by many leading economists as an efficient way of taxing mineral resources and generating revenue from the mining boom.¹

The mining industry vehemently opposed the tax and expended $22 million to fund an effective public relations campaign and advertising blitz against the tax. The campaign contributed to the downfall of the sitting Prime-Minister, Kevin Rudd. It was effective in convincing many voters that the tax disadvantaged ordinary citizens despite compelling evidence to the contrary. The government’s new leader, Julia Gillard, requested the mining industry to withdraw its advertising campaign in return for direct negotiations with the government on a new tax with three of the largest mining companies operating in Australia (BHP, Rio Tinto and Xstrata). The tax, the Minerals Resource Rent Tax (MRRT), was significantly revised in favour of these large miners. The significant loss of revenue (and corresponding benefit to the mining industry) is estimated at $60 billion over a decade. Even offsetting the costs of the $22 million campaign, the outcome achieve by the mining industry was clearly advantageous for mining companies. By contrast, the government has lost a potentially significant revenue stream and the public in turn has lost the services this revenue might have supported.²

Public choice theorists argue that, like market decisions, political decisions can be explained by examining the rational choices of utility-maximising actors made under certain constraints.³ This paper draws upon key concepts and insights from the public choice approach to analyse the introduction of the MRRT and demonstrates the value of applying the approach to the analysis of tax reform. It offers a means to explain how the tax policy-making process can result in outcomes which although regarded as decidedly sub-optimal from an economic and moral perspective, might actually be considered optimal from a political perspective.


China’s evolving tax treaty policy

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The speed and magnitude of economic change in China over the past thirty years is unparalleled in modern history. Economic changes have been matched by tax changes and China’s taxation of cross-border investment and business as the country moved from a closed economy to one seeking rapid and massive infusions of foreign capital and, in recent years, to one with growing outward investment. The growth of tax treaties with China has been startling – beginning for a base of zero, China in a matter of decades China has established one of the most comprehensive treaty networks in the globe, with 99 treaties signed. This paper examines these treaties to see the extent to which the terms of the treaties reflect China’s evolving economy. How did China balance its interest in attracting investment capital with its interest in protecting its right to retain taxing powers when it was opening to the world and how has its policy changed as it developed? The changing provisions in China’s tax treaties, particularly those that were originally negotiated in the 1980s and then amended in more modern times, can provide insights into the tax policy goals of the Chinese leadership and their views of China’s negotiating strength and strategic interests in terms of dividing taxing powers with tax treaty partners.
The Implications of Implementations
What makes a tax system politically acceptable? A review of the evidence

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The political impact of the tax law should not be underestimated. There is nowhere where the intersection between citizens and government is as important as in the area of taxation. This is where everybody is involved with the government in reporting and paying taxes. Perceived as being the sources of the money that the government spends, people expect, and insist, that tax issues are prominent on the public political agenda.

Effective tax reform requires both sound principles of public finance and political acceptability. The reality is that, with a population of 23 million, we have a committee of up to 150 people trying to decide how something, as complicated as a taxation system, should work.

While adoptions of new tax instruments have generally been very rare internationally, Australia has bucked this trend. This century has seen the formulation and, in most cases, the implementation, of a number of new tax regimes. These are the goods and services tax (GST), the resources super profits tax (RSPT), the mining resource rent tax (MRRT) and the carbon tax.

None of these were implemented as they were designed; all were compromised by the political process. Special interests were allowed to hijack the common interest and threaten the objectives of efficiency, equity and simplicity. Indeed, threatening the sustainability of the tax regime even before it began.

This paper focuses on what is required, politically, when implementing a new tax regime. It explores the lessons to be learnt from the GST, RSPT, MRRT and carbon tax. It also draws on the experiences of other nations as documented in the literature. This is because fundamental tax reforms usually take longer to realise, and therefore to evaluate, than incremental changes to the existing tax laws. Special reference is made to the political economy of implementing environmental taxes.

This paper supports my PhD thesis which is entitled ‘How can the corporate income tax system be modified to facilitate and support environmentally sustainable business practice’, the objective of which is to develop a corporate taxation framework that delivers sustainable economic and environmental outcomes.
Political challenges to implementing and sustaining fundamental reform: A comparative case study analysis of ACE in practice

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Fundamental tax reform evokes strong political reactions from policy makers and industry groups, and the Allowance for Corporate Equity (ACE) is no exception. Following much debate, the distinct benefits of ACE have resulted in ACE-variants being implemented in several jurisdictions. This paper investigates the political hurdles to implementing the Belgian “Notionele Interestaftrek” and the Italian “Aiuto alla Crescita Economica”, and evaluates the rationale for any subsequent legislative changes. Further, this paper considers economic, political and administrative issues in sustaining this fundamental reform and investigates whether subsequent legislative changes have more closely aligned the Belgian and Italian ACE-variants to the original objectives of ACE.

The original objectives and perceived benefits of ACE include encouraging domestic investment and employment, and achieving tax neutrality by granting tax relief for equity financing. In principle, many leading commentators, policy makers and corporations support ACE. However, in practice, fundamental reform of the corporate income tax system is notoriously difficult. In the Australian context, the Business Tax Working Group recently recommended that ACE remain on the reform agenda, albeit as a longer term option. Accordingly, this paper aims to provide a useful reference point for Australian policy makers’ future considerations of ACE reform and, more specifically, to glean insights from the Belgian and Italian experiences for policy makers seeking to implement ACE-variants.
What is a good tax system?
Miriellees and Henry Tax Reviews

Paul Kenny

The 150 plus Australian federal and state government taxes generate an inordinate amount of complexity and impose significant costs on the community. Further, there are significant exemptions / loopholes in the income tax system that allows excessive tax minimisation, tax avoidance and economic inefficiency. The absence of wealth taxes also adds to this inequity. The valued added tax (GST) has numerous exemptions and this adds to complexity and economic distortions. The recently introduced mining tax appears to be ineffective. With the advent of the post global financial crisis downturn and Australia’s ageing population, the need for future tax revenue means major tax reform is increasingly important.

Given that progressive income and wealth taxes as well as a social security benefit are required for effective redistribution, the design of the social security policy is bound to the tax reform process. In that regard, Australia’s social security system provides a large array of intricate benefits, many of which target those who are not in need of support.

The recent landmark United Kingdom Mirrlees Review and Australian Henry Review, have both provided guidance towards appropriate tax and social security structures. This paper examines and compares the processes and findings of these two reviews before outlining: a sensible tax system of seven tax categories, the setting of tax rates and an appropriate social security benefit.
The politics of dancing: how should Australia take the next steps in tax return simplification?

Jason Kerr

While the concept of personal tax return simplification was a notable topic even as recently as two years ago in Australia (with the Henry Review and Tax Forum), the discussion is now somewhat like a deserted dance floor at a blue light disco. There are plenty of relevant stakeholders (politicians, academics, administrators and practitioners) eager to dance, but the dance floor remains empty.

This paper outlines some of the recent thought into how Australia should best move towards tax return simplification (and tax administrative reform more broadly). Based on 25 long interviews in the UK, NZ and Australia, the paper explores the potential of further tax return simplification, and more particularly, why such reform is necessary, how it can be done and what gains could be realistically achieved. The interviews have been conducted as part of the PhD thesis - *Understanding the impact of tax return simplification on the tax morale of Australian taxpayers*. They have sought to gain an insight into the cultural effects of legislative and administrative change in personal income tax. More significantly, the interviews have uncovered some key insights into political aspects of consultation and implementation, particularly around the breadth of consultation and the pace of tax reform (whether incremental or ‘big bang’).

Based on this qualitative research, the paper examines the political notions of bipartisanship, pluralism and pragmatism with respect to the policy aspects of tax simplification. The various viewpoints of the major political parities are also explored. The findings of this research reinforce the assertion that political considerations form a major part of tax reform. With respect to simplification however, the research shows that politics is less of an influence. Indeed, while it can be argued that politics can be a major driver behind equity and efficiency considerations, the advocacy of simplicity would best seem to be bipartisan or at least politically neutral.

The paper concludes that it is preferable for tax administrative reform to be an incremental part of a coherent, holistic, strategic tax reform plan. This plan will need pluralist input and support, as its implementation will take decades. Furthermore, an independent statutory body, such as an Office of Tax Simplification, could primarily administer the implementation of such a plan. Simplification of tax returns should form an immediate part of that plan and may be seen a distinct step towards further simplification of business returns, and ultimately a catalyst for greater simplification of the system as a whole.
The prospects for European income tax rules

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The treaty creating the European Economic Community in 1957 contained no provisions that explicitly refer to direct taxation. However, a provision that invites Member States to enter into negotiations with each other to abolish double taxation within the Community been interpreted as applying to direct taxation. Since 2009, the treaty governing the EU has had neither a mention of direct tax nor the direction on double taxation that might be interpreted as applying to direct taxes.

Notwithstanding the absence of explicit references to direct tax in the de facto constitution of the European Union, it is generally thought that the EU did and continues to enjoy the power to adopt EU laws (Directives) controlling the income tax laws of Member States in context of its regulation of the internal market. Based on this implied power, the EU intervened several times to regulate national income tax laws, issuing four Directives covering specific income tax issues, in addition to legislation on mutual assistance on taxation. In contrast to its approach to direct taxes, the EU intervened in a sweeping manner on the indirect tax front, relying on explicit powers and directions in the constitutional document to create a comprehensive benchmark Directive governing all aspects of Members States’ VAT laws.

Fearful of encroachments on national sovereignty, particularly their ability to use different income tax laws for raising revenues and also as a competitive tool to attract investment, Member States have to date baulked at broader proposals for EU-wide law on direct taxation. Will the removal in 2009 from the EU constitution of the sole measure that appeared to impact on direct taxation further inhibit the EU legislation on direct taxation or will be seen as the creation of a clean slate, with the door now open to new policy initiatives at the EU level? The evidence to date suggests the former is more likely – while it proposes potentially sweeping changes to national tax laws, the only proposed Directive on income tax pursued by the EU since the constitutional change, a Directive proposing a common consolidated corporate tax base, is remarkably timid in respect of its proposed voluntary adoption procedure.

Three factors may nevertheless encourage the EU to seize upon the change in the post-2009 environment as an opportunity to adopt broader community Directives on direct taxes. The first is the need to protect revenue bases in post- global financial crisis Europe. The second is to increase the competitiveness of European economies. And finally, and perhaps most significantly, the removal of the only direction to the Member States may have removed the incentive for them to act on their own, leaving a vacuum for the EU to move into the field with the object of strengthening the single market. This paper investigates this third factor and considers whether the role it might play in prompting European income tax legislation.
The Politics University Teaching: a reflection on aspects of tax teaching

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Don Aitkin was appointed the first Chairman of the Australian Research Council in 1988, but ironically is now on the public record for his recent view that ‘research had become too important in higher education...teaching students and the dissemination of knowledge are the core functions’ of a university. Academic responses to Aitkin’s research ‘outing’ have been varied and passionate.

My paper concerns the identification and reflection upon problematic aspects of a tax topic taught in a lecture/tutorial arrangement as part of an Australian tax law unit, in a higher education business-course setting. An intervention strategy is devised. The paper enquires into the effectiveness of a range of alternative teaching practices for a mixed international-domestic student cohort. A particular focus will be on tax law students whose second language is English. While motivated by Aitkin’s call to arms to re-elevate university teaching, one does need to draw upon pedagogical literature as the first step embark on the journey of reflecting and devising a teaching practice strategy to address the issue at hand.

The methodological design for the research is both positivist for its inclusion of quantitative data, and non-positivist for its constructivist sense-making of the information gathered. Methods from reflective practice are used. The analysis of the relational processes in tax teaching is undertaken through the lens of Pierre Bourdieu’s social practice theory, which includes the concepts of field, habitus and doxa. The paper contributes to the gap in knowledge on the use of reflective practice in higher education and enables the furthering of professional practice in tax teaching.
An Analysis of the South African Experience with General Anti-Avoidance Rules in Income Tax Legislation

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This paper contains a comprehensive analysis of the South African (SA) experience with general anti-avoidance rules (GAAR) in income tax legislation. This analysis is aimed at drawing lessons on the efficacy of SA GAARs and GAARs in general against impermissible tax avoidance and at determining the progress made in South African GAAR jurisprudence.

South Africa has had a GAAR in its income tax legislation for over 60 years. The first GAAR was in section 90 of the Income Tax Act 31 of 1941. This GAAR was amended in 1959 and when the current Income Tax Act 58 of 1962 was enacted in 1962 it was replaced by section 103(1). Section 103(1) was amended in 1996 and replaced by the current GAAR namely section 80A – L in 2006. To date, South Africa has had three GAARs.

Section 90 targeted all transactions with a tax purpose. This means that literally interpreted it could apply to all tax avoidance transactions. It was subjected to restrictive interpretation in CIR v King in 1947. The court’s reasoning in this case informed the legislature’s amendments to this GAAR in 1959 and thereafter it targeted abnormal transactions with a sole or main purpose to avoid tax. Section 103(1) inherited the provisions of section 90 as amended. This means that section 103(1) relied on the abnormality indicator to isolate impermissible tax avoidance. Section 80A – L is a broad GAAR that targets impermissible avoidance transactions in a business context, in a context other than business and in any context. This GAAR basically targets transactions that are abnormal, lack commercial substance, misuse or abuse tax laws and are abnormal for a bona fide business purpose.

From the SA experience with the three GAARs briefly referred to above, this paper will identify three key lessons on the efficacy of SA GAARs and GAARs in general. The first lesson is that a broad and uncertain GAAR that targets all tax avoidance transactions such as section 90 is not the answer to impermissible tax avoidance. The second lesson is that if a GAAR relies on one indicator of impermissible tax avoidance then this indicator must be broad and flexible enough to cover impermissible tax avoidance which is dynamic. The third lesson is that a GAAR must ideally not combine all known aspects of impermissible tax avoidance into one broad rule without adequately explaining each aspect.

The analysis of the South African experience with GAARs in this paper will also show that South Africa has effectively gone full circle in its GAAR jurisprudence. This circle started with a broad and uncertain GAAR in section 90. It proceeded to the focused but limited section 90 as amended and section 103(1). The current GAAR’s complexity and uncertainty completes this circle and takes South Africa’s GAAR jurisprudence basically to where it was in 1941.
Tangled up in Tape: The Continuing Compliance Plight of the Small and Medium Enterprise Business Sector

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If taxation is, as is often asserted, “politics with a dollar sign in front”, then one of the key tax political battlegrounds is the debate over the burden that emanates from compliance with the tax system. And nowhere is this “bone of contention” more hotly debated than in the context of the small and medium enterprise (SME) business sector, which typically faces a disproportionate regulatory and red tape burden, particularly in relation to its tax compliance.

This paper presents the preliminary outcomes of a large-scale survey conducted in early 2013 that investigated the tax compliance costs from all taxes (federal and state/territory) for Australian business taxpayers (and particularly the SME business sector) in the 2012 fiscal year. The study was part of a broader project designed to assess and address tax system complexity, and was complemented by surveys identifying the compliance burden of non-business taxpayers and of large and international business taxpayers (separately reported). The overall project was funded by the Australian Research Council in collaboration with the Institute of Chartered Accountants in Australia, and vital assistance was provided by the Australian Taxation Office (ATO). It is the first independent large-scale survey of tax compliance costs conducted in Australia since the introduction of the Goods and Services Tax (GST) in 2000.

The main objectives of the study were to assess the level of the tax compliance burden through the identification and estimation of typical internal and external costs incurred while complying with tax obligations, and to identify the principal drivers of those tax compliance costs as perceived by taxpayers. A further objective was to establish to what extent tax compliance costs for the sector may or may not have changed in the period since the last major survey of SME business compliance costs in the 1995 fiscal year (Evans et al 1997).

A postal survey (which also gave the opportunity for online responses) was sent to nearly 10,000 business taxpayers selected by the ATO on the basis of disproportionate, stratified, random sampling. A sample of 682 usable responses was collected, resulting in a 7.5 per cent response rate.

Preliminary analysis of the survey results suggests that the average gross tax compliance costs for the SME business sector were $13,313 per firm per year, an increase of 27 per cent in constant dollar terms since 1995 (Evans et al 1997). Internal time spent by business associates and internal employees was valued at $7,750, and the firm incurred further costs of $5,653 in external tax services. While a small decrease in internal tax compliance hours occurred since 1995, the average amount spent on external services more than doubled in constant dollar terms.
Average gross compliance costs in absolute terms increased as the firm grew in size: $2,844 for a micro-business (annual turnover <$75,000); $9,356 for a small entity (annual turnover: $75,000–$1,999,999); $47,411 for a medium sized entity (annual turnover $2 million– $50 million). However, the compliance burden measured as a proportion of turnover was much more significant for micro-businesses ($75.84 per $’000 of turnover) than for small businesses ($9.01) or medium sized entities ($4.31). Confirming recent findings (Lignier & Evans 2012), GST led all other tax obligations in terms of compliance time, representing between 33 per cent (medium sized entities) and 50 per cent (micro-businesses) of total hours spent internally on tax related activities.

Another key outcome of this study was the clear perception among respondents that the complexity of tax laws, the frequency of tax changes and the administrative requirements imposed by the ATO were significant drivers of tax compliance costs for their business. This perception was particularly strong among medium sized entities, as was the opinion that compliance with obligations imposed by state/ territory taxes (for example payroll tax) was especially costly.

References


Tax-aware investing in public offer superannuation funds: attitudes, practices and expectations

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In Australia, trustees of superannuation funds are required to pay tax both on certain types of contributions1 received and on the earnings derived by the investment of those contributions. While the trustee has no control over the tax paid on contributions made to the fund, tax paid by the fund on its investment earnings is, to a certain extent, within the control of the trustee. Consequently, the ability of the fund trustee to manage the latter by incorporating tax considerations into the investment process has become an increasingly significant issue not only politically, but also for the superannuation industry and indeed for society as a whole.2

In 2009 the Government established a review into the governance, efficiency, structure and operation of Australia’s superannuation system (the Cooper Review).3 The Cooper Review recommended that the regulations be amended to obligate trustees of superannuation funds to consider the taxation consequences when investing. This recommendation, supported by industry representatives, was accepted by Government with the amendments being effective from 1 July 2013.4 There is also conclusive evidence in the literature that investors’ returns can be value-added by funds incorporating tax effects in the investment process (generically called Tax Aware Investment Management (“TAIM”)). However, there appears to be a perception that TAIM is difficult and complex in practice, consequently giving rise to a reluctance to use it.

The objective of the paper is to identify and understand any impediments in the implementation of TAIM by public offer superannuation funds in Australia. Semi-structured interviews were conducted with the chief investment officers in 22 public offer superannuation funds. The design of the research is consistent with the qualitative paradigm and data was analysed using thematic analysis to determine and understand their attitudes, practices and expectations in respect of taking tax into account when making investment decisions. It was found that the type of fund was a significant factor in all three respects. The paper concludes with appropriate recommendations to address the impediments found.

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1 A superannuation fund pays tax only on contributions within the meaning in Item 1 of the table in section 295-160 and in Item 1 of the table in section 295-190 Income Tax Assessment Act 1997 (“ITAA97”). The trustee of a superannuation fund is liable to pay tax on the investment earnings of the fund pursuant to section 295-10 ITAA97.
2 Taxes on investment earnings can be the largest expense of superannuation funds. Excluding pension funds, which have zero tax, the nominal rates of tax on the income of a superannuation fund are 15% on normal income and 10% on capital gains from assets that have been owned for at least twelve months.
4 Section 52 (6)(b)(vi) Superannuation Industry (Supervision) Act 1993 (“SIS Act”)
A comprehensive capital gains tax in New Zealand—no longer political hari-kari?
A consideration of the Labour Party proposal of 2011

Andrew J Maples

Political commentators have long said that the enactment of a comprehensive capital gains tax (CGT) in New Zealand would be "[a] sure-fire path to political suicide" (Edlin, 2008). Indeed, when the New Zealand Treasury Secretary John Whitehead in 2009 suggested it was time for NZ to address the issue of taxing capital gains from property investment, a newspaper report quoted Whitehead as stating that his comments were made "[a]t the risk of being chased down by an angry crowd with pitchforks and flaming torches" (The Press, 2009).

However, there may be a change in the mood of the nation – or at least in the Boardroom – to the adoption of a CGT: "The Herald’s Fran O’Sullivan said this year’s Mood of the Boardroom survey showed support was building in the business community for a tax on capital gains" (The New Zealand Herald, 2013). Deloitte New Zealand Chief Executive Thomas Pippos, also writing in The New Zealand Herald (2013), similarly observes: “Even for certain traditional naysayers there is an acceptance that a CGT is an inevitable part of our future tax landscape that once enacted will not, like the short-lived R&D regime, ever be removed.”

In the 2011 general election the centre-left Labour Party campaigned on inter alia introducing a comprehensive CGT levied at a rate of 15%. It is debateable whether the Labour Party (the major NZ opposition party) sensed a change in the electorate toward a CGT, or were simply looking to clearly differentiate themselves from the incumbent National-led coalition government. On the face of it, the inclusion of such a policy may not be surprising for a centre-left party – indeed other left-of-centre parties such as the Greens also had such a policy. What was unusual for NZ politics, given the previous (apparent) public disdain for a CGT, was that a major political party would campaign on such a policy.

The Labour Party were unsuccessful in the 2011 election. However, in the current MMP environment, which relies on coalitions of parties to form government, it is certainly possible that the 2014 election could see a Labour-Greens coalition elected to the front-benches and the possible introduction of a CGT.

This paper considers the CGT proposed by the Labour Party in 2011. It notes that aspects are consistent with CGT regimes generally, such as it being realisation-based with exclusions for the principal private residence and personal assets and collectibles. However, other aspects, including the rate and retention of existing provisions that tax gains from dealers at their marginal tax rates, could provide definitional issues and arbitrage opportunities between income tax and the CGT.
Tax Debt Management: Collection and Reporting in New Zealand and Australia

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This study investigates approaches to the management of tax debt in New Zealand and Australia. Levels of tax debt are high in both countries: 12 per cent of total tax revenue collected in New Zealand and 9 per cent in Australia. While both countries have a wide range of options to collect debt, Australia uses more of the available options and on a more frequent basis.

This study also investigates the recognition and reporting of tax debt in the government financial statements in Australia and New Zealand. International Financial Reporting Standards are used as the base line for the reporting of tax debts. In New Zealand it is difficult to reconcile the tax debts reported by the Inland Revenue Department to the tax receivable recognised in the financial statements of the Government of New Zealand. However, in Australia, tax doubtful debts are clearly and accurately provisioned.
The History of the Australasian Tax Teachers Association

Dr Fiona Martin

The Australasian Tax Teachers Association (ATTA) is a not-for-profit association originally aimed at improving the standard of tax teaching in institutions of higher education in Australia and New Zealand. It commenced as an informal association of tax teachers in 1989 and held its first formal conference in 1989. Members of ATTA have hosted an annual conference ever since. When viewed across the spectrum of over 20 years it can be seen that the organisation has developed and changed in many ways. The initial conference presentations were much more focussed on tax technical issues and more practitioners were involved. The involvement of the ATO has gradually deepened and represents significant support for the continuation of ATTA as a contributor to tax research, policy and teaching. Other important developments include the production of the annual journal which publishes scholarly papers and which is recognised as an important contributor to tax research and debate and the involvement of new academics and doctoral students as a way of fostering the future growth of tax research and teaching. This paper charts the development of ATTA, the ATTA annual conferences, the scholarly refereed journal that has been established as a vehicle for ATTA members to publish their research and the role that ATTA and the conferences play in the development of tax teaching and research excellence in Australia and New Zealand.
Understanding Tax: An Evaluation of Online Assessment and Feedback as aid in improving Postgraduate Student Learning

Dr Fiona Martin

It is widely accepted that students value timely and targeted feedback on their assessment tasks however this is also the area where they are most critical when it comes to their teaching and learning evaluations. These criticisms can be grouped into three categories. These are first, where feedback is not easily accessible to the student. In other words it is not timely, not legible and not in a format that makes it easily accessible eg they are part-time and not able to access the campus to collect hard copy feedback. Second, the feedback is not targeted to the particular problems that the student has demonstrated. Finally, the feedback is hard for the student to understand. This may be due to poor expression on the part of the marker, difficulty in understanding by the student or a combination of both. In 2006 Nicol and Macfarlane-Dick set out seven principles of good feedback practice in their research arising from their experiences as part of the Centre for Academic Practice, University of Strathclyde, Scotland. These principles are based on a synthesis of the literature on assessment and feedback and provide a good model on which to benchmark feedback practices.

This paper discusses the use of online assessment and feedback used in the School of Taxation and Business Law at the University of New South Wales when teaching taxation law to postgraduate coursework students. It is divided into four parts. Part I introduces the educational theory that supports the use of assessment and feedback as part of the learning process and the seven principles suggested by Nicol and Macfarlane-Dick. Part II describes the online assessment and feedback tools that are used to teach postgraduate taxation law courses at UNSW. Part III evaluates the use of these tools both from the educational theoretical perspective and the student perspective. Part IV draws together the themes that have arisen from this evaluation and makes certain conclusions regarding the future of online assessment.
The taxation of foreign investment in Australia by Sovereign Wealth Funds: why has Australia not passed laws enshrining the doctrine of sovereign immunity?

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The doctrine of sovereign immunity in taxation law allows for foreign governments to be exempt from taxation on their passive investments. The US, for example, has legislated for the recognition of sovereign immunity in relation to withholding taxes on foreign investments by foreign wealth funds. However, Australia has not passed laws enshrining the exemption for sovereign wealth funds. Treasury and other interest groups have advocated the need to have similar laws enacted in Australia in order to compete for foreign investment. However, with the growth in foreign investment by China and in particular State Owned Enterprises (SOE’s) predominantly in mining and agricultural land, it would appear that the government is reluctant to formalise the taxation exemption for political reasons. The issue of Chinese investment in mining and agricultural land has been politicised by various sides of politics in Australia and is of great public concern. However, this concern may well be unfounded. The paper will examine the doctrine of sovereign immunity in relation to taxation and then discuss the current situation with foreign investment by China through SOE’s and their use of corporate entities incorporated in Hong Kong. The distinction between passive and active income will also be examined in detail. The paper will then assess the merits of formally granting the sovereign immunity from taxation for Chinese SOE’s and the likely political repercussions in Australia.
The realisations response to capital gains tax rate changes—a review

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This paper is a review of the literature on the behavioural response by taxpayers to changes in the rate of capital gains tax (CGT), commonly referred to as the capital gains realisation response. Although the literature reviewed is not limited by jurisdiction, the majority of research on the topic to date has originated from the United States of America.

One of the purposes of the research is to consider the relevance to Australia of the methodology used in realisation response studies conducted in other tax jurisdictions. It is considered that a realisations response study using Australian data is a relatively new area of research and there is a wide body of literature on the topic that may be useful to those who choose to conduct future research on the topic.

The literature review has revealed that the responsiveness of capital gains realisations to rate changes has been a somewhat controversial topic. This is evidenced by disagreements between researchers on the appropriateness of methodology as well as a broader debate about whether lower CGT rates can be used to generate increases in CGT revenue.
Engaging Taxation Students Through The Use Of Social Media and a Mascot (Henry)

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“A good mascot has to be memorable. If it’s hard to identify or isn’t recognizable as something specific, it’s not going to do the job it’s supposed to. A mascot needs to stand for something. It needs to be more than just cute – it has to have a personality.”

quoted by Don Carter—American professional bowler.

The use of a mascot has often been credited with engendering a feeling of collegiality or being part of a team or organisation. When used effectively to represent a particular team or organisation it can bring together people from different cultures and backgrounds, by providing them with a common interest and a united sense of belonging.

Whilst mascots are most commonly used within sporting organisations, the taxation team at Curtin University recently took the unique step of utilising a mascot Henry the Curtin Tax Wombat (“the mascot”) in conjunction with a Facebook page to promote a broader interest in taxation law and the profession to the students and to create a sense of community between the students studying the taxation major.

The mascot is taken to all events hosted, sponsored, attended and organised by the Curtin taxation team and photographed with prominent members of the taxation profession. This allows the students to stay connected to the activities undertaken by the taxation team at Curtin. The Facebook site also contains postings by the mascot designed to engage students in discussions about topical taxation issues.

Specifically the mascot has been utilised to:

encourage and invigorate students to take a broader interest in their taxation studies, the Australian taxation system and the taxation profession.

help facilitate a sense of community amongst students in the taxation area that ultimately results in students having a broader friendship group with people studying the same major.

Provide a method to communicate with students with Facebook the social media regime that students relate to and regularly utilise.

Provide a means of students to keep in touch with the university after they have graduated from their taxation studies, by following the mascot on Facebook.

This paper discusses the introduction and establishment of the mascot, the associated Facebook page and the feedback by the students and wider taxation profession towards the Curtin tax mascot.
A critical analysis of Aotearoa New Zealand’s tax policies from a liberal feminist perspective

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The New Zealand workplace is not currently an equal environment for men and women. The average gender pay gap is 9.3% and in the accounting profession it is 29% – and increasing. Only 11% of the directorships of NZX listed companies are held by women and only 5% of New Zealand businesses have a female CEO. It is generally accepted that the gender pay gap in New Zealand is a result of the lower level of participation by women.

This research adopts a liberal feminist theoretically informed perspective to evaluation the impact of tax policy on working women in New Zealand with a view to increasing the opportunities for those women who wish to participate, or participate more fully, in the paid workforce. It refers to recent OECD recommendations regarding a lack of appropriate childcare, a high effective marginal tax rate and limited paid parental leave.

The study also investigates opportunities for policy and law makers to develop future tax policy with a view to creating a more gender balanced workplace.
It’s not another tax! Remove the politics and reform existing vehicle taxes to reduce road emissions: the ACT government shows the way

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Reforming vehicle taxes on the basis of carbon emissions is a “powerful” instrument* that can reduce road transport emissions within a short to medium term. This instrument was pivotal in the Member States of the European Union to significantly accelerate the transition to low carbon technology, which has been shown to significantly reduce light vehicle emissions. This is critical, given that the largest portion of greenhouse gas emissions and air pollution problems caused by the transport sector are attributable to the poor environmental performance of personal vehicles. (OECD 2008)

Further, remove the political pressure by reforming an existing tax, which is more likely to receive public acceptance than introducing a new tax. However whether the reform is effective will depend on design of the vehicle tax and the level of tax differentiation based on the cars energy efficiency and CO2 emissions. Simple increases in taxes with insignificant differentiation will provide very small CO2 reductions. (COMI 2002)

The Australian Capital Territory (ACT) government is Australia’s first jurisdiction to reform vehicle stamp duty, differentiated according to the vehicles environmental performance score provided in the Green Vehicle Guide. This measure is part of the ACT government’s ambitious Climate Change Action Plan to meet the territory’s emission target of a 40 per cent reduction of 1990 levels of emissions by 2020; 80 percent reduction of 1990 levels of emissions by 2050 and zero net greenhouse gas emissions by 2060. (ACT 2012) A significant proportion of the Territory’s greenhouse gas emissions are from the transport sector.

The paper examines ACT government’s policy design of its reformed vehicle stamp duty and assesses whether it is effective in reducing road transport emissions and is a model for other State Governments to consider

Key words
Greenhouse gas emissions, vehicle taxes, reform, ACT government

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This paper examines the politics of Canadian fiscal federalism in relation to recent provincial tax cases that reveal differing judicial views of what constitutes abusive exploitation of the gaps in provincial tax coordination. Canadian provinces have equal constitutional sovereignty with the federal government to tax the income of corporations and individuals. Bilateral intergovernmental tax collection agreements, combined with the efficiencies and public preference for simplicity in tax matters, have been broadly effective in harmonizing the federal and provincial tax bases and allocating tax jurisdiction among provinces. This state of almost complete coordination has largely eliminated double taxation and double non-taxation by the provinces. Québec has remained legally and administratively independent of the federal coordinated tax system since 1962, although it has largely aligned its personal and corporate tax bases with the federal base. Similarly, although Alberta has not had a tax collection agreement with respect to its corporate tax system since 1981, and Ontario only relatively recently (2009) agreed to a corporate tax collection agreement with the federal government, these provinces also closely mirror the federal corporate tax base. Tax planners have, however, identified and utilized opportunities for avoiding provincial tax in schemes known as the Québec and Ontario “shuffles”. Appellate courts in Alberta and Québec have taken opposing views of such avoidance transactions and the application of general anti-avoidance rules to prevent double non-taxation. The political cultures of these two provinces within the Canadian federation may underlie the differences in judicial and legislative responses to the exploitation of these provincial tax avoidance schemes. It can further be seen that these structures or transactions parallel in some instances the international tax avoidance methods for exploiting “loopholes, gaps, frictions and mismatches” cited as unacceptable in the OECD’s Action Plan on Base Erosion and Profit Shifting. Sovereignty interests of both provinces and countries, if not legally then at least practically, may have to yield to global principles for ensuring appropriate and effective revenue collection.
The Hidden Politics of Taxation

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The failure of Keynesianism to address the collapse in profit rates across the developed world in the late 1960s and early 1970s saw neoliberalism become the dominant ideology and practice of economic policy of the one percent in those countries, with Pinochet, Thatcher, Reagan and Hawke leading the way. This is as true of tax as any other area of policy and practice.

Tax is an extraction from surplus value. This wealth that workers create becomes profit, rent, interest, dividends and tax. The band of hostile brothers – productive capital, finance capital, landlords – battle each other for a share of the surplus value.

As profit rates decline the pressure to redistribute the surplus value going to the State to the other hostile brothers is great. Governments in the developed world have responded by reducing taxes on capital and to a lesser extent labour and with cuts to government spending and services. The extent of these ‘reforms’ depends on the severity of the economic crisis in the country concerned.

Australia’s economy has weathered the global storm so far, built on the back of the mining boom, long unpaid working hours and the long term shift in the share of national income going to capital from labour. The economic good times may be under challenge as both the mining boom slows and the logic and reality of the crisis that is inhered in the way capitalism is organised matures.

The wealth shift to capital and the rich is a pre-tax phenomenon and can only be addressed by changes in pre-tax rewards for labour, in other words increased real wages. That requires a campaign of militant industrial action, and if that were to happen a flow on effect might be a re-invigoration of progressive tax demands (soak the rich till their pips squeak) and policies.

Tax is also an ideological tool of capital. The propaganda of equity, undermined in fact by the reality of tax trends in Australia and around the globe, hides the reality both of tax inequality and the fundamental inequality that is capitalism, built as it is on the extraction of surplus value from workers by capital.

Tax teaching is an integral part of this ideological framework.

Black letter tax teaching reinforces the status quo because it asks no questions and poses no alternatives. This indeed is the reality not just of tax teaching but of much University pedagogy today – the commodification of knowledge and consequent pedagogical practices to train docile workers for the neoliberal world.

Even those whose teaching encompasses a critical perspective do so not from the point of view of challenging the exploitative relationship of capital over labour but reinforcing it by preaching the dead end in today’s economic climate of equity without addressing or understanding the fundamental drivers of capitalism and without raising the need and necessity to overthrow capitalism through establishing a democratic society where production is organised to satisfy human need.
Is there a more neutral approach to taxing the consumption of owner-occupied housing?

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This thesis will contribute to the debate in the VAT community about the design and reform of the VAT. One of the policy objectives of the VAT is to tax a broad range of goods and services. It is generally intended that the VAT have a neutral effect and not distort consumer choices. The way in which the current VAT laws with respect to immovable property do not meet this VAT policy objective will be discussed.

The purchase of immovable property is taxed in the same way as the purchase of most other goods and services; just once, when the property is sold from a business to a consumer; not when later sales are made between consumers. This is a significant problem as it was observed recently in the Mirrlees Review that ‘because houses are so long-lived their consumption value may prove to be a bad approximation to the value of consumption services they eventually provide.’ Future purchases of a house will have an effective tax burden equal to the present value of the tax at the time of acquisition, which is likely to be lower than the new value of future consumption. This can give rise to a number of distortions and biases which can affect an individual’s decision-making. It can also lead to complex legal interpretational issues as to which supplies of immovable property are taxable and which are exempt. Examples of these legal interpretational issues will be discussed. These examples will be taken from the European Union and New Zealand, as it is from these countries that the two main VAT models have originated.

The rest of this thesis will then focus on examining whether there is a more neutral way to approach taxing the consumption of owner-occupied housing. An approach which has been taken in the income tax to taxing imputed rental values on an annual basis will be discussed. Theoretical alternatives to taxing the consumption of owner-occupied housing which have been mentioned in the tax literature will also be discussed and evaluated against the VAT policy objective of neutrality. The importance of this thesis will lie in the fact that it will tackle one of the most complex areas of VAT design, and also one of the areas in most need of reform.
Alcohol Taxes...Will they assist the Government in Reforming the Alcohol Industry?

**Professor Dale Pinto, Professor Glen Barton and Annette Morgan**

Australian taxpayers who are in the business of supplying potable or drinkable alcohol are, like other Australian taxpayers, subject to Australia’s federal and state general taxation laws in relation to matters such as taxable income, the supply of goods and services, payroll taxes and the holding and conveyance of real property. They are also subject to special indirect taxes if they sell alcoholic beverages for consumption in Australia. The practical operation of the Wine Equalisation Tax (‘WET’) is the principal subject of this paper. Alcoholic beverages that contain more than 1.15% by volume of ethyl alcohol that are not covered by the WET are subject to the excise/customs duty regime.¹

It is generally accepted that the excessive consumption of alcohol disproportionately reduces workforce participation and productivity and increases road accidents and the associated costs of loss of life and limb, damage to property and law enforcement. Most Australians who drink alcohol do not do so to excess and, it has been argued, they reap the benefits of less psychological stress and a higher life expectancy. These benefits in turn reduce the tax burden of social welfare. The indirect taxation of potable alcohol consumed in Australia is part of Australia’s policy response to the economic and social costs of alcohol abuse.²

This paper looks at the taxes imposed on alcoholic beverages and the push by health and social welfare groups for the government to look at tougher measures to be imposed on those who produce and sell alcohol to the public. The paper considers the issues of now that the war on smoking has been won ….. is it the turn for alcohol to suffer the same fate? as well as examining how will the taxation system be used in the battle.

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¹ Wine Equalisation Tax Ruling 2009/2 (‘WETR 2009/2’) Appendix A.
² These general comments and observations on policy are taken from Wine Economics Research Centre Working Paper no.0610 *Special Taxation of Alcoholic Beverages to Correct Market Failures* by John Freebairn, Department of Economics in the University of Melbourne, April 2010.
Music in Lectures and Examinations to Promote Right Brain Activity

John Prebble

Since 1998, most of John Prebble's classes in Laws 211 Contract and Laws 365 Elements of Taxation have been accompanied by background music from the Baroque era, approximately 1600 to 1750. The same music was played in 2012 and 2013 as background to classes in Taxn 301, Advanced Domestic Taxation, a course in the Victoria University Business School.

Broadly speaking, most music from the Baroque period is suitable to listen to while studying or in class. People are not entirely certain why this should be, but one plausible explanation is that Baroque music generally has a very regular tempo and, apart from fast movements, about one beat per second. That is said to be approximately the rate of alpha waves in the human brain. There are thought to be two possible benefits.

First, some people hypothesize that stimulating alpha waves may promote creative thinking. Most legal study calls more directly on the analytical processes of the brain. It is thought that people can learn more effectively if creative processes are brought to bear at the same time.

Secondly, people generally learn best if they are in a state described as "relaxed alertness". Music that mimics the pattern of alpha waves is thought to promote this state.

Surveys of student preferences show that about 75 per cent prefer music in class, and another 10 per cent or more are indifferent.

Music in examinations

Experience suggests that the longer and more intensively people have been exposed to Baroque music during teaching the more likely they are to opt to have Baroque music during examinations if they are given that choice. In 2013 after 6 weeks or so of music in lectures over 70 per cent of classes in both contract and taxation opted for music in their mid-term examination. Students who chose music scored higher than those who chose silence. The difference in contract was two per cent and in taxation four per cent.

The paper examines some of the hypotheses that attempt to explain such results.
The Test of “Dominion” used to Judge the Criterion of Beneficial Ownership for Purposes of Benefits under Tax Treaties: Conflicting Policies and Politics

John Prebble, Saurabh Jain and Allegra Crawford

By double tax treaties, states share taxing rights rather than fully taxing trading and investment income at both source and residence, as might otherwise happen. Typically, rules for taxing passive income (interest, dividends, and royalties) provide for the state of source to exempt or to limit the tax on passive income that flows to residents in the state of residence.

Companies that are resident in treaty countries

Financiers in third countries that lend to borrowers in source countries establish subsidiaries in residence states to take advantage of treaty benefits. The financiers lend to the subsidiaries, which on-lend to borrowers. Interest flowing back claims treaty benefits. For instance, investors in Europe may route capital that is destined for India via subsidiaries in Mauritius, to take advantage of the India-Mauritius treaty. Treaties that follow the OECD model attempt to frustrate this “treaty shopping” by limiting benefits to “beneficial owners”. This well-meaning test does not work because by company law subsidiaries are the beneficial owners of interest on loans that they make.

Attempted resolution of the problem

Courts have tried to resolve the problem by substituting surrogate tests for beneficial ownership, in particular the tests of “substantial business activity” and “dominion”. These tests work poorly because they do not turn on ownership. Courts in most countries use the Commentary to the OECD Model Convention as an aid to treaty interpretation. The OECD has started a process of revising its Commentary in an effort to resolve the issue. These efforts are likely to be ineffective because they are based on contradictions in terms (ownership and activity).

A series of papers

This paper is one of a series that addresses different aspects of the problem just outlined. The present paper addresses the test of “dominion”. It endeavour to show the illogicality of the OECD approach, in particular by showing the failures of reasoning that led to the present position, namely a series of mistaken analogies with cases that look similar but that are in fact relevantly different. (Another paper will propose an alternative that goes back to the original intention behind the test of beneficial ownership: to ensure that treaty benefits are limited to true residents of states that are parties to the treaty in question.)
Treaty shopping

Treaty shopping is a major avoidance technique. The bulk of investment into India goes via treaty shopping. Indonesia suffers similar problems, as did the US itself, until, surrendering to tax planning, it abolished tax on all outward-flowing interest. Other countries have had to take similar steps. This is a complex and contradictory area of law that repays detailed analysis.

Conflicting policies

The beneficial ownership problem occurs because of a clash, largely unrecognised, between contradictory policies: to limit treaty benefits to residents, but to treat companies as being independently entitled to benefits, no matter where they are owned. Reconciling these contradictory policies is a major problem. The paper takes a comparative approach, analysing cases from several jurisdictions, both common law and civil law.
Taxation and the Rational Theory of Size of Government in Multi-Electorate Political Systems: The Median of the Medians is King

Dr Alex Robson

Many analyses of the politics of taxation draw on the standard median voter theorem, which assumes that the voting population is effectively a single electorate (see, for example, Meltzer and Richard, 1981). However, in a multi-electorate political system such as Australia’s, the policy preferred by the median voter of the entire population will not be stable (i.e. the overall median will not emerge as a Condorcet winner in a series of pairwise multi-electorate contests). Assuming a unidimensional policy space, we show instead that the Condorcet winner is found by identifying the median voter in each separate electorate, arranging these medians in increasing order, and then identifying the median of these medians. The policy distance between this “median of medians” and the overall median can be significant; in other words, it is possible for “extreme” policies to emerge as a political equilibrium. The paper discusses the implications of these results for political competition, taxation policy and the rational theory of the size of government.
Teaching the Economics of Taxation in a Second Best Environment: A Diagrammatic Approach

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Economic policymaking rarely takes place in an ideal, first-best world. In practice, policy-makers are faced with a range of pre-existing distortions (for example, the personal income tax system distorts economic decisions along several margins). Although there is a large academic literature on policymaking in second best environments, many undergraduate microeconomics and public finance textbooks ignore these issues. This paper outlines a simple diagrammatic approach which has been applied in a classroom setting, and shows how standard policy rules can sometimes change in interesting and unexpected ways in the presence of pre-existing distortions. Applications include alcohol taxation, the carbon tax, and the double dividend hypothesis in environmental economics.
The Politics of International Tax: The Case for Global Formulary Apportionment in the Finance Sector

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The international tax system, designed a century ago, has not kept pace with the modern multinational entity rendering it ineffective in taxing many modern businesses according to economic activity. One of those modern multinational entities is the multinational financial institution (MNIC). The recent global financial crisis provides a particularly relevant and significant example of the failure of the current system on a global scale. The modern MNIC is increasingly undertaking more globalised and complex trading operations. A primary reason for the globalisation of financial institutions is that they typically ‘follow-the-customer’ into jurisdictions where international capital and international investors are required. The International Monetary Fund (IMF) recently reported that from 1995–2009, foreign bank presence in developing countries grew by 122 per cent. The same study indicates that foreign banks have a 20 per cent market share in OECD countries and 50 per cent in emerging markets and developing countries. Hence, most significant is the fact that MNICs are increasingly undertaking an intermediary role in developing economies where they are financing core business activities such as mining and tourism. IMF analysis also suggests that in the future, foreign bank expansion will be greatest in emerging economies.

The difficulties for developing countries in applying current international tax rules, especially the current traditional transfer pricing regime, are particularly acute in relation to MNICs, which are the biggest users of tax havens and offshore finance. This paper investigates whether a unitary taxation approach which reflects economic reality would more easily and effectively ensure that the profits of MNICs are taxed in the jurisdictions which give rise to those profits.

It has previously been argued that the uniqueness of MNICs results in a failure of the current system to accurately allocate profits and that unitary tax as an alternative could provide a sounder allocation model for international tax purposes. This paper goes a step further, and examines the practicalities of the implementation of unitary taxation for MNICs in terms of the key components of such a regime, along with their implications. This paper adopts a two-step approach in considering the implications of unitary taxation as a means of improved corporate tax coordination which requires international acceptance and agreement. First, the definitional issues of the unitary MNIC are examined and second, an appropriate allocation formula for this sector is investigated. To achieve this, the paper asks first, how the financial sector should be defined for the purposes of unitary taxation and what should constitute a unitary business for that sector and second, what is the ‘best practice’ model of an allocation formula for the purposes of the apportionment of the profits of the unitary business of a financial institution.
Given the demographics of an ageing population, which has become used to an internationally high standard of living, superannuation has become a cornerstone of the Federal Government’s ‘three-pillar’ retirement income policy, which is comprised of:

- The Government’s age pension along with governmental concessions such as the Pensioner Concession Card (plus the State and Territory issued Seniors’ Cards), the Senior Australian Tax Offset, and various allowances;
- Compulsory superannuation; and
- Voluntary savings and investments.

Superannuation is not a type of investment; rather, it is an investment vehicle in which retirement savings can accumulate in a low-tax environment. Beyond the actual availability of funds to save and the impetus of the proximity to retirement; the attractiveness of saving for retirement through superannuation is affected by the tax treatment of superannuation contributions, earnings, and benefits; and superannuation regulatory law. Currently in Australia, tax may be imposed on contributions into a superannuation fund, income generated by investing those contributions, and benefits paid out of the superannuation fund; although the latter are generally tax-free for persons who are at least 60 years old following the simplified superannuation reforms in 2007.

The Government endows superannuation with more favourable concessional tax treatment than other types of investment vehicles as savings in superannuation are preserved until retirement, and self-funded retirees take the pressure off the Government in providing an age pension for them. Yet the provision of the superannuation concessions currently costs the Government over $30 billion, which not only accounts for Australia’s largest tax expenditure but also approximates the cost of the provision of the actual age pension.

Given the cost of providing the superannuation tax concessions and the concern amongst policymakers on how the retirement needs of Australia’s ageing population will be funded and whether current arrangements will prove to be adequate, it is appropriate to examine the tax treatment of superannuation and what effect it has on retirement outcomes.

**Keywords**

Retirement, Superannuation, Tax concessions, Tax expenditures, Australia
Using social media to connect tax teaching to tax policy formation and change

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A tax teacher today can no longer rely upon technical expertise in tax coupled with a bit of teaching finesse to get through the curricula. A tax teacher needs to model expertise in digital knowledge sources to students such as how to access and navigate the CCH Tax and Accounting Online, Tax Institute databases, and Law ATO website so that students learn the skills to remain up to date in their knowledge and can build on the knowledge acquired in the classroom. A tax teacher also needs to involve students in the tax policy process, including the role that practitioners and members of the public play in the formation, direction and changes to tax policy implemented by governments. Finally tax teachers ought to be modelling ethical and responsible conduct of tax professionals. This paper explains how to use social media to achieve connectivity, engagement and understanding to enhance the student learning experience including that of the tax policy process. The paper will explore the use of micro-blogging sites such as Twitter and considered effective digital curation practices for inside and outside the class room as one of the tools for producing tax graduates who understand key aspects of how the tax profession works.
The Fiscal Impact of the Trans-Tasman Travel Arrangement: Wither CER?

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The trans-Tasman travel arrangement allows Australian and New Zealand citizens to work and live in each other’s country with minimal restriction and is seen as being a key part of the closer economic arrangement (CER) between the two countries. This arrangement has been in place since 1920 and predates the entered into by the two countries in 1983 by over six decades. It is also complemented by a comprehensive double tax agreement (DTA) and social security convention (SSC) between the two countries.

The trans-Tasman travel arrangement was of little significance until the late 1960s when a significant pattern of migration emerged of New Zealand citizens to Australia. It has been estimated in 2012 that over 648,000 New Zealand citizens now live in Australia.

The trans-Tasman travel arrangement underwent a significant modification when in 2000 Australia unilaterally enacted a new category of non-immigrant visa for New Zealand citizens settling there. While the basic principle of allowing New Zealand citizens the right to work and live in Australia with minimal restriction remained, migrants after February 2001 are no longer treated as permanent residents of Australia and are ineligible for a wide range of social assistance irrespective of the time they are resident in Australia. Nor are they eligible to apply for Australian citizenship unless they qualify for permanent residence status. Thus New Zealand citizens who have settled in Australia since 2001 remain essentially “guest” workers on an indefinite basis.

This paper examines the fiscal impact arising from the trans-Tasman travel arrangement after the changes in 2001. It is suggested in this paper that the existing frame works underpinning the social security and income tax agreements between the two countries are inconsistent with the changes unilaterally made by Australia in 2001 to the trans-Tasman travel arrangement. The effects of these current policy settings mean that New Zealand citizens must return to New Zealand if they are in need of social assistance with the cost borne by the New Zealand taxpayer. Longer term if CER is to achieve the benefits sought from a single market, a more coordinated and bilaterally negotiated approach to tax, social security and labour movement needs to be adopted.
People power and the politics of tax: an analysis of public submissions in response to the proposed education cap policy

Bernadette Smith, Patricia O’Keefe, John Minas and Sonia Shimeld

This paper is an analysis of the publicly available submissions made in response to the Treasury discussion paper *Reform to deductions for education expenses*. The discussion paper was released by Treasury in May 2013 in relation to the $2,000 cap for education expense deductions proposed by the former Gillard government. The introduction of the proposed reforms were subsequently deferred and then abandoned by succeeding administrations, but not before an unprecedented assault was launched by a collective alliance of taxpayers and their representative organisations. They reportedly represented around two million taxpayers and claimed victory for people power in the politics of tax reform. We refer to literature on theories of regulation and the background to Australia’s recent experience with work related deductions generally to frame our approach when examining the explicit issues raised by interest groups in their formal submissions. More specifically the research question considers ‘how do those making a submission, interact with the discussion paper’? We also consider the appropriateness of the questions included in the discussion paper.
The Tax Compliance Costs of Large Companies in Indonesia: the Magnitude of the Costs, International Comparison and the Effects of Tax Reforms

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The paper aims to present the results of the first research in the field of tax compliance costs of large companies in Indonesia. The paper presents the magnitude and the features of the tax compliance costs, the comparison of the costs with other countries and the effects of the Indonesian tax reforms.

This research used mail survey method with self-administered questionnaires distributed to 3,000 large companies registered in the large and medium taxpayer offices in Indonesia. The usable response is 246, giving a response rate of 8.2%. The research is supplemented by a focus group discussion and a number of in-depth interviews with taxpayers.

The findings of the research show that the average compliance costs of large corporate taxpayers in Indonesia in 2010 are estimated to be AUD46,043. The allocation of the costs based on the type of taxes is 28% for corporate income tax, 43% for value-added tax, and 29% for withholding taxes. The components of the costs are 73% internal and 27% external costs. The national compliance costs of large companies are 3.16% of tax revenue and 0.19% of the Gross Domestic Product.

Regarding the international comparison, the research shows that the compliance costs of large companies in Indonesia are significantly lower than those in both developed and developing countries in which such research has been undertaken. However, this does not necessarily imply that the tax system in Indonesia is less complex than the others. Rather, it is the relative size of the companies and the low average wage rates in Indonesia that influence the compliance costs more than the complexity of the tax system.

Regarding the effects of tax reform, the research shows that there are a number of positive aspects in the current tax system as the effects of tax reform, as well as the shortcomings that need to be addressed. The positive aspects of the current tax administration include the overall improvement in the tax administration’s human resources, system and procedures, and information technology; the easier contact with the tax offices; the greater competence of tax auditors; and the fairer process regarding tax audit findings. In addition, the tax administration is viewed as less corrupt than before.

The areas that need improvement include the lack of technical competence of certain tax officers with whom the taxpayers liaise; the tighter supervision that puts more pressure on taxpayers; the overly conservative tax auditors who are reluctant to admit during tax audits that the taxpayers have correctly completed their tax returns; the lengthy procedures to seek proper rulings; the perceived biased decisions on the tax objection that favour the tax office; and the inconsistency of a number of rules.
iTax—Apple’s $44 Billion Double Non-Taxed Income and the Politics of Tax

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Apple is famous for its innovative products. From iMac in 1998 and iPod in 2001 to the more recent iPhone in 2007 and iPad in 2010, each of them either set the standard for the product category or established a new market for the product all together. In the tax world, Apple has proved to be equally creative and bold. A recent Senate hearing in the US reveals that from 2009 to 2012 Apple’s international tax structure successfully sheltered US$44 billion from taxation anywhere in the world. The hearing reveals detailed information about the tax structure of Apple that is difficult, if not impossible, to discern from its financial statements.

A fundamental principle of international taxation is that all income should be taxed once and only once. In other words, the international tax norms should not only avoid double taxation, but also prevent double non-taxation. Both residence and source countries are potential victims of double non-taxation, as income is shifted out from one or both of those countries. However, the politics of tax can dictate a different outcome. For the policy objective of competitiveness, some countries may be happy to allow its tax law to facilitate structures that reduce foreign tax burden of their multinational enterprises (“MNEs”), and double non-taxation can result from that effort. The analysis of Apple’s tax structure in this paper suggests that the US, who often appears to be a leader in attacking tax avoidance, is possibly one of the worst offenders in facilitating double non-taxation of its MNEs.

The aim of this paper is twofold. First, it analyses the tax structure of Apple and investigates how the double non-taxation of the US$44 billion was achieved. The significance of politics in shaping the outcome is highlighted. The analysis identifies the structural problems of domestic and international tax rules that contribute to the double non-taxation issue. Second, the paper reviews the responses of both the residence and source countries to the double non-taxation issue and the possible solutions to the problem.
General or discrete? The politics of New Zealand’s post-war tax depreciation

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New Zealand income tax legislation has allowed taxpayers a deduction for the depreciation of assets used in the production of their assessable income since 1894. In practice tax depreciation has followed accounting practice, and the general depreciation rules apply indiscriminately to all eligible taxpayers.

Following World War Two, the government supplemented the general provision with a range of discretionary tax depreciation provisions. As the wartime command economy translated into the managed economy of peacetime, the Government enacted discretionary measures to supplement the inducement to invest. Since 1984, however, the focus of New Zealand’s economic policy has shifted to efficiency, with a greater reliance on market solutions. This is reflected in taxation policy, with a removal of tax expenditures, including discretionary depreciation policies, in favour of a broad-base low-rate tax system.

Discretionary policies such as initial depreciation and investment allowances were intended to induce investment and to promote the economic development of particular industries or regions. Such policies reflect a trust in discretionary government policy to achieve a society’s (economic) goals. During the war, Friedrich Hayek had warned against the dangers of such planning, and subsequently contrasted two views of liberty: one achieved by specific government intervention, the other based on the rule of law. While his views were largely ignored until the 1980s, recent policy is more consistent with his preference for general rules rather than discretionary policy.

In keeping with the theme of the conference, this article considers tax depreciation policy in New Zealand since World War Two as an example “the politics of tax”. It takes as its starting point Hayek’s distinction between a liberty sought in government, and one found in the rule of law. Based on the legislation and related contemporary commentary, the article then discusses the development of New Zealand’s post-war tax depreciation policy to illustrate this distinction, before drawing conclusions.

This article highlights the effect of (often unstated) philosophical disagreements on taxation policy and policy change. It also contributes to the gap in the literature literature on tax depreciation and suggests opportunities for future international comparisons.

How should personal income tax deductions be capped in a political environment?

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Since the 2008 global financial crisis, rapidly increasing fiscal deficits have become a central concern to most western governments. One response has been to identify revenue sources which can both raise additional revenue and improve the equity, efficiency and simplicity of the tax system. With the majority of government revenue collected from the personal income base, attention has inevitably focussed on how taxable income concept could be broadened to raised additional revenue. On one side attention has been given to how the income is measured – especially the concessional treatment of fringe-benefits, capital gains and superannuation savings – and on the other, the design of tax reliefs. To date, it has been changes to tax reliefs defined as those policies which reduce taxable income or net tax (of transfers) liability, that have attracted most attention, if only because the politics of such reforms would appear less controversial.

However, even proposals for relatively modest reforms to tax reliefs have proven controversial. This paper examines personal tax relief reforms in four OECD countries – Australia, NZ, UK and US – over the past two years with the objective of better understanding how the politics of these reforms have been managed (or not) in terms of response to stakeholder interests. What will be apparent is that while their focus has been on raising increased revenue, different priorities in terms of equity, efficiency and simplicity have driven reforms in different directions.

NZ will be shown to stand out as a case where simplicity has been the driving objective, often at the cost of economic efficiency and equity – but has been politically possible as a result of its unicameral system of government and its generic tax policy development process. In contrast, the politics of tax relief in Australia has been managed successfully when part of a broader reform package but poorly when proposed as a strict revenue measure, leading to various reforms to tax reliefs being delayed or abandoned. The UK experience has been more successful where simple broad based rules have been introduced to cap reliefs but unsuccessful when targeted reforms are introduced such as with the 2012 ‘granny tax’. In the US during the 2012 Presidential Election, the Romney campaign to reform itemized deductions and review the alternative minimum income tax proved divisive and it was only with the election of President Obama and the approaching January 2013 fiscal cliff that attention was seriously focused on curtailing tax reliefs and even then, only resulting in modest reforms.

This paper will conclude with an outline of the political lessons to be learnt from recent tax relief reforms in Australia, NZ, UK and US and how these can best inform governments intent on capping tax reliefs in a tight fiscal environment.
Tax Exempt Compound Interest Borrowings: A Case Study

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School district debt in the form of bonds that are payable from local real property taxes is a major source of financing for primary and secondary school facilities in the United States. Interest on these bonds is typically exempt from both U.S. federal and state income taxation and results in significant tax expenditures at both levels. These tax expenditures raise a number of equity and efficiency questions and encourage the use of debt financing by school districts.

For a variety of reasons including expected growth of assessed valuations in new housing developments, the impacts of declining assessed valuations in the recent economic downturn, the need to comply with legal restrictions and resistance to raising property tax rates, some school districts borrowing to fund education needs have turned to compound interest bonds known as capital appreciation bonds (also referred to as “CABs”), either instead of or in conjunction with traditional current interest bonds, to finance these facilities.

Capital appreciation bonds are the economic equivalent of zero coupon bonds. Unlike current interest bonds, on which interest is paid periodically, interest on capital appreciation bonds is added to the principal amount of the bonds as it accrues, so the amount on which interest is owed continues to grow until it is paid at maturity. As a result, overall debt service on these bonds is higher – often substantially higher thanks to the effect of compounding and the fact that in today’s interest rate environment these bonds typically bear interest at a higher rate – than on current interest bonds. In addition, CABs impose an obligation on future property owners to pay for facilities that will be enjoyed by the children of current property owners and that may be in need of refurbishment or replacement by the time the debt is repaid.

Capital appreciation bonds have become increasingly controversial in recent years, particularly in California, one of the states where they are most frequently used. The press and some political leaders, including the California State Treasurer, have been extremely critical of CABs and legislation has been proposed in the California State Legislature that would limit the use of these bonds by school districts.

This paper draws on the California experience over the last several years as a case study to explore the political and other reasons that school districts use capital appreciation bonds to finance educational facilities and how the relative importance of those reasons has changed over time. It also addresses changes in the ways that capital appreciation bonds have been used, again with particular emphasis on California and the impact of legislative amendments in 2009 that allowed school districts to issue CABs with longer maturities, and analyzes the criticisms of CABs. It then suggests means to control the use of capital appreciation bonds without prohibiting their use in the infrequent circumstances where they may be appropriate.
The Never-ending Story: a review of the evolution of Australia’s Transfer Pricing Regime

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“Every real story is a never ending story.”
Michael Ende, The Neverending Story

The tax benefits obtained from transfer pricing strategies has firmly hit the worldwide spotlight. The worldwide press has been inundated with examples of the mischief associated with complex international structures utilised by high profile multinational companies such as Google, Apple, Starbucks and Amazon to minimise their taxable income in high tax jurisdictions. A major element of these tax minimisation strategies involves transfer pricing. Accompanying this media coverage has been a plethora of substantial legislative reform in relation to Australia’s transfer pricing regime.

This paper discusses the recent changes to Australia’s transfer pricing regime and evaluates the Australian transfer pricing regime by reference to the canons of taxation, considering whether the journey in this already complicated area of law has nearly ended or is it truly a neverending story?

Part one of this paper analyses and discusses the mischief associated with transfer pricing including an analysis of some recent examples of transfer pricing strategies which are utilised by large multinational companies.

Part two looks in detail at the current Australian transfer pricing landscape.

Part three evaluates the Australian transfer pricing regime by reference to the canons of taxation: certainty, simplicity, equity, neutrality and efficiency. The evaluation takes place on three levels: the policy underlying transfer pricing, the effective implementation of transfer pricing legislation and the administration of the legislation. The paper also considers the compatibility of the transfer pricing regime with the rule of law.
The Politics of Tax: rethinking the basis for accountants tax advice privilege”

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In recent times, there has been increasing pressure in a number of jurisdictions such as the United Kingdom ("UK") and Australia to protect tax advice given by non-lawyers.

This is not surprising—as Lord Neuberger observed in 2013 in the UK Supreme Court appeal in *Prudential plc*, “it is hard to see why, as a matter of pure logic, [legal advice privilege] should be restricted to communications with legal advisers who happen to be qualified lawyers, as opposed to... other professional people with a qualification or experience which enables them to give expert legal advice in a particular field...”. This echoed the earlier comments by Charles J in the High Court in *Prudential plc*, who had suggested that there was “a compelling, and indeed unanswerable”, case for extending legal advice privilege ("LAP") to accountants, who currently “do what lawyers are described as doing in the cases that establish” legal professional privilege.

In Australia, the ALRC in 2011 recommended the introduction of an accountants tax advice privilege, but favoured a separate specific statutory regime (such as that introduced in New Zealand) rather than the USA approach in s7525 IRC of applying the common law legal advice privilege to tax advice given by non-lawyers.

This is perhaps understandable, as the New Zealand system seems generally to work reasonably well, whereas the operation of s7525 in the USA has revealed a number of serious design flaws.

However, if the policy aim - consistent with the comments above in *Prudential plc* - is to provide the same protection to tax advice when it is given by accountants as is currently provided to the same advice when given by lawyers, there is a strong argument conceptually for the view that the best way of achieving this is by legislatively extending LAP to accountants—eg by using a provision modelled on s7525.

Such an approach would provide a number of advantages, including:

• ensuring equal protection for such advice; and
• ensuring that the accountants privilege would develop organically in parallel with the common law LAP, thus avoiding the need for Parliament to continually legislate in order to deal with the anomalies that inevitably develop over time in a separate statutory system.

This could be implemented in at least two ways:

• introducing a provision along the lines of s7525, but refined to overcome the various problems encountered in its operation; or
• “simplifying” the s7525 model by removing the various specific exceptions and other provisions, and providing simply that LAP applies to tax advice given by accountants.

The first approach is possible but complex, and carries the risk that rewriting elements of s7525 might introduce unexpected new anomalies.

The second approach is conceptually simpler and removes the problem of differences developing over time between the treatment of advice given by lawyers and non-lawyers.

Given its advantages, why then do the ALRC and most commentators dismiss the USA approach? Should we reconsider it?

This paper explores these and related issues.
Perceptions and Word Associations of Entrepreneurs and Taxes

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The use of free association to study tax perceptions was an early approach to uncover social representations. The method was based on the assumption that “associations which came spontaneously to people’s minds would display the nucleus of their representations” (Kirchler, 2007, p.41). Research has shown that the most negative word associations are observed in the self-employed taxpayers (i.e. small business entrepreneurs). This taxpayer group complains that the actual tax rates are too high and that tax authorities are able to exert compliance from them.

Furthermore, the self-employed entrepreneurs have one of the highest tax noncompliance statistics, even though they are tax collectors on behalf of the governments in terms of value added and employment related taxes. The reactance and exchange theoretical frameworks are used to explain the tax perceptions of small business entrepreneurs in New Zealand. The qualitative research methodology has been adopted to identify the rationale for their tax perceptions and to ground the research findings on actual accounts from participants. To enhance reliability and validity of qualitative findings, the sample entrepreneurs’ accounts are corroborated by tax practitioners and business experts who worked alongside them. The implication of the findings is the consequence of their representation and their behaviours towards paying taxes. There is a need for business mentors/coaches, tax authorities and tax practitioners to have some knowledge of tax perceptions of entrepreneurs (self-employed taxpayers) in order to identify ways to improve their voluntary tax compliance level. The stance taken to improve business entrepreneurs’ voluntary compliance is to change their tax perceptions and in doing so to indirectly modify tax behaviours. This finding is relevant beyond New Zealand to include countries with significant number of small businesses that operate under the selfassessment tax regime.
Politics and Tax Education

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Tax teaching in higher education is not apolitical due to the demands placed upon academics from stakeholders such as accreditation bodies, government funding agencies, students, and industries. Often, various stakeholders’ demands result in tax academics’ responsibility being pulled in different directions. The resultant effect is the expansion of the academics’ role beyond teaching to include managing and meeting competing stakeholders’ expectations, ensuring productivity in research and achieving satisfactory students’ completion rate. Given that, tax academics are required to be managers, educators, researchers, strategists, administrators and team-players. These roles require them to be competent, adaptable and have effective communication skills with research capability. This paper examines the tension involved with the expanding roles of tax academics in response to the everchanging and competitive education landscape presently happening globally and locally. The theoretical framework of the New Public Management (NPM) is used to analyse the evolving roles of tax academics in the twenty first century. Relevant government, universities and accreditation reports pertaining to the tertiary education sector have been used as evidences for argument in this paper. Major prospective challenges for tax academics to meet demands for transparency and public accountability whilst maintaining their academic autonomy will also be discussed.
Notes