

ATTA News January 2005

<http://www.orange.usyd.edu.au/atta/newsletter.htm>

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ATTA website <http://www.orange.usyd.edu.au/atta>

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1 Presidential column

Happy New Year ... here's wishing you a very happy and fun-filled 2005. And what better way to start a new year as a tax teacher than to get on that jet plane and mosey on down/over to the Australasian Tax Teachers' 17th Annual Conference at Victoria University of Wellington. The program is action packed and a wonderful opportunity to get together with your friends and colleagues. (See item 2 of this newsletter).

During the Conference we will be having our annual general meeting (see item 3 of this newsletter). As part of the AGM we will have the election of the ATTA executive. In accordance with our constitution the term of office of the executive is 2 years (clause 12, paragraph 7). There are five positions on the executive:

President
Secretary/Treasurer
Three (3) Vice Presidents:

The current members of the executive are:

President: Tom Delany, University of Southern Queensland.
Secretary/Treasurer: Colin Fong, University of New South Wales.
Three Vice Presidents: Kerrie Sadiq, University of Queensland; David White, Victoria University of Wellington; Paul Kenny, Flinders University.

We also have State, Territory and New Zealand representatives as well.

We need people to nominate for these positions either before or at the AGM.

In relation to the Vice-Presidents' positions Dale Pinto from Curtin University in Western Australia and Shelley Griffiths from University of Otago, New Zealand have nominated.

In relation to the representative positions I have had strong indications of interest from Kerrie Sadiq, University of Queensland and Dale Pinto from Curtin University in Western Australia.

If you would like to nominate for any of the executive or representative positions please let Colin or myself know in advance of the conference or indicate your interest at the AGM.

Looking forward to catching up with you at Wellington.

'til then.

Tom Delany

2 ATTA Conference 2005

AUSTRALASIAN TAX TEACHERS' ASSOCIATION
17th Annual Conference
26-28 January 2005
Wellington, New Zealand
Hosted by:
School of Accounting & Commercial Law
Victoria University of Wellington

While the conference is just about to start, if you haven't registered there is still time yet! A copy of the conference brochure can be downloaded from the following site:

www.sacl.vuw.ac.nz/vuw/content/display_content.cfm?id=1972

If you are registering late, accommodation at short notice can be secured through internet reservation agencies such as www.wotif.com, www.needitnow.com, www.ratestogo.com and www.wellingtonnz.com.

Highlights of the Conference Programme include:

- Optional Doctoral and Teaching Workshops will be held on Wednesday 26 January prior to the opening of the Conference. These are first time events for the Association.
- The Opening Function will be held on the Wellington Waterfront (Lambton Harbour) on Wednesday evening and includes a buffet dinner. The main conference opening formalities will be held at this Opening Function instead of the following morning.
- The Annual Meeting of ATTA is scheduled for Thursday morning –the first day of the conference ensuring everybody can attend.
- Prize awards will be offered for the best paper and the most original papers. The prizes will be awarded at the Closing Ceremony on Friday afternoon 28 January,
- The Conference Dinner will be held on Thursday evening at the Skyline Restaurant at the top of Wellington's famous Cable Car offering sweeping views of Wellington's Harbour on a summer evening.
- On Friday we will have a short Closing Ceremony, followed by a harbour excursion and informal meal. (If you are planning to register late, kindly please note that all places on the harbour excursion have now been taken.)

The conference programme is available here:

<http://sacl.fca.vuw.ac.nz/vuw/fca/sacl/files/ATTAProgramme06122004.pdf>

Presenting a Paper

Unfortunately at this stage the academic programme is now complete and we are unable to accept any late proposals for papers.

If you have already submitted an abstract but have not yet submitted your completed paper, please do so at the earliest opportunity. Please submit it to David Dunbar at david.dunbar@vuw.ac.nz

Doctoral and Teaching Workshops – Wednesday 26 January

There are two optional half-day workshops preceding the conference on Wednesday 26th January. On Wednesday morning a Doctoral Workshop will be held for current and intending PhD students (plus supervisors, recent PhD graduates and anyone else interested). As many ATTA members are working on (or thinking about) PhD study this will be an excellent opportunity to meet and discuss.

Details of the doctoral workshop programme are available here:

<http://www.sacl.vuw.ac.nz/vuw/fca/sacl/files/DoctoralWorkshopprogramme26012005.pdf>

This workshop is being chaired by Dr. David White from Victoria University.

On Wednesday afternoon a Teaching Workshop will be held. Associate Professor. Margaret McKerchar from the University of Sydney at Orange has kindly agreed to Chair this Workshop and has put together a comprehensive half-day programme.

Details of the teaching workshop programme are available here:

<http://www.sacl.vuw.ac.nz/vuw/fca/sacl/files/TeachingWorkshopprogramme26012005.pdf>

There is a nominal fee of NZ\$25 to cover lunch and catering for either or both of these two workshops.

General

Inquiries concerning conference organisation and administration should be directed to Barbara Cordes, (Email barbara.cordes@vuw.ac.nz, Tel: +(64)(4) 463 5078; Fax: +(64)(4) 463 5076). Late Conference Registration Forms should be sent to Sarah Dunstan (sarah.Dunstan@vuw.ac.nz, Tel: +(64)(4) 463 5233, Extn 8009, Fax: +(64)(4) 463 5076) at the earliest opportunity.

Vacation Opportunities!

The Wellington region offers a variety of attractions for everyone's interests. There are two wine producing regions in the area (Martinborough and Marlborough). Or visit the sets from the trilogy of films *Lord of the Rings*, head to nature in the Marlborough Sounds and the Nelson region, or view New Zealand's native bird life at Karori or Mt Bruce bird sanctuaries. In Wellington City visit Te Papa New Zealand's National Museum, Parliament House various art galleries, or enjoy Wellington's café society and waterfront (Lambton Harbour). Whether you visit for 3 days or 3 weeks there's lots to do!

For further information about vacationing in the Wellington region see:

www.wellingtonnz.com

On behalf of the Organising Committee we hope to see you all in Wellington next week.

Andrew Smith.

for the ATTA Conference Organising Committee
Victoria University of Wellington

3 ATTA AGM Agenda

Venue: Victoria University of Wellington, Pipitea Campus

Date: 27 January 2005

Time: 10.45am to 12.00pm

Apologies to date: Dale Pinto, Natalie Stoianoff, Kerrie Sadiq, Duncan Bentley, David Smith, others?

Confirmation of minutes of the ATTA AGM, Adelaide, 31 January 2004. Minutes in the ATTA News February 2004, see http://www.orange.usyd.edu.au/atta/newsletters/2004-02_ATTA_News.pdf

Business arising

Correspondence:

Election of ATTA Executive

Accounts

Publication of ATTA conference proceedings

Organisation of PhD and Teaching Workshops

Confirmation of ATTA Conference 2006. Offers for 2007?

Other matters

4 Arrivals, departures and honours

Professor Robin Henry Woellner was Deputy Head of School (effectively Associate Dean) of the Faculty of Law and Legal Practice at the University of Technology, Sydney from 1992-3. Next he was Foundation Dean of Law at the University of Western Sydney Macarthur from 1993-2000, establishing the Faculty there with an LLB combining legal theory and practical legal skills. From mid-2000, Rob has been Planning Dean and then Foundation Dean of the College of Law and Business in the unified UWS. Rob remains the senior author of *Australian Taxation Law* (now in its 14th edition with CCH), and has published/presented various papers in taxation law and policy, and medico-legal issues. Rob will take up his new position of Executive Dean of the Faculty of Law, Business and the Creative Arts at James Cook University (based in Townsville - the Faculty also has programmes at Cairns) in April 2005. In the interim, Rob will be preparing the manuscript for the next edition of ATL, and then travelling in the British Isles and Europe, with his wife Ruth - hopefully relaxing before launching into JCU. Many attendees at previous ATTA conferences have been the subject of Rob's roving camera.

Associate Professor John Glover who teaches Equity, Trusts, Taxation and Advanced Taxation at Monash University will be a visitor at the University of Melbourne Law School from 28 February until the 27 May 2005. He is working on several projects which include a paper on the 'Taxation of insolvency administrations in Australia'; and completing papers on the 'Fiduciary liabilities of public officials' and 'Proprietary competence of unjust enrichment'.

Professor Tim Edgar, from the University of Western Ontario Law Faculty and Director of their National Tax Centre will be visiting the University of Melbourne Law School from 1 - 4 February 2005. He is teaching "Taxation of Financial Instruments" in the masters course.

Natalie Stoianoff and Cynthia Coleman are both on the editorial board of the *Macquarie Journal of Business Law*.

Ross Kirkwood has been appointed as a Tutorial Fellow in the University of Queensland Law School, hopefully for the next 3 years, and will be spending most of his time tutoring in Taxation Law.

Campbell McComas, AM comedian, impersonator and alias partner of large accounting firm to law professor, and possibly a commissioner of taxation etc, died from leukaemia on 8 January 2005, aged 52. See Schwartz, Larry "Laughter and tears for McComas," *The Age*, 11 January 2005; Selma Milovanovic, Selma and Xavier La Canna, Xavier "McComas the chameleon dies at 52" *The Age*, 10 January 2005; ABC Victoria "Comic chameleon Campbell McComas dies" <http://abc.net.au/victoria/news/200501/s1279166.htm>; "Unmasking the great impersonator," 15 January 2005 <http://theage.com.au/text/articles/2005/01/14/1105582712912.html> He received an honorary doctorate of letters from the University of New South Wales.

5 Melbourne and Sydney

On more than a few occasions, whilst trying to locate a tax book, particularly published overseas, I noticed that a number of Victorian academic libraries such as Deakin or the University of Melbourne or Monash held the item, but there was no location in New South Wales or sometimes elsewhere in Australia. Sometimes the same item was held in the Australian Taxation Office national library in Canberra.

By way of example, I was looking for Edgar, Tim *Income tax treatment of financial instruments: theory and practice*, Toronto, Canadian Tax Foundation, 2000. I discovered this is held by Deakin University, the Australian Taxation Office in Canberra and the University of Canberra. I was using the *Kinetica* database, which is now called *Libraries Australia*. Why is this so? I could understand Deakin held this book as it was based on Edgar's PhD which he did through Deakin. Next I did a search for Orow, Nabil *General anti-avoidance rules: a comparative international analysis*, Bristol, Jordans, 2000. According to *Libraries Australia*, this was only held by Queensland University of Technology and Monash University. As Bill is at Monash University, I can understand Monash holding this title. I hope readers do not feel I think that parochialism was the only reason for the purchase of the above titles by the relevant libraries.

How many Australian libraries have an International Bureau of Fiscal Documentation Doctoral Series subscription which entitles subscribers to a 30% discount on the catalogue price of all volumes? If you compare the latest acquisitions by the various Australian academic law libraries, you will often find the same books purchased. No doubt there will be other books held in Sydney libraries not held in Melbourne libraries. Any views on this topic welcome.

Colin Fong

6 Tax, Accounting, Economics and Law Related Meetings

Local

Atax Continuing Education classes in taxation are suitable for those wishing to update their skills without assessment tasks or exams. Classes are held evenings 6-8pm, AGSM, 10'Connell Street, Sydney or by an intensive 5 day short course at Atax.

Evening classes in the CBD begin in Session 1 2005:

(6-8pm, AGSM, 10'Connell Street, Sydney, NSW)

Tax Policy (Monday evenings)

Tax Strategies in Financial Planning (Monday evenings)

Taxation of Corporations (Tuesday evenings)

Taxation of Capital Gains (Wednesday evenings)

Taxation of Property Transactions (Thursday evenings)

Intensive classes (Atax, 45 Beach St, Coogee, NSW):

Specific Tax Jurisdiction: Europe (31 March – 5 April)

Foundations in International Taxation (7-12 April)

For more information and an application form, visit

<http://www.atax.unsw.edu.au/study/contedu.htm>

http://www.atax.unsw.edu.au/news/171204_intensives.htm

or phone Atax Student Services on 02 93859333 or email ann.b@unsw.edu.au

Annual GST and Indirect Tax Weekend Workshop, Noosa. Atax hosts one of Australia's leading professional forums on GST between 14 – 17th April. Thirteen papers will be presented on a range of GST issues from a legal and technical perspective. Expert commentators from either the Corporate Taxpayers Association or the ATO stimulate debate following the presentation of each paper. If you would like more information about this workshop, please telephone Anna Bartholomaeus on 02 9385-9320 or email: anna.b@unsw.edu.au

Taxation Institute of Australia <http://www.taxinstitute.com.au/cda/cpd/events/1,1335,,00.html> lists many of the TIA conferences, conventions, seminars, breakfast clubs. 20th National Convention - Western Australia, 16 - 19 March 2005. For further enquiries, contact Sarah Hadfield by telephone on (02) 8223 0031, or by email by clicking <mailto:sarahhadfield@taxinstitute.com.au>

Taxation Law units of study available on a single unit "attendance only" basis through the **Faculty of Law, University of Sydney** for 2005.

We would like to advise you concerning special Taxation Law related units of study available during 2005. (Cost \$1,890 per unit). Units available are:

- * Australian International Taxation
- * Comparative Corporate Taxation
- * Comparative Income Tax
- * Comparative International Taxation
- * Corporate Taxation
- * Customs Law
- * Goods & Services Tax Principles
- * Netherlands International Tax
- * Stamp Duties
- * Tax Administration
- * Tax & Economic Development
- * Taxation of Financial Institutions & Financial Transactions
- * Tax Law in Asia and the Pacific
- * Taxation of Business & Investment Income A
- * Taxation of Business & Investment Income B
- * Tax of CFCs, FIFs and Transferor Trusts
- * Tax Treaties
- * Taxation of Corporate Groups
- * Taxation of Partnerships and Trusts
- * Taxation of Remuneration
- * The Impact of Tax on Business Structures & Operations
- * Transfer Pricing in Taxation
- * US International Taxation

To obtain a full copy of the brochure relating to Single Unit Enrolments in Taxation in 2005 please download the following document from the Faculty's website: <http://www.law.usyd.edu.au/cle/2005/2005TaxBrochure.pdf>

If you have any queries concerning single unit enrolment or are unable to download the brochure, please contact Ms Val Carey, Continuing Legal Education, Faculty of Law (Telephone No. 9351 0238), email: valc@law.usyd.edu.au (Val Carey, CLE 9/12/04)

Full details of the Law School's Postgraduate Programs may be found at <http://www.law.usyd.edu.au>, or alternatively you can telephone No. 9351 0351 for an information pack.

Seventeenth Annual Australasian Tax Teachers Association Conference 2005, January 2005, Victoria University of Wellington, Wellington, New Zealand. See item 2 of this News. Contact David White, David.White@vuw.ac.nz

3rd Annual Australian Tax Summit Conference 7th– 9th February 2005, The Grace Hotel, Sydney <http://www.lawfinance.com.au/Taxation/0502073aats/conference.htm> Speakers include:

Dick Warburton, *Chairman*, Board of Taxation
Steve Chapman, *Deputy Inspector-General of Taxation*,
Inspector-General of Taxation
Jim Killaly, *Deputy Commissioner*, Australian Taxation Office
Peter Coakley, *Assistant Commissioner*,
Large Business & International, Compliance Assurance,
Australian Taxation Office
David Grecian, *Assistant Commissioner, International Strategy and Operations*,
Australian Taxation Office
Tony Frost, *Director*, Greenwoods & Freehills
Alf Capito, *Partner*, Ernst & Young
Hayden Scott, *Partner*, Shaddick & Spence
Geoff Lehmann, *Tax Consultant*, PricewaterhouseCoopers
Mike Aitken, *Consultant*, Minter Ellison
Michael Frazer, *Partner*, PricewaterhouseCoopers

Barbara Phair, *Partner*, Blake Dawson Waldron
Andrew Howe, *Director*, Greenwoods & Freehills
Ken Fehily, *Director*, PricewaterhouseCoopers
Michael Bersten, *Partner Legal*, PricewaterhouseCoopers

Legal Ethics colloquium. We are planning a meeting of people interested in legal ethics to be held at Canterbury in early February 2005 (on the 9th and 10th of February) and are keen to include anyone from your institution. Your assistance would be appreciated.

Duncan Webb, University of Canterbury, Private Bag 4800 Christchurch 8020 New Zealand
duncan.webb@canterbury.ac.nz

29th Lawasia Biennial Conference, Lawasia Downunder 2005, 20-24 March 2005, Gold Coast, Queensland hosted by the Queensland Law Society <http://www.lawasiadownunder.com>

“The Challenge of Law in Asia: from Globalization to Regionalization?” Call for Papers

The 2nd Asian Law Institute (ASLI) Conference, 26 & 27 May 2005, Chulalongkorn University in Bangkok, Thailand. We warmly welcome you and your colleagues to submit papers for presentation at the conference. Please read on for details:

About ASLI The Asian Law Institute (ASLI) was established in March 2003 by twelve leading law schools in Asia (see names of law schools below). Its goal is to facilitate academic exchanges as well as research and teaching collaboration among colleagues from the founding institutions. The establishment of ASLI stems from the recognition that the diversity of legal traditions in Asia creates an imperative for Asian legal scholars to foster greater engagement with each other through collaborative research and teaching.

The founding institutions of ASLI are:

- Faculty of Law, Chulalongkorn University (Bangkok, Thailand)
- East China University of Politics and Law (Shanghai, People’s Republic of China)
- Faculty of Law, University of Hong Kong (Hong Kong, SAR, People’s Republic of China)
- Faculty of Law, University of Indonesia (Jakarta, Indonesia)
- Ahmad Ibrahim Kulliyah of Laws, International Islamic University of Malaysia (Kuala Lumpur, Malaysia)
- Faculty of Law, Kyushu University (Fukuoka, Japan)
- National Law School of India University (Bangalore, India)
- Faculty of Law, National University of Singapore (Singapore)
- College of Law, National Taiwan University (Taipei, Chinese Taipei)
- Peking University Law School, Peking University (Beijing, People’s Republic of China)
- College of Law, University of the Philippines (Manila, the Philippines)
- College of Law, Seoul National University (Seoul, Republic of Korea)

About the 2nd ASLI Conference 2005

One of ASLI’s principal activities is the convening of annual academic conferences to be hosted by its member institutions on a rotating basis. The conferences will examine contemporary legal issues of interest to Asian countries and will gather scholars and experts from the member institutions as well as from Asia and beyond. The conference will be held over two days, and the papers could be on any of the sub-themes listed below:

The Challenge of Law in Asia : from Globalization to Regionalization?

- A. Law and the Human Face of Globalization in Asia
 - A1 Environmental Protection
 - A2 Human Rights and Social Impact
 - A3 Intellectual Property and Access
- B. Global Economic Rules, Regional Integration and FTA
 - B1 Operationalizing WTO System in the Region
 - B2 The FTA Effect
 - B3 Competition and Consumer Protection
- C. Harmonization of Commercial and Taxation Law
 - C1 International Business Law and Practice
 - C2 Bankruptcy Law and Post 1997 Scenario
 - C3 Building Inter-State Taxation Regime
- D. Key Legal Developments in the Asian Region
 - D1 Challenges of International Law
 - D2 IT / e – Commerce and the Law

D3 Overcoming Transnational Crime
F. Open Forum for Topical Interest

All legal scholars are invited to attend and present papers whether they are from an ASLI founding member or from other institutions, and whether they come from within or outside Asia. Also, the conference is open to all whether or not they present a paper. The conference will be an excellent opportunity for scholars in Asian law from around the world to meet and exchange ideas and to form closer working and personal relationships.

More information can be found at www.law.chula.ac.th/asli. The registration form can be downloaded from <http://www.law.chula.ac.th/asli/download.html> and contains information such as submission of paper abstracts, hotel reservations, conference fees, social activities etc. We regret that no subsidies are available for expenditures such as air flights, hotel charges and conference fees. Details on the conference programme (speaker panels etc.) may be subject to change. If you require more information, please contact Dr.Pareena Srivanit of the Faculty of Law, Chulalongkorn University at asli@law.chula.ac.th

ASBBS Conference Join fellow Australasian business and behavioural scientists for the 2005 Annual Meeting of the Australasian Society of Business and Behavioural Sciences to be held in Pacific International Hotel, Cairns, Australia during August 5-7, 2005.

Conference Theme - *Academia and industry - Communication and dialogue*

Scholarship: The conference committee invites papers from all areas of Business and Behavioural Sciences. We are interested in papers that reflect applications of business and behavioural science research and scholarship to real-world business problems. Submit completed papers to the appropriate track chair with a copy to elias.shehadie@jcu.edu.au. The deadline for submission of papers is **February 28, 2005. Papers will be doubleblind reviewed.**

Papers may be submitted as follows:

Adee Athiyaman, **Conference Chair**, adee.athiyaman@jcu.edu.au

Greg Teal, Program Chair, New Zealand, greg.teal@uws.edu.au

Legal Studies: All Areas Colin Anderson andersoc@usq.edu.au

Thematic Paper and Keynote Speaker Competition: Separate proposals are invited on the conference theme "Academe and industry: Communication and dialogue".

Submit your complete paper to the Conference Chair by the deadline of February 28, 2005. The author of the best paper will be selected as the Keynote Speaker for the Annual Banquet of ABBSA with a special recognition. Further details may be obtained from the conference chair or at <http://ecommercial.jcu.edu.au/~cber/conferences.html>

Information can be found at <http://www.jcu.edu.au/flbca/public/business/cber/index.shtml>

Last date for early bird registration is 1 July 2005. For enquiries please contact the conference director Adee Athiyaman, Associate Professor - Marketing and Director, Centre for Business & Economic Research, p: +61 7 4781 5690, fax: +61 7 4781 6533

Eighteenth Annual Australasian Tax Teachers Association Conference 2006, January 2006, University of Melbourne Law School. Contact Miranda Stewart, m.stewart@unimelb.edu.au A location map of the Law School is available: <http://www.law.unimelb.edu.au/LawSchoolStreetPlan.jpg>

Overseas

American Accounting Association Calls for paper website <http://aaahq.org/calls/default.cfm>

Canadian Tax Foundation <http://www.ctf.ca/profDev/schedule1.asp> has a 2004 events schedule

Institute for Fiscal Studies Conferences and seminars

<http://www1.ifs.org.uk/conferences/index.shtml>

International Bureau of Fiscal Documentation Various courses in Amsterdam, the Netherlands. For details, see <http://www.ibfd.org> The IBFD International Tax Academy runs an extensive international course program. Generally all courses are held in Amsterdam. Should you require any further information or wish to register please refer to their web site www.ibfd.org or contact the International Tax Academy at +31-20-554 0160 or by e-mail ita@ibfd.org

Double Taxation Relief. Two-day intermediate course designed for anyone confronted with relief from double taxation under different tax systems and in different countries. You will become familiar with the various methods of double taxation relief and understand how the techniques operate. You will get to know the many difficulties and pitfalls of applying the various methods. Amsterdam, 03 & 04 February 2005

Introduction to European Customs and Excise Duties. Two-day introductory course that helps you understand the main issues involved in the application of customs law and excise duties within the European Union. You will gain valuable insight into the most important principles and learn how to deal with the customs and excise duties problems that arise in daily practice. Amsterdam, 10 & 11 February 2005

Interpretation and Application of Tax Treaties I. Three-day introductory course designed to give you a framework for understanding the main issues involved in the application of income tax treaties. The course is particularly useful for tax professionals who have experience of their national tax system, but who have now moved to an international department where they have to deal with treaties. Amsterdam, 21 - 23 February 2005

Interpretation and Application of Tax Treaties II. Two-day intermediate course for those who deal with double tax treaties on a regular basis and want a more in-depth understanding of some of the more complex issues raised by double tax treaties. This course is a perfect complement to Interpretation and Application of Tax Treaties I. Amsterdam, 24 & 25 February 2005

Corporate Financing. Two-day course providing participants with an in-depth analysis of the tax issues arising from the implementation of various cross-border corporate financing techniques. Amsterdam, 03 & 04 March 2005

Principles of Transfer Pricing. Two-day introductory course focussing on the most important principles of transfer pricing for tax purposes. You will obtain a good understanding of transfer pricing rules and will be able to identify transfer pricing issues in practice and design solutions to the most common transfer pricing problems. Amsterdam, 10 & 11 March 2005

Summer Course: Principles of International and Comparative Taxation. For newcomers in the world of cross-border taxation the ITA Summer Course is the best introduction you can get. Or it is a great course to refresh your memory! This course deals with the basic concepts and principles of international tax law and what the main current issues of international tax law are. You will acquire a structured understanding of the concepts and principles of international tax law. Amsterdam, 22 August - 02 September 2005

For 2005 courses go to http://www.ibfd.org/news/course_calendar.htm

The ITA also offers tailor-made in-house courses on a worldwide basis for corporate clients, tax administrations and other organizations. Should you have any queries, please contact Arcotia Hatsidimitris, Head of the International Tax Academy by telephone +31-20-554 0180, or by a.hatsidimitris@ibfd.org

International Tax Planning Association Forthcoming meetings <http://www.itpa.org/meetings.html>

International Atlantic Economic Society (IAES) conference. You can visit IAES's web site (www.iaes.org) for more information. Prof dr M. Peter van der Hoek Academy of Economic Studies, Bucharest, Romania and Erasmus University, Rotterdam, Netherlands. Mailing address: Erasmus University (L 7-20) P.O. Box 1738 NL-3000 DR Rotterdam Netherlands Phone/Fax: +31-10-4081622 E-mail: vanderHoek@frg.eur.nl 59th International Atlantic Economic Conference will be held in London, England, 9-13 March 2005

Symposium of the UCLA Law Review on Taxation, Inequality & Redistribution, January 28, 2005 Los Angeles, California, USA. Submission Deadline: June 30, 2004. The UCLA Law Review is soliciting submissions of papers for a symposium on "Taxation, Inequality & Redistribution." The symposium editors seek to bring together leading scholars and policy-makers interested in the role of

tax policy in addressing inequality and redistribution. Relevant empirical, institutional and theoretical research will be considered. The symposium will be held on January 28, 2005 at the UCLA School of Law in Los Angeles, California. Selected papers will have two or more discussants and will be published in a special issue of the UCLA Law Review in 2005.

Expenses: Travel (economy class round-trip) and accommodation expenses will be covered for academic speakers. Paper Submissions: Interested authors may submit either (i) a draft working paper, if available, or (ii) an abstract of the paper along with a brief but detailed description of the project. Submissions should be made by June 30, 2004. The authors of selected papers will be informed by August 1, 2004. Submissions should be sent to: Contact: Stephanie Hwang & Gabriel Brakin Symposium Editors, Volume 52 UCLA Law Review 405 Hilgard Avenue Los Angeles, CA 90095-1476 Email: MAILTO:HWANG2005@lawnet.ucla.edu MAILTO:BRAKIN2005@lawnet.ucla.edu

The University of North Carolina's Eighth Annual Tax Symposium April 1-2, 2005, Chapel Hill, North Carolina, USA Participation Deadline: None Provided. Submission Deadline: January 14, 2005. The University of North Carolina is organizing its eighth annual symposium designed to bring together leading tax scholars from economics, accounting, finance, law, political science, and related fields. The symposium will be held in Chapel Hill on Friday afternoon and Saturday morning, April 1 & 2, 2005, and will be sponsored by the KPMG Foundation. The goal is to bring together scholars from different areas who share a common interest in current tax research. Previous conferences have been very successful, and we anticipate the same this year.

Paper details: Papers should be well developed, but at a stage where they can still benefit from the group's discussion. The symposium will include no more than six papers. Travel and lodging expenses for presenters will be reimbursed up to \$500. Paper Submission Procedure: Please submit an electronic version of the paper no later than January 14, 2005 to: Contact: Professor Ed Maydew Email: MAILTO:Edward_Maydew@unc.edu Postal: Kenan-Flagler Business School University of North Carolina at Chapel Hill Campus Box 3490, McColl Building Chapel Hill, NC 27599-3490 Paper selection will be finalized by February 4, 2005.

European Association of Tax Law Professors Meetings and conferences <http://www.eatlp.org>
Naples 2-4 June 2005; Budapest 2006; Helsinki 2007

Other useful tax and law related conference websites include the **IBFD Course calendar** http://www.ibfd.org/news/course_calendar.htm **UNSW Faculty of Law Conference Calendar** http://www.law.unsw.edu.au/news_and_events/events/events.asp **New South Wales Bar Association** http://www.nswbar.asn.au/Professional/Noticeboard/ComingUp/contents_coming.htm **Law Council of Australia** <http://www.lawcouncil.asn.au/events.html> **Law Courts Library** <http://www.lawlink.nsw.gov.au/conference> **LexisNexis Professional Development Calendar of events** <http://www.lexisnexis.com.au/aus/conferences/calendar/default.asp> See also the *inTax* Seminars Directory, published in *inTax Magazine*. **Practising Law Institute** <http://www.pli.edu/> **New York County Lawyers Association** <http://www.nycla.org> **American Bar Association** <http://w3.abanet.org/home.cfm> **New York Bar Association** <http://www.nysba.org/> **Hieros Gamos Worldwide Law Events Calendar** http://www.hierosgamos.org/hg/db_meetings.asp?action=search <http://www.hg.org/calendar.html>

For social sciences and humanities conferences, meetings etc, see Mind: The Meetings Index <http://www.interdok.com/mind> See also the magazine *Australian Conference & Exhibition Diary*, Vamosi Information Publication.

7 Recent publications

Bold indicates ATTA members. Readers are encouraged to notify the Editor of recently written publications for notification, in these pages. Please note some of the overseas publications listed may not yet be available locally.

Local

Australian National Audit Office *Taxpayers' Charter Australian Taxation Office*, The Auditor-General
Audit Report No.19 2004–05

<http://www.anao.gov.au/WebSite.nsf/Publications/5D443BC082785B0DCA256F6C006F23D9>

(2004) 16(5) *Australian Superannuation Law Bulletin*

- Vrisakis, Michael "So they said you were ERFed (or how to get acronymed in a super way)"
- Mackenzie, Gordon "Treasury releases discussion paper: transiting to retirement"
- ATO News
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Comment - Countering Tax Avoidance Rt Hon Sir Ivor LM Richardson

Articles

Circumventing the Controlled Foreign Company and Foreign Investment Fund Regimes in Australia and New Zealand: Has Legitimate Tax Avoidance Been Possible? - Philip B Gurney

The Goods and Services Tax – Recurrent Compliance Costs and Benefits for Australian Small Business: A Case Study Approach - **Binh Tran-Nam and John Glover**

The Abracadabra Effect and Tax Avoidance - Comments on Inland Revenue's Exposure Draft

INA0009: Interpretation of Sections BG 1 and GB 1 of the Income Tax Act 2004 - Part 1

Eugen Trombitas

Finding Solutions for Taxing Electronic Commerce: A Consideration of Two Polarised Alternatives - Part 1 - **Dale Pinto**

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- Wolfers, Lachlan and Curkovic, Anetta "Washing away capital gains and inequities in applying Pt IVA"
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- "Consolidation and Group Taxation" - Anton Joseph
- India "Planning Inbound and Outbound Transactions with OECD And Non-OECD Countries" - Cym H. Lowell, Mark R. Martin, Ketan Dalal and Mrugen Trivedi
- Malaysia "A Goods and Services Tax" - Dr Jeyapalan Kasipillai and Dr Jonathan Baldry
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- "Equity and Debt Instruments: The New Definition in the Tax Reform and the Tax Consequences" Stefano Serbini and Paola Flora
- "Report on the Joint CFE/CEPS Seminar "Tax Competition versus Tax Harmonization" Paul Morton
- "Abuse of Law in France: Developments Regarding Financial Transactions" Thierry Pons and Clément Coirault-Quinquet
- Slovenia "New Group Taxation Regime" Lucie Vorlicková and Gregor Zorman
- United States "Societas Europaea and Other Entities Added to US Check-the-Box Regulations" JG Rienstra

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- European Union "Triangular Cases and the Interest and Royalties Directive: Untying the Gordian Knot? - Part 2" - Michele Gusmeroli
- "The Advocate General's Opinion in the "D" Case: Most-Favoured-Nation Treatment and the Free Movement of Capital" - Gerard T.K. Meussen
- France "Consolidating and Developing the French Advance Pricing Agreement Procedure" - Bruno Gibert
- Netherlands "Interaction between the Participation Exemption and the Principle of Compartmentalization: Portfolio Investments in the New EU Accession Member States" - Sarig Shalhav
- Norway "Norwegian Withholding Tax Contrary to Rules on Free Movement of Capital in EEA Agreement" - Andreas Bullen
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- Wolfman, Bernard " Twelfth annual Griswold Lecture before the American College of Tax Counsel: "Expert testimony on the law""

Timokhov, Vitaly "Dehybridization and antiabuse function of tax treaties and domestic law in cross-border transactions" (2004) 36 *Tax Notes International* 457-75

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8 Quotable quotes

States receive GST windfall

“In 2004-05, all states will receive a windfall over the Guaranteed Minimum Amount (GMA). Including the compensation for the annual payment of GST, the states will receive a total gain from tax reform of over \$1.9 billion more than the GMA. The GMA is an estimate of funding each state would have had available to it had tax reform not been implemented.

As the GST is a secure, growing and broad based revenue source, the states’ gain from tax reform is estimated to continue growing to around \$3.2 billion by 2007-08. This means that the Australian Government’s tax reform will deliver to the states an extra \$1.9 billion in 2004-05, growing to around \$3.2 billion in 2007-08, to spend according to their own priorities. States can use this additional funding for essential community services such as hospitals, schools, public transport, roads and police, and to lower their tax burdens”.

Australia, The Treasurer, Media Release, Canberra, 21 December 2004

“I think everybody is in favour of lower taxation. But you have got to pay for certain things. It’s a question of striking a right balance and we always do that”. Media conference, John Howard, 27 December 2004, as reported by Henderson, Gerard “Minority may yet tax majority,” *Sydney Morning Herald*, 11 January 2005, p 15. A transcript of this press conference can be found at: <http://www.pm.gov.au/news/interviews/Interview1182.html> (the relevant section can be found at the bottom of the page).

“The latest report from the Commonwealth Auditor-General, Pat Barrett, says the Australian Tax Office is not always good at its sums. Very large amounts of tax have gone uncollected over quite a few years and some will never be recouped”. “Uncertain taxes,” (Editorial), *Sydney Morning Herald*. 15-16/1/05, p40

ATTA News February 2005

<http://www.orange.usyd.edu.au/atta/newsletter.htm>

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ATTA website <http://www.orange.usyd.edu.au/atta>

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1 Presidential column

Oh what a splendid conference in Wellington. I would like to thank David White, David Dunbar, Andrew Smith, Barbara Cordes and Sarah Dunstan and the other members of staff at Victoria University for taking such special care of us. Thanks also to our plenary speakers, Graham Hill, David Butler and Kevin Holmes for their fascinating papers. Thanks also to John Prebble, our after dinner speaker, for a such a humorous accompaniment to our evening at the Skyline Restaurant. Most of all, I thank you the members for again participating and making this such a memorable conference.

Victoria University and Wellington not only offered some stunning views, boat trips and great food (what about the Sassy Red beer and sav blanc) but provided a perfect environment for us to run our numerous technical papers.

In relation to matters raised at our AGM (see minutes below) I will contact CPA Australia in relation to our correspondence to them in May 2003 and their response of March 2004. I again put forward our member views in relation to the changed entry requirements. I will advise you of their response.

Please keep me informed if the changed CPA Australia entry requirements has had a material impact at your institution.

Miranda Stewart from the University of Melbourne has kindly agreed to host the 2006 conference (book early to get your tickets for the tennis). Kerry Sadiq of the University of Queensland has also generously agreed to host the 2007 conference.

The new editorial Board/Committee is Miranda Stewart, Margaret McKerchar, Adrian Sawyer, Andrew Smith, Natalie Stoianoff and Dale Pinto. Many thanks to you all.

Special thanks also go to some long standing contributors to ATTA (where would we be without them?). Firstly, Colin Fong has provided an invaluable contribution to ATTA in providing the monthly newsletters. Secondly, Geoff Dobbs from CCH who has personally been a great supporter of ATTA and as you may know Geoff is retiring this year and he will be sorely missed. Thirdly, we are again deeply indebted to Graham Hill and his continual and valuable contributions to ATTA.

I lastly want to thank Tom Delany for his great contribution as our President over the last two years.

All the best for 2005

Paul Kenny

2 ATTA Conference 2005 reports

I attended the 17th ATTA conference in Wellington and was impressed with the quality of the various presentations and speakers. The conference was unique because it brought together taxation and education. Its informative doctoral and teaching workshops provided the opportunity to learn how to undertake a doctoral research, and to share the possibilities of technology to teach the students more effectively.

The quality of the papers presented at the conference was outstanding. I was amazed with the utter range of tax topics from “Legal Autopoiesis and the General Anti-Avoidance Rule” to “Taxation as a Possible Anti-Corruption Strategy in Kenya”. There were more sessions that I wanted to attend than there was available time.

ATTA was an impressive gathering of key tax researchers in Australasia. It was a wonderful opportunity to meet people whose works I have read. Most exciting was meeting a number of tax experts who had an interest in my PhD topic. What I loved most of all about the conference was that there was no sense of hierarchy in my experience. All attendees, both 'famous' and relatively unknown, were accessible, friendly, and supportive. This created a comfortable environment where people can easily interact and learn from each other.

It is always nice to meet new people, share ideas and learn from fellow tax experts. I would like to send my appreciation to Andrew Smith for helping me attend the conference. Thanks to all who organized this great conference, and to all the very friendly people who shared their thoughts and gave advice to me.

Alvin Cheng, Waikato University

I attended the ATTA conference in Wellington for the first time. 2004 was the first time I had taught tax so I felt that the conference would be of enormous benefit to me. I also decided to bravely present a paper about a topic I knew quite a bit about. I found the conference very instructive and friendly and when it came to giving my paper I felt quite relaxed about it. I learnt a tremendous amount about topics that were completely new to me. I found the first day extremely useful when a plenary session on research was undertaken. Wellington was very beautiful and the dinner venues out of this world. Thank you for a great conference.

Trish Blazey, Division of Law, Macquarie University

Having returned from beautiful New Zealand only last week I thought I would take this opportunity to thank the ATTA members and organisers for such a great conference. After enjoying a week of black-water rafting (Instead of a raft you have a tyre tube and you are

inside a limestone cave), zorbing (ie going inside a really big inflated plastic ball and rolling down a hill. They put warm water inside so you slosh around as you roll down) and close to 30-degree temperatures around the North Island, it has been difficult to start thinking about the fast approaching Semester 1. As a newcomer to academia, this was my first ATTA conference and I must say that it was certainly a standout of others I have attended in the past year. My feelings over the three days were that the ATTA is more than just an association but a community. The encouragement and support I saw among others and also in relation to my own career was inspiring and made me feel privileged to be a member. I thoroughly enjoyed the research and teaching workshops. It was comforting to know that many of the teaching issues we face as academics are common amongst institutions, (even across the Tasman). Again, it was clear that members actively supported each other and shared ideas and successes. Art was never my strong point, but I am working on my tree drawing skills for when I teach income vs. capital. The standard and variety of presentations and speakers was great and I enjoyed the opportunity to meet and attend presentations of those that I had studied under many years ago as a distance student. However, the memories of technical aspects were certainly matched by the laughs that were had at Days Bay as we battled each other over Gumboot Throwing and Tunnel Ball. I am sure I saw a tinge of jealousy (maybe it was shock) from colleagues back home when I described the activities of the farewell function. As a result of creating such a welcoming feel, I have already listed Wellington as a “must return to” destination. However, I am already looking forward to next year’s summer of tennis in Melbourne followed by another chance to catch up with all the great people I met this year!

Toni Brackin, Griffith University

This was only the second ATTA conference that I have attended and thoroughly enjoyed it. I was very impressed with the location, the quality of the various speakers and the variety of topics presented.

It was most enjoyable meeting up with lecturers from other institutes. Some I have known for several years and others I met for the first time. The friendly atmosphere at the conference helped.

The value of Wellington being crammed into a small area meant it was easy to get around to the various locations for the sessions, conference opening function and dinner and also enjoy Wellington’s scenery. The weather? Unbelievable!

Terry Donovan, Eastern Institute of Technology

Other interesting items arising from the ATTA Conference include:

The organisers, for the first time decided there would be a competition for the best conference papers. There were two judges, Chris Evans and Gordon Cooper, who adjudicated on the best conference paper, runner-up and most original conference paper. And the winners were:

Best ATTA Conference 2005 paper:

Miranda Stewart, University of Melbourne, *Venture capital entities and the commercialisation of intellectual property*

Best ATTA Conference 2005 paper runner-up:

John Prebble and Geraldine Hikaka, Victoria University of Wellington, *Legal autopoiesis and general anti-avoidance rules*

Most original ATTA Conference 2005 paper:

Bernadette Smith, University of Tasmania & Sonia Shimeld, University of Tasmania
Drawing accounting students into tax

A plaque made out of Rimu -a New Zealand native wood, was awarded to each recipient.

Re the weather. We had fine weather whilst in Wellington, and it did not appear to be too windy, during the ATTA conference. However after we left, I received this email from a New Zealand librarian, in Canterbury. "You were lucky to get in & out of Wellington last week - passengers have been camping out (or rather in) at Wellington airport for the last 2 days - planes grounded by fog". And Melbourne, after ATTA and the *Australian Open* (ie tennis) where the temperature plummeted to 12.9, a record low for February then 120mm of rain, the heaviest downpour ever recorded in one day. Sydney had wild storms whip across the city, causing blackouts, flooding and major property damage.

Taxi driver conversations, arriving and departing, from Wellington. On arriving, we were informed there was an earthquake, the week previous. Great! On departing, I was informed, whilst still dark, on the distant shoreline was a ship, used for filming the remake of *King Kong*.

3 ATTA AGM Minutes

Venue: Victoria University of Wellington, Pipitea Campus, Lecture Theatre 2

Date: 27 January 2005

Time: 10.50am to 12.10pm

Apologies: Dale Pinto, Natalie Stoianoff, Kerrie Sadiq, Duncan Bentley, David Smith, Rob Woellner, Dianne Harvey, Grant Richardson

Confirmation of minutes of the ATTA AGM, Adelaide, 31 January 2004. The Minutes as published in the ATTA News February 2004, see http://www.orange.usyd.edu.au/atta/newsletters/2004-02_ATTA_News.pdf were approved. Moved: David White; Seconded: Michael Dirkis

Business arising from the last AGM has been dealt with under separate headings below.

Correspondence: The Secretary reported there had been one item of correspondence from CPA Australia during the year in response to the President's original letter of 2 May 2003 and his email of 3 February 2004 confirming that taxation study was a requirement for CPA membership. Chris Evans noted that things have changed and Les Nethercott felt that CPA self learning does have implications for tax teaching. Members felt that the value of undergraduate education of taxation should be emphasised. Further direct communications with the CPA was suggested.

Action: The President

President's report

Introduction

It has truly been an honour and privilege to be president of the Australasian Tax Teachers Association for the past two years. I have enjoyed the opportunity to serve the association and make a contribution to its on-going success.

Conference Proceedings

At our 2004 AGM held at Flinders University we discussed the association's commitment to ensuring that the proceedings from each conference would be published in a refereed publication. The meeting confirmed that it was happy to support financially the publishing process. This matter was considered to be of high priority to members. Certain developments have been made in relation to this matter during the year but at this stage I cannot confirm that we have a concrete commitment from a publisher to publish our proceedings on an annual basis.

The approach that was taken in relation to publishing the proceedings was to firstly have the papers from the 2003 and 2004 conferences go through the refereeing process. In about June 2004 Natalie Stoianoff from Wollongong University advised us that the refereeing process on the 2003 papers was concluded and a little later in the year Paul Kenny and Margaret McKerchar advised us that the papers from the 2004 conference at Flinders University had been refereed.

Natalie Stoianoff on behalf of ATTA commenced negotiations with Thomson Publishing and subsequently CCH Australia about publishing the proceedings from the 2003 and 2004 conference. Quite a bit of time was involved in developing the proposal and making approaches to the relevant publishers. Natalie has prepared a separate report (which I will read) on the current state of play and the options available to us for publishing the proceedings.

Financial Accounts

Keith Anderson from Access Accounts is our auditor. Keith needed some additional information to finalise and audit the financial statements to 30 June 2004 but we were not in a position to provide that information to Keith prior to this AGM and so we cannot present an audited set of accounts to this AGM. The unaudited trial balance for the association at 30 June 2004 indicates that we had \$35,912.77 in our bank account. It is anticipated that the outstanding information should be available for Keith to complete the audit early in 2005.

Conference 2006

During the year Miranda Stewart from the Melbourne Law School, University of Melbourne, confirmed that they would be delighted to host the 2006 ATTA conference. The proposed dates of the conference are slightly later than usual and would run after the Australian Tennis Open:

Monday 30 January 2006 (Preliminary PhD and Teaching Workshops)

Tuesday 31 January 2006 (Day 1)

Wednesday 1 February 2006 (Day 2)

Alternatively, the PhD and Teaching Workshops could be held on the Wednesday if that was thought to be appropriate. Miranda is keen to include some international guest speakers also. See Miranda's memo in this meeting's proceedings.

Conference 2007

Kerrie Sadiq, University of Queensland, has indicated that the University of Queensland, Brisbane is very keen to host the ATTA 2007 conference.

Newsletter

It has been a pleasure for Colin and I (particularly Colin) to receive numerous requests from tax teachers to be included on the list of persons wanting to receive our monthly Newsletter. Colin puts in a tremendous effort in ensuring that the information is up to date and is comprehensive in its coverage including both local and international news. The newsletter contains a mixture of topical information, a listing of publications and up-coming events. I consider that the newsletter performs a vital role in disseminating information on a regular basis to all members. I would go so far to suggest that it has assisted in raising the profile of our association among our own members and created an element of enthusiasm for the association.

Concluding Remarks

I attended my first ATTA conference in 1994 at Coogee Beach and I was immediately impressed by the sense of collegiality in the association. During the technical sessions I noted the substantial amount of support given to young academics and those first time presenters, like myself. I find that the association gives me a real sense of belonging to a very worthwhile group of really swell people.

Wishing all members of the Australasian Tax Teachers Association every success!!!!

Tom Delany

Senior Lecturer in Taxation Law, Faculty of Business University of Southern Queensland
Toowoomba 4350 Phone: 07 46312903 Email: delany@usq.edu.au

Election of ATTA Executive:

President: Paul Kenny (Flinders University), moved: Cynthia Coleman, seconded: Rodney Fisher

Vice-Presidents: Dale Pinto (Curtin University of Technology), Shelley Griffiths (Otago University), Grant Richardson (City University of Hong Kong)

Secretary/Treasurer: Colin Fong (University of New South Wales)

A vote of thanks was given to the outgoing Executive

ATTA state representatives:

NSW: Celeste Black (University of Sydney); Vic: Ken Devos (Monash University); ACT: Mark Burton (University of Canberra); Southern Queensland: Kerrie Sadiq (University of Queensland); Nth Qld and Northern Territory: Justin Dabner (James Cook University); WA: Dale Pinto (Curtin University of Technology); SA: John Tretola (University of Adelaide); Tasmania: Bernadette Smith (University of Tasmania); NZ North Island: David White (Victoria University of Wellington); NZ South Island: Adrian Sawyer (University of Canterbury)

Accounts

See President's report. Keith Anderson was confirmed, to audit the books.

Publication of ATTA conference proceedings

The President presented and spoke on a report by Natalie Stoianoff to the meeting and a hard copy was made available to all attendees also. The meeting was able to understand the current state of play in relation to publication. The three proposals as Natalie identified were discussed and in addition the President had further discussions prior to the meeting with Geoff Dobbs from CCH. The meeting felt that as the publication was not commercial it may be difficult to go with the CCH proposal.

Prior to the meeting the President discussed widely with the members on an informal basis as to what may be the best way to proceed. He chatted with Cynthia Coleman, Chris Evans, Binh Tran-Nam, Steve Barkoczy and Adrian Sawyer in relation to publishing a special edition in an existing journal (Note that all these members have a current association with an existing journal) and most of these discussions were very encouraging with most journals very keen on chatting with us in relation to the publication of a special edition.

Based on the President's discussions with members prior to the AGM and his knowledge of Natalie's experiences with refereeing at Wollongong and Paul and Margaret's experiences at Flinders the President proposed that we establish an editorial board in ATTA that would take on primary responsibility for publishing the proceedings in association with the university that hosts the annual conference.

The proposal to establish an editorial board received unanimous approval and the membership of the board is Miranda Stewart (University of Melbourne), Margaret McKerchar (University of New South Wales, Atax), Adrian Sawyer (University of Canterbury), Andrew Smith (Victoria University of Wellington), Natalie Stoianoff (University of Wollongong) and Dale Pinto (Curtin University of Technology). This team has been charged with the responsibility of assisting with the publication of the 2003, 2004 and 2005 papers and having an ongoing responsibility to develop guidelines for papers presented at ATTA conferences and to manage the publication process.

Organisation of Doctoral and Teaching Workshops

David White, who organised and chaired the doctoral workshop, said that it had been particularly pleasing that 42 members had attended this trial workshop. Following presentations on what the research on Ph.D.s shows and the research scene in Australia and New Zealand, Chris Evans had given a supervisor's perspective and John Prebble an examiner's perspective. Seven doctoral candidates had then made short presentations. They were: Adrian Sawyer, Martha Smart, Brett Freudenberg, Michael Gousmett, Ern Chen Loo, Patrick Nolan and Maheswaran Sridaran. Most members who attended completed evaluation forms. Most were enthusiastic about the half-day (on a scale of one to five, 70% rated the overall quality of the workshop as excellent (step 1 on the scale) and 30% rated it good (step 2). For overall usefulness of the workshop, 60% rated it excellent, 33.33% good and 6.67% somewhat useful (step 3 on the scale). In their comments, many wanted the workshop repeated at future conferences with some saying half a day was too short and others saying that they wanted more time devoted to the supervisor's and examiner's perspectives (the Prebble and Evans presentations).

The teaching workshop, which was organised and chaired by Margaret McKerchar, was attended by 46 members. Presentations were made by Katherine Ritchie, Sonia Shimeld and Bernadette Smith, Cynthia Coleman, John Prebble, Brett Freudenberg, Helen Hodgson, and Justin Dabner. From the evaluations, it is clear that many wanted this workshop repeated at future conferences and some wanted it expanded to a full day. On a scale of one to five, 80.77% rated the overall quality as excellent and 19.23% rated it good. For overall usefulness of the workshop, 57.69% rated it excellent and 42.31% good.

David White made the point that it was not realistic to have a full day doctoral workshop and a full day teaching workshop at each conference. While it was up to the conference organisers to decide the conference programme, options they might consider would be to focus on particular topics each year or to alternate the workshops, year and year about. Chris Evans made another suggestion: have the doctoral workshop (excluding candidate presentations) for the first half of the day with doctoral presentations taking place in the second half of the day

concurrently with the tax teaching workshop. Katherine Ritchie supported having a separate tax teaching stream at each conference.

Confirmation of ATTA Conference 2006. Offers for 2007

See the President's report.

Other matters

The ATTA website. Members are urged to send corrections to Margaret McKerchar m.mckerchar@unsw.edu.au and the ATTA website will soon be relocated to the Atax website <http://www.atax.unsw.edu.au> Details to follow.

Attachment to the minutes

To ATTA Board
CC: Melbourne Law School Tax Group
From Miranda Stewart
Senior Lecturer, Melbourne Law School
Date 21 October 2004

ATTA Conference 2006 – Melbourne Law School

I am organizing, with my colleagues at Melbourne Law School, the ATTA Conference 2006. The venue will be Melbourne Law School, University of Melbourne, Carlton, Melbourne.

Proposed Dates of Conference

The Conference is usually held in the last week of January each year. In Melbourne at that time, this coincides with the *Australian Tennis Open 2006* (which runs from Monday 16 January – Sunday 29 January). We obviously want to take advantage of this coincidence to encourage members of ATTA to attend the conference and see a bit of tennis at the same time. However, if we were to hold the ATTA conference in the last week of January, this would overlap with some of the most exciting tennis days (towards the end of the competition).

I propose that we hold the ATTA Conference slightly later than usual, on the following dates immediately after conclusion of the Australian Open:

Monday 30 January 2006 (Preliminary PhD and Teaching Workshops)
Tuesday 31 January 2006 (Day 1)
Wednesday 1 February 2006 (Day 2)

Alternatively, the PhD and Teaching Workshops could be held on the Wednesday if that was thought to be appropriate.

International Guest Speakers

The timing of the ATTA Conference adjacent to the Australian Open may assist us in bringing international guests (apart from our NZ members!) to the Conference. This has not been done a great deal in the past, but I have received expressions of interest from UK, US and Canadian tax academics in visiting Melbourne at that time. I think this could add an extra dimension to the Conference which would enhance it greatly.

I realize that it is all a long way off, but I wanted to bring these issues to the ATTA Board early so that we can decide a date at or before the 2005 ATTA Conference and I can proceed with organization from early next year.

Miranda Stewart
m.stewart@unimelb.edu.au

4 Arrivals, departures and honours

John Passant has been promoted in the ATO to the position of Assistant Commissioner, International New Measures Team and Taxation of Residents Practice. He has responsibility within the ATO for all international new measures as they are developed and legislated. This includes the reform of international tax arrangements measures. He also has responsibility for the business as usual aspects of the foreign source income tax system, including attribution regimes, foreign tax credits and various exemptions. In addition John has carriage of some major international administrative projects such as the International Data Collection Project and the ATO international website re-development.

The Atax Fellows for 2005 include the following people with their specialties.

Abe Greenbaum fellow: Kim Brooks, assistant professor, University of British Columbia, *Canada and Australia's tax treaty policy towards developing countries*, August 2005.

Monica Chowdry, lecturer, King's College, London, *GST and Restitution (Recovery of overpaid taxes)*, 8 August to 16 September 2005.

Ann Hansford, senior lecturer, University of West England, *VAT/GST, Corporate tax reform, Environmental tax*, November-December 2005.

Ross Seller, formerly a partner and tax specialist with Gadens Lawyers, has joined Abbott Tout Lawyers, heading up their Tax & Revenue practice, in Sydney.

Mark Leibler, Senior Partner of Arnold Bloch Leibler, Melbourne, was appointed a Companion in the General Division of the Order of Australia in the 2005 Australia Day Honours list. The appointment was made in recognition of his 'service to business, to the law, particularly in the areas of taxation and commercial law, to the Jewish community internationally and in Australia, and to reconciliation and the promotion of understanding between indigenous and non-indigenous Australia'.

5 Melbourne and Sydney

In response to the item on tax holdings in Australia, in the *ATTA News*, January 2005, I received the following response, and received a verbal response in Wellington from another.

“Your explanation for library holdings is not correct. Deakin has the best tax law research collection in the country because I order at least one book a week and often up to 3 a week and the library is willing to fund the research collection to support our doctoral students.

BUT, many other libraries should have many of the volumes. Many of the key volumes such as Edgar's book are provided as part of the membership of the Canadian Tax Foundation. Deakin is NOT the only library in Australia subscribing to this. However, all other libraries have forgotten to send back the request card that came with their subscription. The journals are stuck on the shelves and the librarian staff simply toss out the cards that entitle them to the most important tax volumes published. Thus, a very high percentage of the inter-library loans for Edgar's book, to use this example, come from institutions that have already paid for their own copy but which never claimed it as part of their subscriptions. Academic staff at those

institutions find it easier to borrow on inter-library loan than to deal with their library staff and try to fix the problems.”

Rick Krever

6 Australian and New Zealand tax and related PhDs and SJDs completed and in progress

In the *ATTA News* for December 2002 and March 2004, I published a list, which contained *Australian and New Zealand tax and related PhDs and SJDs completed and in progress*. During the past year, a number of PhD's were completed and I found out about others, which were not on the original lists. Please notify me of any, which have commenced or have been completed and or have been accepted for publication. I hope to issue a new list in April or May 2005. See the earlier issues for information required ie Author, Title of thesis, Institution, Supervisor/s, expected date of completion (optional). For completed ones, if published, please supply the title, place of publication, publisher, date of publication. If available electronically, please supply the URL.

7 ALTA Revenue Law Interest Group 2004 report

Once again, the Revenue Law Interest Group presented highly successful sessions at the ALTA Conference in Darwin 2004. Two sessions involving presentations of four papers each of a very high quality, with 11 attendees providing considerable feedback and interaction between the presenters and audience were given.

Dr Julie Cassidy led off with a paper on "To GARR or not to GARR...", a comparative analysis of the Australian and Canadian general anti-avoidance income-tax provisions, drawing on the Canadian provisions to suggest a number of possible improvement in the Australian Part IVA.

Associate Prof Michael Walpole presented a paper on "Goodwill -- the use of intangibles on transfer pricing", including an interesting case study on the streaming of royalties through offshore CFC subsidiaries. The paper exposed a serious loophole in the current Australian provisions, and suggested ways in which this could be remedied.

Ian Iredale's paper on "The underlying structure of legislation: GST", built on his previous work with electronic flowcharts and looked at the key structural elements of the GST legislation, using electronic "road maps".

I presented a paper on "Why settle for second-best: some thoughts on improving sec 263", which looked at defect in the current income-tax access powers given to ATO officers, and suggested possible improvements based on other existing Australian provisions.

The Revenue Law Interest Group continues to prove highly successful, with a relaxed atmosphere and very high quality of papers -- at least two of the papers presented at ALTA have subsequently been submitted for publication in technical journals.

Robin Woellner

Source: *ALTA Newsletter* Autumn 2005, p 8

8 Tax, Accounting, Economics and Law Related Meetings

Local

Atax Continuing Education classes in taxation are suitable for those wishing to update their skills without assessment tasks or exams. Classes are held evenings 6-8pm, AGSM, 10'Connell Street, Sydney or by a intensive short course (5 days) at Atax.

Evening classes in the CBD begin in Session 1 2005:

(6-8pm, AGSM, 10'Connell Street, Sydney, NSW)

Tax Policy (Monday evenings)

Tax Strategies in Financial Planning (Monday evenings)

Taxation of Corporations (Tuesday evenings)

Taxation of Capital Gains (Wednesday evenings)

Taxation of Property Transactions (Thursday evenings)

Registration closing date: February 25

Intensive classes (Atax, 45 Beach St, Coogee, NSW):

Specific Tax Jurisdiction: Europe (31 March – 5 April)

Foundations in International Taxation (7-12 April)

For more information and an application form, visit

<http://www.atax.unsw.edu.au/study/contedu.htm>

http://www.atax.unsw.edu.au/news/171204_intensives.htm

or phone Atax Student Services on 02 93859333 or email anna.b@unsw.edu.au

Annual GST and Indirect Tax Weekend Workshop, Noosa. Atax hosts one of Australia's leading professional forums on GST between 14 – 17th April. Thirteen papers will be presented on a range of GST issues from a legal and technical perspective. Expert commentators from either the Corporate Taxpayers Association or the ATO stimulate debate following the presentation of each paper. Registration forms are available from www.atax.unsw.edu.au/news/events.htm If you would like more information about this workshop, please telephone Anna Bartholomaeus on 02 9385-9320 or email: anna.b@unsw.edu.au

Taxation Institute of Australia

<http://www.taxinstitute.com.au/cda/cpd/events/1,1335,,00.html> lists many of the TIA conferences, conventions, seminars, breakfast clubs. 20th National Convention - Western Australia, 16 - 19 March 2005. For further enquiries, contact Sarah Hadfield by telephone on (02) 8223 0031, or by email by clicking <mailto:sarahhadfield@taxinstitute.com.au>

Taxation Law units of study available on a single unit "attendance only" basis through the **Faculty of Law, University of Sydney** for 2005.

We would like to advise you concerning special Taxation Law related units of study available during 2005. (Cost \$1,890 per unit). Units available are:

- * Australian International Taxation
- * Comparative Corporate Taxation
- * Comparative Income Tax
- * Comparative International Taxation
- * Corporate Taxation
- * Customs Law
- * Goods & Services Tax Principles
- * Netherlands International Tax
- * Stamp Duties
- * Tax Administration
- * Tax & Economic Development
- * Taxation of Financial Institutions & Financial Transactions
- * Tax Law in Asia and the Pacific

- * Taxation of Business & Investment Income A
- * Taxation of Business & Investment Income B
- * Tax of CFCs, FIFs and Transferor Trusts
- * Tax Treaties
- * Taxation of Corporate Groups
- * Taxation of Partnerships and Trusts
- * Taxation of Remuneration
- * The Impact of Tax on Business Structures & Operations
- * Transfer Pricing in Taxation
- * US International Taxation

To obtain a full copy of the brochure relating to Single Unit Enrolments in Taxation in 2005 please download the following document from the Faculty's website: <http://www.law.usyd.edu.au/cle/2005/2005TaxBrochure.pdf>

If you have any queries concerning single unit enrolment or are unable to download the brochure, please contact Ms Val Carey, Continuing Legal Education, Faculty of Law (Telephone No. 9351 0238), email: valc@law.usyd.edu.au (Val Carey, CLE 9/12/04)

Full details of the Law School's Postgraduate Programs may be found at <http://www.law.usyd.edu.au>, or alternatively you can telephone No. 9351 0351 for an information pack.

Eighteenth Annual Australasian Tax Teachers Association Conference 2006, 30 January-1 February 2006, University of Melbourne Law School. Contact Miranda Stewart, m.stewart@unimelb.edu.au A location map of the Law School is available: <http://www.law.unimelb.edu.au/LawSchoolStreetPlan.jpg>

Working with statutes Friday, 18 March & Saturday, 19 March 2005 Venue: The Westin Hotel Sydney; dinner on Saturday Fort Denison. The New South Wales Bar Association in conjunction with the Australian Bar Association will be hosting this seminar. Details are available at http://www.nswbar.asn.au/cpd_pdfs/Working%20with%20Statutes.pdf

29th Lawasia Biennial Conference, Lawasia Downunder 2005, 20-24 March 2005, Gold Coast, Queensland hosted by the Queensland Law Society <http://www.lawasiadownunder.com>

Australian Society of Legal Philosophy Annual Conference, 29 April - 1 May 2005, Law School, University of New South Wales CALL FOR PAPERS. The theme of the conference will be *Constitutions, Sovereignty and Democracy*. The keynote speakers will be: *Professor Sir Neil MacCormick* (University of Edinburgh and Freehills Visiting Professor, UNSW) and *Professor Jeff Goldsworthy* (Monash) on common law constitutionalism. The subject of the book symposium will be *Indigenous Sovereignty and the Democratic Project* by *Steven Curry* (Ashgate, 2004). As usual, papers on any topic in legal theory and the philosophy of law, as well as papers related specifically to the conference theme, will be most welcome. Offers of papers (including an abstract of no more than 100 words) should be sent to the Secretary, Professor Peter Cane at peter.cane@anu.edu.au as soon as possible and certainly no later than 25 March 2005.

“The Challenge of Law in Asia: from Globalization to Regionalization?” Call for Papers The 2nd Asian Law Institute (ASLI) Conference, 26 & 27 May 2005, Chulalongkorn University in Bangkok, Thailand. More information can be found at www.law.chula.ac.th/asli. The registration form can be downloaded from <http://www.law.chula.ac.th/asli/download.html> and contains information such as submission of paper abstracts, hotel reservations, conference fees, social activities etc. We regret that no subsidies are available for expenditures such as air flights, hotel charges and conference fees.

Details on the conference programme (speaker panels etc.) may be subject to change. If you require more information, please contact Dr.Pareena Srivanit of the Faculty of Law, Chulalongkorn University at asli@law.chula.ac.th

The Australasian Law Teachers Association Conference, 5 - 8 July 2005, Hamilton, New Zealand. Submission Date for Abstracts: 11 May 2005. As nation-states struggle with internal diversity while globalisation demands harmonisation, the issue of legal uniformity is one which resonates across all subjects and jurisdictions. From the foreshore of New Zealand to the deserts of Iraq we see controversial decisions justified on the basis of democracy, the rule of law and legal equality, but does one size fit all? With the aid of leading speakers from New Zealand, Australia and around the globe ALTA 2005 will explore the question of: One Law for All? This is a call for Indigenous Peoples & the Law Interest Group papers. You are invited to use the webform to submit abstracts at <http://www.alta2005.waikato.ac.nz> . If you do not wish to use the webform, you can download a copy of the webform and fax your submission. Proposals for papers etc for the Revenue Law Interest Group can be sent to Robin Woellner at robinhw@hotmail.com

ASBBS Conference Join fellow Australasian business and behavioural scientists for the 2005 Annual Meeting of the Australasian Society of Business and Behavioural Sciences to be held in Pacific International Hotel, Cairns, Australia during August 5-7, 2005.

Conference Theme - *Academia and industry - Communication and dialogue*

Scholarship: The conference committee invites papers from all areas of Business and Behavioural Sciences. We are interested in papers that reflect applications of business and behavioural science research and scholarship to real-world business problems. Submit completed papers to the appropriate track chair with a copy to elias.shehadie@jcu.edu.au. The deadline for submission of papers is **February 28, 2005. Papers will be doubleblind reviewed.**

Papers may be submitted as follows:

Adee Athiyaman, **Conference Chair**, adee.athiyaman@jcu.edu.au Greg Teal, Program Chair, New Zealand, greg.teal@uws.edu.au **Legal Studies:** All Areas Colin Anderson andersoc@usq.edu.au

Thematic Paper and Keynote Speaker Competition: Separate proposals are invited on the conference theme "Academe and industry: Communication and dialogue".

Submit your complete paper to the Conference Chair by the deadline of February 28, 2005.

The author of the best paper will be selected as the Keynote Speaker for the Annual Banquet of ABBSA with a special recognition. Further details may be obtained from the conference chair or at <http://ecomm-trial.jcu.edu.au/~cber/conferences.html>

Information can be found at <http://www.jcu.edu.au/flbca/public/business/cber/index.shtml>

Last date for early bird registration is 1 July 2005. For enquiries please contact the conference director Adee Athiyaman, Associate Professor - Marketing and Director, Centre for Business & Economic Research, p: +61 7 4781 5690, fax: +61 7 4781 6533

Nineteenth Annual Australasian Tax Teachers Association Conference 2007, January 2007, University of Queensland Law School. Contact Kerrie Sadiq, k.sadiq@law.uq.edu.au

Overseas

American Accounting Association Calls for paper website <http://aaahq.org/calls/default.cfm>

Canadian Tax Foundation <http://www.ctf.ca/profDev/schedule1.asp> has a 2005 events schedule.

Fifty-Seventh Tax Conference, 25-27 September, Vancouver Hyatt Regency

Institute for Fiscal Studies Conferences and seminars

<http://www1.ifs.org.uk/conferences/index.shtml>

International Bureau of Fiscal Documentation Various courses in Amsterdam, the Netherlands. For details, see <http://www.ibfd.org> The IBFD International Tax Academy runs an extensive international course program. Generally all courses are held in Amsterdam. Should you require any further information or wish to register please refer to their web site www.ibfd.org or contact the International Tax Academy at +31-20-554 0160 or by e-mail ita@ibfd.org

Corporate Financing. Two-day course providing participants with an in-depth analysis of the tax issues arising from the implementation of various cross-border corporate financing techniques. Amsterdam, 03 & 04 March 2005

Principles of Transfer Pricing. Two-day introductory course focussing on the most important principles of transfer pricing for tax purposes. You will obtain a good understanding of transfer pricing rules and will be able to identify transfer pricing issues in practice and design solutions to the most common transfer pricing problems. Amsterdam, 10 & 11 March 2005

Investing in South Asia. Get a more in-depth understanding of the tax and regulatory considerations in the South Asia region, particularly India. This conference also focuses on a number of key sectors, such as business process outsourcing, the software industry and investment in infrastructure.
21 & 22 April - Conference

Summer Course: Principles of International and Comparative Taxation. For newcomers in the world of cross-border taxation the ITA Summer Course is the best introduction you can get. Or it is a great course to refresh your memory! This course deals with the basic concepts and principles of international tax law and what the main current issues of international tax law are. You will acquire a structured understanding of the concepts and principles of international tax law. Amsterdam, 22 August - 02 September 2005

For 2005 courses go to http://www.ibfd.org/news/course_calendar.htm

The ITA also offers tailor-made in-house courses on a worldwide basis for corporate clients, tax administrations and other organizations. Should you have any queries, please contact Arcotia Hatsidimitris, Head of the International Tax Academy by telephone +31-20-554 0180, or by a.hatsidimitris@ibfd.org

International Tax Planning Association Forthcoming meetings

<http://www.itpa.org/meetings.html>

International Atlantic Economic Society (IAES) conference. You can visit IAES's web site (www.iaes.org) for more information. Prof dr M. Peter van der Hoek Academy of Economic Studies, Bucharest, Romania and Erasmus University, Rotterdam, Netherlands. Mailing address: Erasmus University (L 7-20) P.O. Box 1738 NL-3000 DR Rotterdam Netherlands Phone/Fax: +31-10-4081622 E-mail: vanderHoek@frg.eur.nl 59th International Atlantic Economic Conference will be held in London, England, 9-13 March 2005

The University of North Carolina's Eighth Annual Tax Symposium April 1-2, 2005, Chapel Hill, North Carolina, USA Participation Deadline: None Provided. Submission Deadline: January 14, 2005.

The University of North Carolina is organizing its eighth annual symposium designed to bring together leading tax scholars from economics, accounting, finance, law, political science, and related fields. The symposium will be held in Chapel Hill on Friday afternoon and Saturday

morning, April 1 & 2, 2005, and will be sponsored by the KPMG Foundation. The goal is to bring together scholars from different areas who share a common interest in current tax research. Previous conferences have been very successful, and we anticipate the same this year.

Paper details: Papers should be well developed, but at a stage where they can still benefit from the group's discussion. The symposium will include no more than six papers. Travel and lodging expenses for presenters will be reimbursed up to \$500. Paper Submission Procedure: Please submit an electronic version of the paper no later than January 14, 2005 to: Contact: Professor Ed Maydew Email: Edward_Maydew@unc.edu Postal: Kenan-Flagler Business School University of North Carolina at Chapel Hill Campus Box 3490, McColl Building Chapel Hill, NC 27599-3490 Paper selection will be finalized by February 4, 2005.

European Association of Tax Law Professors Meetings and conferences

<http://www.eatlp.org> Naples 2-4 June 2005; Budapest 2006; Helsinki 2007

Tax Research Network (TRN) Annual Conference, “*Tax in a changing world*,” Edinburgh University, Edinburgh, Scotland, 8-9 September 2005.

http://users.wbs.ac.uk/group/trn/home/whats_new Abstracts, or full papers, if available, should be sent in electronic format by e-mail for consideration in the first instance to the conference organizer Sandra Eden (s.eden@ed.ac.uk) The deadline for submission of abstracts is 31 March 2005. Presenters will be informed as soon as possible after that whether their papers have been accepted. If not provided initially, full papers will be required by 31 July 2005 to allow time for conference packs to be compiled.

Other useful tax and law related conference websites include the **IBFD Course calendar**

http://www.ibfd.org/news/course_calendar.htm **UNSW Faculty of Law Conference Calendar** http://www.law.unsw.edu.au/news_and_events/events/events.asp **New South Wales Bar Association** http://www.nswbar.asn.au/Professional/Noticeboard/ComingUp/contents_coming.htm **Law Council of Australia** <http://www.lawcouncil.asn.au/events.html> **Law Courts Library** <http://www.lawlink.nsw.gov.au/conference> **LexisNexis Professional Development Calendar of events** <http://www.lexisnexis.com.au/aus/conferences/calendar/default.asp> See also the *inTax* Seminars Directory, published in *inTax Magazine*. **Practising Law Institute** <http://www.pli.edu/>

New York County Lawyers Association <http://www.nycla.org> **American Bar Association** <http://w3.abanet.org/home.cfm> **New York Bar Association** <http://www.nysba.org/> **Hieros Gamos Worldwide Law Events Calendar**

http://www.hierosgamos.org/hg/db_meetings.asp?action=search
<http://www.hg.org/calendar.html>

For social sciences and humanities conferences, meetings etc, see Mind: The Meetings Index <http://www.interdok.com/mind> See also the magazine *Australian Conference & Exhibition Diary*, Vamosi Information Publication.

9 Recent publications

Bold indicates ATTA members. Readers are encouraged to notify the Editor of recently written publications for notification, in these pages. Please note some of the overseas publications listed may not yet be available locally.

Local

Australia. Attorney-Generals Department. On 8 February 2005, the Attorney-General announced the release of a discussion paper canvassing options to improve the operation of the existing 'clawback' provisions and Division 4A of Part VI. Comments on the discussion paper should be provided to ITSA by 31 March 2005. Insolvency and Trustee Service Australia <http://www.itsa.gov.au>

(2005) 16 (6) *Australian Superannuation Law Bulletin*

- Stanhope, Bill "Superannuation choice of fund – carve-outs for State awards, AWAs and certified agreements"
- Wall, Marita "Interdependency: the unanswered question"
- Charaneka, Scott and Heape, Braydon "Interdependent relationships – a radical change?"
- ATO News
- Super News
- Bourke, Stephen "Super splitting: Is an in specie transfer an SMSF super split a related party transaction?"
- Riordan, Gary "Super cases: Flanagan v Australian Prudential Regulation Authority [2004] FC 1321 (15 October 2004); BC200406833 and Deputy Commissioner of Taxation (Cth) v Rathner [2004] VSC 352 (24 September 2004); BC200406311)

Australian Taxation Office. The Tax Office has released Practice Statement PS LA 2005/1 to advise on the type of work which is to be referred to its International Strategy and Operations (ISO) and the method of referral. ISO is part of the Large Business and International business line, but incorporates a subject-based Centre of Expertise (the International Centre of Expertise) and has cross-business line responsibilities.

The practice statement deals with:

- what is an "international" issue
- mandatory corporate processes, and
- other referrals.

The statement is available at:

<http://law.ato.gov.au/atolaw/view.htm?docid=PSR/PS20051/NAT/ATO/00001> Source: CCH Daily Email Alert "Referral of work to Tax Office International Strategy and Operations," Tuesday, 25 January 2005

Alley, Clinton; Maples, Andrew; Veal, John & Polson Higgs & Co *New Zealand taxation*, Wellington, Brookers, 2004

Bean, Gerry & Sprott, Jonathon "Code Red: personal liability of directors for their company's tax debts" (2005) 79 (1&2) *Law Institute Journal* 52-57

Cassidy, Julie *Corporations law: text and essential cases*, Leichhardt, NSW, Federation Press, 2005

Cassidy, Julie "Emergence of the individual as an international juristic entity: enforcement of international human rights" (2004) 9 *Deakin Law Review* 533-72

(2005) 3 *CCH Tax Week*

- **Blissenden, Michael** "Review of the self assessment – more fairness and certainty or taxpayers?"

Compliance Costs Database This database holds a summary of major published studies of taxation operating costs since the 1980s by reference to geographic location.

<http://www.atax.unsw.edu.au/compliance/cc.php>

Families Matter, 9th Australian Institute of Family Studies Conference, Melbourne, 9-11 February 2005 Proceedings <http://www.aifs.gov.au/institute/afrc9/papers.html>

Harris, Garth; **Ohms, Chris**; Plunket, Casey; **Sharp, Audrey** & Smith, Nigel *Income tax in New Zealand*, Wellington, Brookers, 2004

Kobetsky, Michael; **O'Connell, Ann** and **Stewart, Miranda** *Income tax: text, materials and essential cases*, 5th ed, Leichhardt, NSW, Federation Press, 2005

Lynch, Damien "UNSW fast-tracks KPMG tax graduates," *Australian Financial Review*, 18 February 2005, p 58

Nielson, Leslie *Superannuation ready reckoner: taxation and preservation rules for 2004–05—revised February 2005*, Research Brief no. 10 2004–05, Economics, Commerce and Industrial Relations Section <http://www.apf.gov.au/library/pubs/rb/2004-05/05rbAbstracts.htm#05rb10>

Pocket brief to the Australian tax system. On Wednesday 2 February 2005, Commonwealth Treasury released a further updated version of its "Pocket Brief to the Australian Tax System", initially released on 21 December 2004 and revised as 24 January 2005. The 2 February 2005 revised version, amends the rates of excise duty for goods classified to each item of the Schedule to the Tariff Act as announced in Commonwealth Gazette No. GN 4. The revised *Pocket Brief to the Australian Tax System* is available on the Treasury Web site <http://www.treasury.gov.au>

Reynolds, Rocque & **Stoianoff, Natalie** *Intellectual property: text and essential cases*, 2nd ed, Leichhardt, NSW, Federation Press, 2005

Stewart, Miranda & Flynn, Michael with contributions on GST by **Krever, Rick** *Death & taxes*, Sydney, Australian Tax Practice, 2004

(2005) 39 (7) *Taxation in Australia*

- Earle, Neil "Issues & Agendas"
- Rowland, Noel "CEO's message"
- Taxwrite Services "Technical News"
- Taxwrite Services "Tax Tips: The new self assessment initiatives"
- Murphy, Terry "Litigation – riding the beast"
- Kelly, John and Kelly, Sharon "Uniform capital allowances ...3 years later"
- **Fong, Colin** "How to conquer tax research: making the most of online resources"
- Mann, Geoff & McMahon, Janina "GST – real property, real issues, Part 1:"
- Smedley, Daniel "A matter of trusts"
- Blackwood, Cameron "Tax case: *Marana Holdings Pty Ltd v Commissioner of Taxation* [2004] FCAFC 307"
- Penning, Rhys "Tax case: *The Recoveries Trust v Commissioner of Taxation* [2004] AATA 1075"
- Sudano, John & Ketsakdis, Chris "Q&A: choice of fund"
- Czulowski, Teague "Member profile"
- Events calendar: February –March

Trethewey, Jane "Entertaining deductions" (2005) 79 (1&2) *Law Institute Journal* 78-79.
Casenote on *Commissioner of Taxation v Amway Australia Ltd* [2004] FCAFC 273

(2005) 3 *Weekly Tax Bulletin*

- Speed, Robin "Div &A: When do loans repayable on demand become statute barred? –Pt I"
- Eager, John "Searching the ATO's register of "Private Binding Rulings""

(2005) 4 *Weekly Tax Bulletin*

- Speed, Robin "Div &A: When do loans repayable on demand become statute barred? – Pt II"
- Williams, Glen; Mason, Stef and Rankin, Fiona "ATO access to Tax Risk Management materials – Practice Statement offers little relief"
- Williams, David "New Year optimism"

Overseas

Berall, Frank S "Tax consequences of unmarried cohabitation" (2004)23 *QLR* 395-409
(Quinnipiac University School of Law)

Bulletin for International Fiscal Documentation No. 3 (2005)

- "Will the OECD Initiative on Harmful Tax Competition Help Developing and Transition Countries?" Charles E. McLure, Jr.
- "Spain's Holding Company Regime" Prof. Adolfo J. Martín Jiménez
- "Agreement between Switzerland and the European Union on the Taxation of Savings -- A Balanced "Compromis Helvétique" Prof. Xavier Oberson
- "Agreement between Switzerland and the European Union on the Taxation of Savings -- A Balanced "Compromis Helvétique" Prof. Xavier Oberson
- "The Duke of Westminster Still Lives in South Africa (But Is Very Careful When He Crosses the Road)" Ernest Mazansky
- "Russia: Tax and Currency Control Aspects of Outbound Investments" Victor Borodin and Vladimir Gidirim

Cheffins, Brian R *The trajectory of (corporate law) scholarship*, Cambridge, UK, Cambridge University Press, 2004

Derivatives & Financial Instruments No 1 (2005)

- Luxembourg - Investment Company in Risk Capital ("SICAR"): Response to Venture Capital and Private Equity - Claude Kremer and Thierry Lesage
- GST and Financial Services: International Practice and Difficulties - Karen Tan
- Cross-Border Repatriation of Dividends: Tax Neutral in the European Union? Susan Bell
- Australia Regulators to the Rescue: On-Sale of Securities and the Obligation to Disclose - Anton Joseph
- Implementation of the Interest and Royalty Directive - Robert Schneider
- Australia - Securitization and Goods and Services Tax - Anton Joseph

European Taxation No 3 (2005)

- European Union - Triangular Cases and the Interest and Royalties Directive: Untying the Gordian Knot? - Part 3 Michele Gusmeroli
- Ships and Taxes: Does the Case of Commission v. Netherlands Have Tax Implications? Christiana HJI Panayi
- Who Knows the Riddle of Know-How? Spain Becomes Entangled in the Web of Intangibles - Alejandro García Heredia
- Software and Tax Treaties: Considerations on Taxation at Source - Juan Francisco Rodríguez
- The Belgian Advance Ruling Procedure: Recent Experience and Greater Efficiency and Flexibility from 2005 - Henk Vanhulle
- Reform of Company and Shareholder Taxation in Norway - Thor Leegaard
- The Portuguese Budget Law for 2005 - Focus on Tax Avoidance - Adelaide Passos and Rui Camacho Palma

International VAT Monitor No. 1 (2005)

- Editorial “Centralization - luxury or necessity?”
- “Intra-Community VAT Carousels” Christian Amand and Frederik De Rick
- “VAT Exemption for Medical Care” Joep Swinkels
- “Involuntary and Statutory Supplies - The Australian GST Base Narrows” **Richard Krever**
- “Securitization - The Position of SPVs under Australian GST” Anton Joseph
- “Impact of Walter Sudholz on Special Measures” Joep Swinkels
- “Focus on Serbia” Jeroen Bijl and Tanja Unguran
- “Practical Information on European VAT” Fabiola Annacondia and Walter van der Corput

Markovits, Inga “Exporting law reform – but will it travel? (2004) 37 *Cornell International Law Journal* 95-114

(2004) 88 (1) *Marquette Law Review* Special issue

- McChrystal, Michael K “Wisconsin tax policy: serious flaws, compelling solutions
- Marotta, Marc J “Taxing thoughts”
- Morgan, Michael L “The Department of Revenue perspective”
- Fox, William F “The ongoing evolution of state revenue systems”
- Pomp, Richard D “State tax reform: proposals for Wisconsin”
- McGaffey, Jere D “Wisconsin tax policy within a federal system”
- Lindsey, Vada Waters “The vulnerability of using tax incentives in Wisconsin”
- Bugher, Mark D “Comments on the value of state tax incentives”
- Reschovsky, Andrew “The taxpayers bill of rights: a solution to Wisconsin’s fiscal problems or a prescription for future fiscal crises?”
- Norman, Jack “Is there really a property tax crisis?”
- Haney, James S “Comments on taxpayer bill of rights”
- Czarnezki, Joseph J “A local government view of TABOR”
- Butera, Michael “Comments on taxpayer bill of rights”
- Huck, Edward J “Tiebout or Samuelson: the 21st century deserves more”

Penalver, Eduardo Moises “Regulatory taxings” (2004) 104 *Columbia Law Review* 2182-2254

Rands, William J “Corporate tax – the agony and the ecstasy” (2004) 83 *Nebraska Law Review* 39-78

Rege, Sameer R *Applied general equilibrium analysis of India's tax and trade policy*, Dartmouth, UK, Ashgate, 2003

10 Quotable quotes

“Tax relief for those on middle and higher incomes? Forget it, at least not until closer to the next election”.

“On tax, the Government has been happy for its backbenchers to examine options for reforms, including personal income-tax cuts for those hit by the top tax rates and tax incentives to move people from welfare to work. Don’t hold your breath, though, for speedy delivery”.

“Howard and Peter Costello are expected to discuss some time soon just what they want to do on tax. They will consider plans put to them by the Liberal backbenchers, including Senator Mitch Fifield and the Victorian MP Sophie Panopoulos, and if there is sufficient revenue a new round of cuts could be included in next year’s budget or for the election the year after.”

Source: Dodson, Louise “Hard reform too taxing in the short term,” *Sydney Morning Herald*, 1 February 2005, p 11

“The OECD also notes that commendable progress has been made towards reforming tax but issues remain. The OECD says that the priority for tax reform should be simultaneous continuation of policies which contribute to the lowering of high effective marginal tax rates and the raising of the threshold at which the maximum marginal income tax rate cuts in, consistent with Budgetary objectives. And the Government would agree with that assessment and that it is important that we continue the steps that we have put in place to improve the interaction between the tax and welfare system. And we agree with raising the threshold at which the maximum marginal income tax rate cuts in and we will be raising that on 1 July 2005.

So whilst this is a glowing report of the state of the Australian economy and the reform which has taken place to date, it is important that we continue here in Australia to get on with the reform programme particularly in areas of tax, industrial relations, welfare reform – with many of the initiatives which we have already flagged and which we will have better opportunity to put in place with a better Senate after 1 July of this year”.

Source: Costello, Peter Press Conference, Treasury Place, Melbourne, Thursday, 3 February 2005, 10.15 am SUBJECTS: OECD Report; air warfare destroyers.
<http://www.treasurer.gov.au/tsr/content/transcripts/2005/006.asp>

Taxation: Goods and Services Tax
(Question No. 159)

Senator Murray asked the Minister representing the Minister for Revenue and Assistant Treasurer, upon notice, on 2 December 2004:

(1) Does the Government regard the following as binding on the Government and the Parliament: (a) section 1-3 of A New Tax System (Goods and Services) Tax Act 1999; and (b) section 10 of A New Tax System (Commonwealth-State Financial Arrangements) Act 1999.

(2) Has the Government and/or any minister obtained legal advice relating to the validity of, or the constitutional impact of either: (a) section 1-3 of A New Tax System (Goods and Services) Tax Act 1999; (b) section 10 of A New Tax System (Commonwealth-State Financial Arrangements) Act 1999; or (c) the Intergovernmental Agreement on the Reform of Commonwealth-State Financial Relations; if so, will the Minister provide this advice.

Senator Coonan—The answer to the honourable senator’s question is as follows:

(1) (a) and (b) Section 10 of A New Tax System (Commonwealth-State Financial Arrangements) Act 1999 refers to the Intergovernmental Agreement on the Reform of Commonwealth-State Financial Relations (the IGA), which was signed by the Australian Government and all state and territory leaders in 1999. The IGA reconfirmed section 1-3 of A New Tax System (Goods and Services) Tax Act 1999 that all GST revenue would be provided to the states and territories, and that any changes to the rate and base of the GST would require the agreement of all states and territories. The Australian Government is committed to the IGA and hence considers section 1-3 of A New Tax System (Goods and Services) Tax Act 1999 and section 10 of A New Tax System (Commonwealth-State Financial Arrangements) Act 1999 binding.

(2) (a), (b) and (c) The Australian Government sought legal advice on numerous matters relating to the introduction of the GST at the time The New Tax System was being developed and has sought further legal advice on various matters related to tax reform since that time. Successive governments have adopted the practice of not disclosing the legal advice they receive. The Government does not intend to depart from that practice. In relation to the request to provide this advice, I note that Senate Standing Order 73 prohibits questions that ask for legal opinion (Order 73(1)(j)).

Source: Australia. Parliament. Senate. Parliamentary Debates, 8 February 2005, Daily Hansard, p 157 <http://www.aph.gov.au/hansard/senate/dailys/ds080205.pdf>
From KPMG *Daily Tax News*, 11 February 2005

(10) Question in writing: Taxation policy

On 6 December 2004, the Shadow Parliamentary Secretary for Defence, Mr John Edwards, asked the Federal Treasurer, Mr Peter Costello, in writing, the following taxation policy question (question No. 297):

"Is it the case that income earned by Australian resident taxpayers derived from service in the Joint Petroleum Development Area is taxed by the Government of East Timor and is also assessable under subsection 6-5(2) of the Income Tax Assessment Act 1997; if so, will he explain why this income is taxed by both governments."

On Thursday 10 February 2005, Mr Costello answered the question as follows:

"Income derived by an Australian resident from service in the Joint Petroleum Development Area is subject to Australian tax and may also be taxed by the Government of East Timor. However, no unfair double impost exists because in these circumstances Australian residents will receive a foreign tax credit for any East Timor tax paid up to the amount of the Australian tax payable in respect of that income."

[House Hansard, Thursday 10 February 2005, proof copy p.108]

11 Jurisprudential Perspectives of Income Tax Law: Invitation to Course in May 2005

Professor John Prebble: 11 - 14 May 2005.

Auckland University of Technology warmly invites members of the Australasian Tax Teachers Association to attend Professor Prebble's innovative masters block course, Jurisprudential Perspectives of Income Tax Law, over four days, May 11 to 14, 2005. Several members of Australian and New Zealand faculties attended this course in 2004. All warmly recommend it to their colleagues.

Professor Prebble presented a paper on the course at the 2005 ATTA teaching workshop, where it attracted a great deal of interest. The course examines income tax law from the perspective of a number of jurisprudential theories, including natural law, postivism, autopoiesis, Kant's theory of the categorical imperative, Fuller's study of legal fictions and Dicey's and more modern authors' work on the rule of law.

A limited number of places are available to tax teachers. AUT is pleased to invite ATTA members to register to attend the course as auditors, free of charge. A book of readings will be circulated in advance. The AUT campus is in Wellesley Street East, in the centre of Auckland. There is plenty of reasonably priced accommodation nearby.

Please direct enquiries to Associate Professor Chris Ohms at AUT (Chris.Ohms@aut.ac.nz) or to Professor Prebble (> John.Prebble@vuw.ac.nz).

A working description of the course follows

Jurisprudential Perspectives of Income Tax Law

Course developer

John Prebble, BA, LLB (Hons) Auckland; BCL Oxon; JSD Cornell; Inner Temple, Professor and former Dean of Law at the Victoria University of Wellington. www.vuw.ac.nz/~prebble ; john.prebble@vuw.ac.nz .

Broad description

The course examines income tax law from the perspective of a number of schools of jurisprudence. Most of the syllabus is based on theories of law or on legal analysis, for instance natural law; Kelsen and other positivists, autopoiesis theory, and fictions. A smaller number of classes consider jurists of more sociological or politico-economic schools, such as Epstein, Rawls, Hayek and Unger.

A significant theme is that income tax law may be seen as qualitatively different from other areas of law and that jurisprudential theory can shed light on the reasons for and the nature of this difference. That is, while the course gives some time to the political and social policy aspects of income tax law, its main thrust is in legal theory.

The course studies legal theory through the lens of reports of decided cases, choosing mainly cases that turn on the distinction between capital and revenue. The cases in the syllabus on following pages are mainly from the United Kingdom and Australia. An appendix lists a sample of United States cases that might be added for comparison or for an American audience.

Main features

An advanced course in income tax law and jurisprudence.

Prerequisite: an undergraduate course in income tax law. Previous study of jurisprudence can be an advantage.

Duration of teaching hours: between about 18 and 30, depending on syllabus configuration.

Level: LLM or senior undergraduate.

Syllabus and materials

1. Introduction

- 1.1. Harris, JW *Legal Philosophies* London Butterworths 1980 1 - 5.
- 1.2. Prebble, John "Why is Tax Law Incomprehensible?" [1994] *British Tax Review* 380-393.
- 1.3. White, Patricia D (ed) "Contents" and "Introduction" from Volume 1, *Tax Law* (1995) ix - xvii.

2. Legal and economic concepts of income

- 2.1. Prebble, John, *Asomatous Income*, (1995) Institute for Taxation and Business Law, Conference Paper Fourth Annual New Zealand, - Pacific Tax and Business Law Conference, Tonga, 1995.
- 2.2. Thuronyi, Victor "The Concept of Income" (1990) 46 *Tax Law Review* 45. The following pages only: "Introduction" 45 - 46; "Nature of the income concept: the Haig-Simons tradition 48 - 53; "Specific problems in defining income" 64 - 92.

3. Income redistribution: socialism and social justice

- 3.1. Rawls, John "The Main Idea of the Theory of Justice" and other extracts from *A Theory of Justice* (Cambridge, Mass: The Belknap Press of Harvard University Press 1971) 11 – 303, excerpted in Smith, JC and David N Weisstub (eds) *The Western Idea of Law* (Canada: Butterworth & Co Ltd, 1983) 479 – 490.
- 3.2. Hayek, Friedrich A. von "The Atavism of Social Justice", in *Social Justice, Socialism, and Democracy: Three Australian Lectures*, Centre for Independent Studies, Turramurra, N.S.W. 1979. 3 – 15.
- 3.3. Hayek, Friedrich A. von "'Social' or Distributive Justice" Chapter 9 of *Law, Legislation and Liberty, Volume 2, The Mirage of Social Justice* London : Routledge and Keegan Paul, 1973, 62 – 106.

4. Ectopia and fictions

- 4.1. Prebble, John "Income taxation, a structure built on sand" (2002) 24 *Sydney Law Review* 301 - 317.
- 4.2. Prebble, John *Fictions of Income Tax Law*, (2002) Working Paper No 7 Centre for Accountancy, Governance and Taxation Research, Wellington.
- 4.3. Priban, Jiri "Legalist Fictions and the Problem of Scientific Legitimation" (2003) 16 *Ratio Juris* 14 - 36.
- 4.4. *Strick (Inspector of Taxes) v Regent Oil Co Ltd* [1966] AC 295 HL. Headnote 295 - 296 and judgment of Lord Reid 310 - 326 only.

5. Form and substance

- 5.1. Salmond, John W *Jurisprudence* 3rd ed London 1910. "Law logically subsequent to the administration of justice" 12 - 14; "Defects of the Law", 23 - 27 (especially formalism, p 25).
- 5.2. Isenbergh, Joseph "Musings on Form and Substance in Taxation" (1982) 49 *Chicago Law Review* 859, 863 - 883 only.

- 5.3. *IRC v Wesleyan & General Assurance Society* (1948) 30 TC 11 - 27 CA &HL; [1948] 1 All ER 555 HL.
- 5.4. *Commissioners of Inland Revenue v John Lewis Properties plc* [2003] Ch 513-551, [2002] EWCA Civ 1869.
- 5.5. *BP Australia Ltd v FCT* [1966] AC 224, PC. Headnote 224 - 227 and judgment of Lord Pearce 260 - 274 only.
- 5.6. *Strick (Inspector of Taxes) v Regent Oil Co Ltd* [1966] AC 295 HL. Judgment of Lord Reid only. Printed earlier in these materials.
- 5.7. *Heather v P-E Consulting Group Ltd* (1972) 48 TC 293 CA. Headnote 293 - 294 and judgments 320 - 329 only.

6. Positivism

- 6.1. Austin, John, *Austin on Jurisprudence* ed Campbell, Vol 1 (London; John Murray 1885) 86 – 227 excerpted in Smith, JC and David N Weisstub (eds) *The Western Idea of Law* (Canada: Butterworth & Co Ltd, 1983) 510 - 518.
- 6.2. Prebble, John *Advance Rulings on Tax Liability* (Wellington 1986) 48 - 49.
- 6.3. Kelsen, Hans “What is the Pure Theory of Law?” (1960) 34 *Tulane Law Review* 269 - 276.

7. Natural law

- 7.1. Prebble, Rebecca, *Naturalism and Neo-Naturalism* (2003) unpublished paper.
- 7.2. Sabine, George H, *A History of Political Theory* (1937 New York, Holt Rinehart and Winston) 163 – 173, (On Cicero) excerpted in Smith, JC and David N Weisstub (eds) *The Western Idea of Law* (Canada: Butterworth & Co Ltd, 1983) 345 – 351.
- 7.3. Dias, R.W.M. “Natural Law”, from *Jurisprudence* 5th ed, London, 1985, pages 78 - 85, Machiavelli to Democracy & Kant, 475 - 476. (Readers should focus on Locke, 81 - 83.)
- 7.4. Epstein, Richard A “Taxation in a Lockean World” 4 *Social Philosophy and Policy* 49 - 74.

8. Evasion, and the evasion/avoidance interface

- 8.1. Prebble, John “Criminal law, tax evasion, shams, and tax avoidance: Part i - Tax evasion and general doctrines of criminal law” (1996) 2 *NZ Journal of Taxation Law and Policy*, 3-16.
- 8.2. Prebble, John “Criminal law, tax evasion, shams, and tax avoidance: Part i i - Criminal law consequences of categories of evasion and avoidance” (1996) 2 *NZ Journal of Taxation Law and Policy*, 59-74.
- 8.3. Green, Stuart P. “Introduction” and “B. Cheating and Criminal Offenses”, from “Cheating” (2003) Draft, forthcoming in *Law and Philosophy*, pages 1 - 3 and 35 - 44 only.

9. Statutory interpretation

- 9.1. Unger, RM *Law in Modern Society* (1976 New York, The Free Press, 192 – 203, excerpted in Smith, JC and David N Weisstub (eds) *The Western Idea of Law* (Canada: Butterworth & Co Ltd, 1983) 617 – 623.

- 9.2. Prebble, John “Should tax legislation be written from a ‘principles and purpose’ point of view or a ‘precise and detailed’ point of view?” [1998] *British Tax Review* 112-123. Readers familiar with the author’s ectopia thesis may prefer to begin at page 117.
- 9.3. *Duke of Westminster v IRC* [1936] AC 1 HL, only the following: headnote 1 - 2, Lord Tomlin 19 - 21, Lord Russell of Killowen 21 - 25.
- 9.4. *MacNiven (Inspector of Taxes) v Westmoreland Investments Ltd* (2001) 73 TC 1 HL. Summary pages 1 - 6 and judgment of Lord Hoffman pages 60 to 78.
- 9.5. *CIR v Mitsubishi Motors New Zealand Ltd* [1995] 3 NZLR 513 - 520 PC.

10. Autopoiesis

- 10.1. Teubner, Gunther “Introduction to Autopoietic Law” in Teubner, Gunther, *Autopoietic Law: a New Approach to Law and Society* (1987, de Gruyter, Berlin, New York), 1, 1 – 11 only.
- 10.2. Francois Ost, “Between Order and Disorder: the Game of Law”, in Teubner, Gunther, *Autopoietic Law: a New Approach to Law and Society* (1987, de Gruyter, Berlin, New York) 70, 70 – 83 only.
- 10.3. Ladeur, Karl-Heinz “The Theory of Autopoiesis as an Approach to a Better Understanding of Postmodern Law” (1999) European University Institute Working Paper, Law No 99/3 3 - 44, 3 - 18 only.
- 10.4. Prebble, John “Autopoiesis of Income Tax Law: a Problem for Reform” draft article, fragment only.
- 10.5. *IRC v Wesleyan & General Assurance Society* (1948) 30 TC 24 CA &HL; [1948] 1 All ER 555 HL. Printed earlier in these materials.

11. Kant: the categorical imperative

- 11.1. Dias, R.W.M. “Natural Law”, from *Jurisprudence*, extracted and printed earlier in this volume.
- 11.2. Bird, Graham “Kant, Immanuel” in Hondereich, Ted *The Oxford Companion to Philosophy* Oxford 1995 435, “The categorical imperative” 436 - 437.

12. The general anti-avoidance rule from several jurisprudential perspectives

- 12.1. Prebble, John “Ectopia, formalism, and anti-avoidance rules in income tax law” (1994) in W. Krawietz N. MacCormick & G.H. von Wright (eds) *Prescriptive Formality and Normative Rationality in Modern Legal Systems*, Festschrift for Robert S. Summers, Duncker and Humblot, Berlin, 367-383.
- 12.2. Reflections on the general anti-avoidance rule
 - The only way to derive a rule is by induction from a number of cases. One cannot derive a rule by deduction from a single case.
 - Hypothesis: From a rule of law point of view, the test of the quality of a GAAR should be the same as the test of fiscal nullity or of the United States common law avoidance rule or the Continental abuse of rights. No one says that these are a breach of the rule of law. So why should the same rule in statutory form be a breach?
 - Rawls says that two wrongs can make a right. See extract in Smith & Weisstub. Does this consideration afford comfort to proponents of a GAAR?
 - Richardson, Ivor LM “Appellate court responsibilities and tax avoidance” (1985) 2 *Australian Tax Forum* 3

Sample of questions for class preparation: class on Kelsen

- a) *Does income tax law comply with the law of contradiction (271)?*
One could argue that it does not. Cases where virtually same facts come to opposite results.
- b) *Why is the pure theory of law so called (272)?*
(a) Law is only ought statements, not is statements.
(b) Law is distinguished from ethics or morals.
- c) *How does income tax law demonstrate the dichotomy between law and morals?*
Duke of Westminster. Rowlatt J .
- d) *Is the separation of law and ethics the reason for the absence of morality from tax law?*
No. Law can coincide with morality, as Kelsen points out. But income tax law cannot. Why? Ectopia.
- e) *Why does Kelsen mean by saying that law is created by human will, not human reason (274).*
- f) *Are there examples in tax law where reasoning proceeds illogically from is to ought (275)?*
Small examples: Taxpayer treats an item as capital: argued that this is a reason for saying that it (ought to be and therefore) is capital. Eg, *Federal Coke*. Company has power to do x or y in its constitution as a trading operation. Therefore it is a trading operation. *Miramar Land*.

Topics under review for development and possible addition to the course

Coherence theory: Dworkin, McCormick, Raz.

Gotlob Frege: theory of sense and reference, empty names

The fiscal paradox: in tax design, equity and simplicity are in conflict.

Popper: the problem of induction.

Causation in taxation: deductibility of interest.

History: origins of the tax base.

Honouring and ignoring the corporate veil in tax cases.

Examples of United States cases that might be added for American audiences or for comparative study

Helvering v Gregory 69 F 2d 809 (2d Cir 1934) affirmed 293 US 465 (1935).

Commissioner v Court Holding Co 324 US 331 (1945).

Goldstein v Commissioner 364 F 2d (2d Cir 1966) certificate denied 385 US 1005 (1967).

Waterman Steamship Corp v Commissioner 430 F 2d 1185 (5th Cir 1970) certificate denied 401 US 939 (1971).

ATTA News March 2005

<http://www.orange.usyd.edu.au/atta/newsletter.htm>

Editor: Colin Fong, Faculty of Law, The University of New South Wales

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ATTA website <http://www.orange.usyd.edu.au/atta>

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1 Vice-Presidential column

Greetings from Hong Kong!

Now that I am based in Hong Kong, it is my pleasure to act as a voice for ATTA in the South-East Asia Region. Please let me know if you have any ideas that you would like me to pursue up here.

It might be interesting to provide members with a basic run-down on the current state of play of the Hong Kong tax system. It is currently made up of three major taxes: (1) income tax (including a salaries tax, profits tax and property tax), (2) estate duty and (3) stamp duty. However, it has been just announced in the Budget on 16 March 2005 by the Financial Secretary of Hong Kong, Mr. Henry Tang, that the estate duty has been earmarked for abolition. This is interesting because it is the only real tax on wealth in Hong Kong and given the nature of the income tax base, which is extremely narrow and the tax rate, which is only 16%, it seems that this is unfair from the standpoint of the poor members of Hong Kong society. I wonder if such a dramatic move favouring the rich would occur in Australia?

I noticed in the *Sydney Morning Herald* newspaper on 14 March 2005 that the Liberal party millionaire Mr. Malcolm Turnbull has challenged his own government to crack down on tax avoidance by the rich and give everyone else tax cuts. Mr. Turnbull who is the new Federal MP for the Sydney seat of Wentworth and worth approximately \$AUD125 million, stated that the poor were paying too much tax while the rich were able to avoid it altogether. The *Sydney Morning Herald* quoted Mr. Turnbull as stating that: "You hear the same people wandering around saying: you should have a tax cut at the top and fund it by cutting social welfare." Mr. Turnbull then went on to say that: "This is a ridiculous proposition." Apparently, Mr. Turnbull also said there would be less incentive for tax avoidance with lower tax rates.

This all certainly represents food for thought in both Hong Kong and Australia with the seemingly contrasting positions on tax avoidance. It will be interesting to see what eventuates. Watch this space!

Best wishes to you all,

Grant Richardson

2 Correspondence with the CPA

22 February 2005

Ann Johns
Business Unit Leader – Education
CPA Australia
Level 28
385 Bourke Street
Melbourne
Victoria 3000

Dear Ann,

Re: Changed membership requirements from 1 January 2004 – CPA Australia

I am writing to you on behalf of the Australasian Tax Teachers Association (ATTA) Our members consist of tax teachers in Australian and New Zealand universities. I refer to our previous correspondence between yourself and ATTA regarding the changed membership requirements from 1 January 2004 that removed the requirement to study Australian taxation law at undergraduate level for entry into the associate membership of the CPA Australia.

At our recent annual general meeting held on 27 January 2005 this issue was of considerable concern to ATTA members. Our members expressed concern about the impact of this change on the overall level of tax education in Australia.

Specifically the change means:

- A graduate joining CPA Australia now only has to complete one unit of tax at a post graduate level. The CPA self learning based unit is fundamentally different to an undergraduate university tax topic. Previously the requirement was to complete two units: one at undergraduate level and another tax at post graduate level. There is a concern about the maintenance of the former standard of tax education. The growth in tax complexity means that there is a growing need for a broader level of tax education.
- There are differences in the standard of technical difficulty and breadth of issues between a post graduate level such as the CPA Program tax course that is designed for students with no prior tax experience, as opposed to a post graduate tax program that requires exposure to an undergraduate tax unit.
- Undergraduate units provide a broad background by examining such issues as tax policy, statutory interpretation and case analysis in addition to the coverage of the taxation statutes.
- Another concern relates to timing. The timing issue concerns a person, who has not completed tax previously and has just finished (December of any year) a single degree or double degree at university without tax, generally will not be able to do the CPA tax course until they complete a CPA program core course in the first instance. This core course could be completed in the first semester of the following year assuming that a person only takes one course per semester (we have been advised that normally only one course is completed at that time). This would mean that the earliest a person could commence to do the CPA Tax course would be July of the year following the completion of their university studies and finishing four months later in the following November. This may mean that a person who having

finished their single degree or double degree may find it difficult to work (find a job) in a tax environment until they have completed some tax studies. In other words an employer who wishes to employ a person with tax knowledge may not choose the person with a single degree or double degree that does not contain a tax component if there is another person who with a degree but has completed tax at undergraduate level. The person adhering to the changed entry requirements may have a timing disadvantage in that they really want to work in a traditional accounting environment but that they may not be as attractive as a person with the relevant tax knowledge to a prospective employer.

I would gratefully receive any further comments that you would like to make on this issue. The views put forward by our members are made in our joint interests being the furtherance of professionalism and the highest standard of education for our future tax professionals. We would appreciate it if our concerns were conveyed to the membership committee of CPA Australia.

Yours Faithfully,

Paul Kenny
President- Australasian Tax Teachers' Association.

3 ATTA Editorial Board

As noted in the *ATTA News* February 2005, the proposal to establish an Editorial Board received unanimous approval at the ATTA AGM held on 27 January 2005. The membership of the Board is Miranda Stewart (University of Melbourne), A/Prof Margaret McKerchar (University of New South Wales, Atax), Adrian Sawyer (University of Canterbury), Andrew Smith (Victoria University of Wellington), A/Prof Natalie Stoianoff (University of Wollongong) and A/Prof Dale Pinto (Curtin University of Technology).

The Board has been charged with the responsibility of assisting with the publication of the 2003, 2004 and 2005 papers and having an ongoing responsibility to develop guidelines for papers presented at ATTA conferences and to manage the publication process.

The inaugural meeting of the Board was held by a telephone hookup between Board members on 1 March 2005. This meeting was extremely productive and was a logistical success in connecting people in Perth, Melbourne, Sydney and New Zealand all at the same time. Many good ideas and suggestions regarding the publication of ATTA papers, organisation of the Board, style guidelines etc were discussed and good progress is being made on the conference papers noted above. Special thanks to Miranda Stewart for organising this inaugural meeting.

At the time of writing, the Minutes were being finalised and will then be sent to the ATTA Executive. More information should be available for the April 2005 ATTA News, and it was agreed that one of the roles of the Board would be to keep all members informed via regular updates in ATTA News, so watch this space!

Dale Pinto

4 17th Annual Australasian Tax Teachers' Association Conference papers now archived in PANDORA

Dear Colin,

Thank you for supplying a CD of the papers presented at the recent 17th Annual Australasian Tax Teachers' Conference. We have loaded the CD into PANDORA and the content has now been archived. In the past we listed individual papers from each conference as there was no other directory listing of these (i.e. the Conference did not have a website that contained a listing of the papers presented so we could not point to this directory). This meant we had no alternative but to provide hyperlink access to each individual paper we archived in order to create a directory of the papers. This

is not normal practice for us as conferences often contain numerous presentations and it would be very time consuming to provide this level of access for each conference we archive. I also believe it tends to bury the content as the presentation page can become very cluttered over time.

As this year's conference did have a directory listing of individual papers and their respective authors I have not provided a separate listing of these in PANDORA. To search for individual papers you will need to simply click on the link <http://pandora.nla.gov.au/pan/23524/20050225/index.html> and then navigate through the programme. I can see no value in replicating this directory again on the title's entry page in PANDORA. If however, future conferences again have no directory listing we will again list the papers (and authors) individually. At present the search engine used in PANDORA is not very adequate but we expect to have a much better one in place in the near future. This will give you an alternative method for searching for papers produced by particular authors.

I welcome any comments you have about the presentation of the conference papers in PANDORA.

Thank you for your continuing support of PANDORA.

Best regards,

Fiona Ash Relf
Digital Archiving Section
National Library of Australia
Canberra ACT 2600
ph: +61 2 6262 1471
fax: +61 2 6273 4492
email: fashrelf@nla.gov.au

5 Arrivals, departures and honours

Michael Kobetsky, in addition to teaching tax at the Australian National University, since mid 2004, has been teaching tax at the University of Melbourne Law School.

A/Prof Binh Tran-Nam (team leader), A/Prof Neil Warren, Matthew Wallace and Nolan Sharkey presented papers at the *Tax System Reforms in Korea and Australia* Conference in Seoul on 14 March 2005. The conference was jointly organized by the Korean Institute of Public Finance and Atax. The Australian team also held meetings with the Tax Taskforce within the Korean National Tax Service. The entire event was supported by a grant from the Australia-Korea Foundation.

6 Tax Matrix free materials

At Taxmatrix we earn our living providing in-house tax training for accountants, quite often in very small groups of about 10 people but regularly in groups of 40 or more and up to 150. Fortunately we don't have to mark papers. Occasionally we receive the DCM message, a most unfortunate fact of commercial life but it is our long time clients that allow us to come to the conclusion that we are doing a lot of things right.

At the recent ATTA conference in New Zealand our Tasmanian friends showed us the intricacies of the income tree amongst other things. Their paper:

- ◆ ultimately won a prize, and so it should have.
- ◆ prompted us to make available to all ATTA the techniques we have been using commercially for a number of years.

Unfortunately we can't recall all of the of those techniques because they are now second nature and we didn't keep a record of the ones that worked and didn't work. Many didn't!

One of the most useful ways of involving accountants is to remove all legal terminology in case materials, a relatively easy task with electronic documents. This means generally replacing plaintiff,

applicant, and appellant with (taxpayer) and occasionally (Commissioner). In some cases useful labels can include the director, Mr Smith or even the company or the liquidator. Similar adjustments can be made for the defendant, respondent, etc. Unfortunately global replacement requires care due to the internal quoting of earlier cases. Other terms usefully replaced include “judge at first instance” etc. We try to prepare all of our monthly update notes with these changes made and noted. Those notes are available in pdf format FREE of CHARGE at www.taxmatrix.com.au using the links on the left hand side of the page. For the first half of the publication month they can be downloaded and viewed but cannot be printed. After the 15 of the month then can be printed.

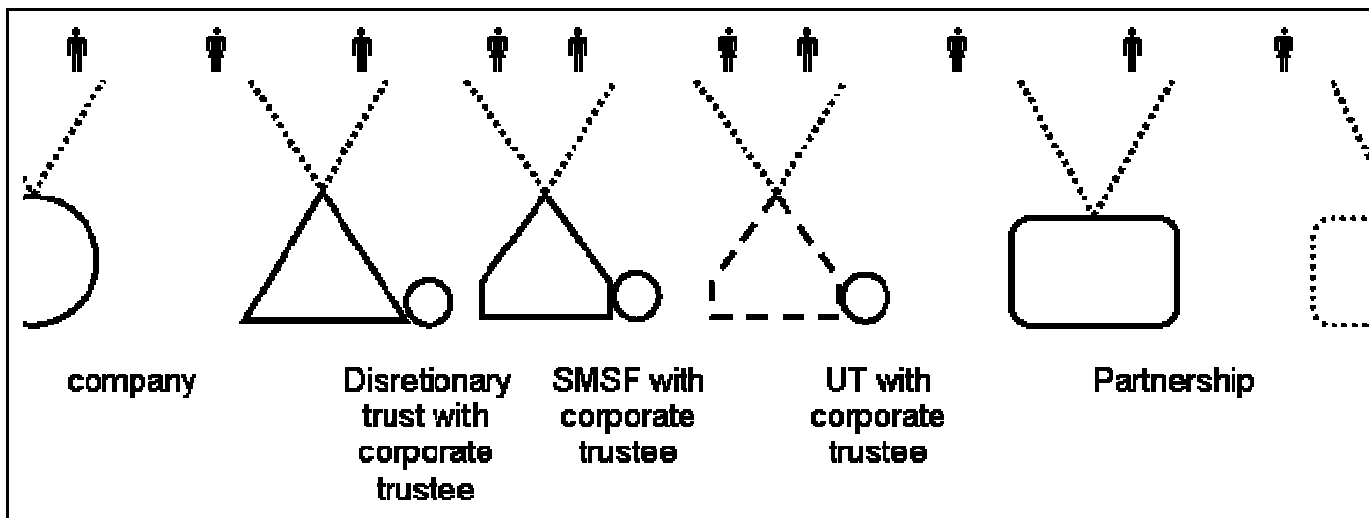
They update notes address all recent cases, both at the tribunal level and court level and use a very simple format:

- ◆ all facts in chronological order using the present tense, active voice and indefinite article to definite article structure in short sentences.
- ◆ Relevant legislative provisions are included unless they are tediously long or very common.

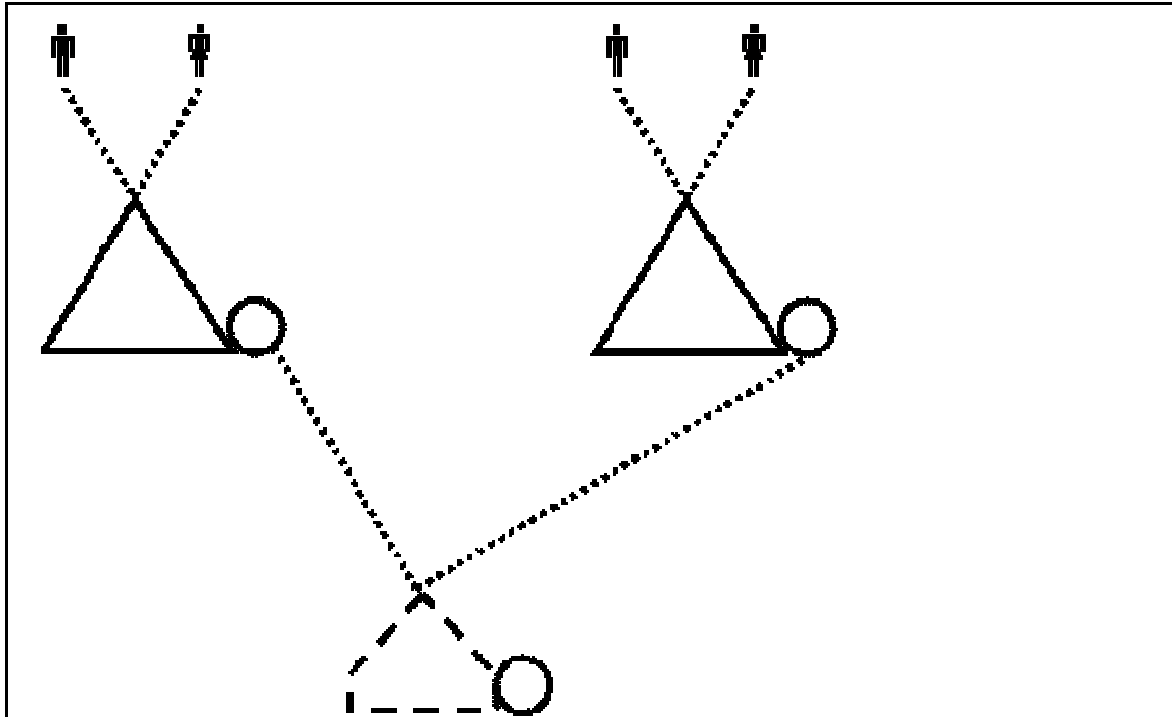
The format is very similar to that used by Stephen Barkoczy in his case book.

We use these materials in our own training sessions and also these materials in a badged form to the TIA on a national basis.

We are also prepared to make available additional tools including the powerpoint templates for our slides. The template relies on easily drawn or copied structures that approximate a language that is easily learned. Ownership to the top, management to the side, trusts have points, all entities have their own unique representation and trustees are shown.



These entities can then be drawn to make structures using simple word processing techniques, eg copy what already exists rather than redraw and the power point diagrams are more easily manipulated than word diagrams and can be pasted into word using the paste special function when all the drawing is finished in powerpoint.



The picture above represents two families each holding interests in a unit trust but through their discretionary trusts, each trust having a corporate trustee. The picture reinforces the concept that the trustee holds the units in the unit trust. Once the symbols have been learned much of the cluttering text can be left off the diagram. In Powerpoint in projection mode it is easy to use colours and to refer to the Blue family and the Yellow family. This techniques makes the facts in cases like Total Holdings, Rocca Brothers and Spassked wonderfully visual and simply comprehensible. In turn the principles are more easily understood. When the diagrams are supplemented by time lines then the facts in cases like Steele, Brown, Jones, Anovoy and others are easily comprehended. A side benefit is that while the capital cost of the slides is high the refresh time to use them is minimal. We have developed default standards for use in the preparation of slides eg 2.25 pt lines, minimum 16 font arial. White writing on a blue background etc etc

I am intending to present a paper demonstrating this and some of the other techniques that we have used to great effect at the next ATTA. We are happy to make our intellectual property available for use in non commercial settings without charge and would be willing to enter into mutually acceptable agreements in relation to the use of the concepts demonstrated above. I have been to too many conferences where the structure above is represented by three oblongs with lines between them and not much more not to make these techniques available easily. But as with LINUX we need to maintain the original standard or the whole thing will fall apart.

I am prepared to make some case slides available FREE OF CHARGE for use in courses if people are willing to give the appropriate feedback to assist further development.

Chris Wallis 0412380393

7 International Tax Dialogue VAT Conference

The International Tax Dialogue (ITD) is holding a VAT conference this year. The ITD is an initiative of the IMF, OECD and World Bank with the UN as an active observer, to encourage and facilitate discussion of tax matters among national tax officials and international and regional tax organisations. The conference is aimed at high-level VAT policymakers and administrators, active in their respective

ministry of finance or revenue authority. However, there is a discussion forum on the ITD web site <http://www.itdweb.org/DiscussionGroup> that is open to all. Interested parties can register and log discussion items prior to the conference. This on-line discussion forum might be of interested to some of ATTA's members.

Rebecca Millar

8 Australian and New Zealand tax and related PhDs and SJDs completed and in progress

In the *ATTA News* for December 2002 and March 2004, I published a list, which contained *Australian and New Zealand tax and related PhDs and SJDs completed and in progress*. During the past year, a number of PhD's were completed and I found out about others, which were not on the original lists. Please notify me of any, which have commenced or have been completed and or have been accepted for publication. I hope to issue a new list in April or May 2005. See the earlier issues for information required ie Author, Title of thesis, Institution, Supervisor/s, expected date of completion (optional). For completed ones, if published, please supply the title, place of publication, publisher, date of publication. If available electronically, please supply the URL.

9 Vacancies

Associate Professor/Reader, Senior Lecturer, Lecturer Criminal Law or Commercial Law

Victoria University of Wellington Law School

Applications are invited for one or more outstanding Faculty members with expertise in criminal or commercial law. Outstanding applicants from other areas will also be considered.

If you seek to work within an intellectually stimulating and challenging work environment, then we want to hear from you.

Applicants will be assessed on the basis of the quality of their aptitude, skills and experience in research and teaching. Successful applicants will have an outstanding record in research and teaching and will be likely to have a postgraduate law degree.

The faculty values diversity in its membership and particularly welcomes applications from women, Maori and Pacific people.

Applications close noon Friday 8 April 2005. Please quote ref Law 0501

For further information please visit www.nzjobs.co.nz/vuw or contact Denise Blackett, Personal Assistant to the Dean of Law, tel 04 463 6696 or email: denise.blackett@vuw.ac.nz.

10 Tax, Accounting, Economics and Law Related Meetings

Local

Atax Continuing Education classes in taxation are suitable for those wishing to update their skills without assessment tasks or exams. These Intensive short courses are held over 5 days at Atax's Cliffbrook Campus in Coogee, Sydney.

Intensive classes (Atax, 45 Beach St, Coogee, Sydney):

Specific Tax Jurisdiction: Europe (31 March – 5 April)

Foundations in International Taxation (7-12 April)

Atax also offers face-to-face evening classes in Sydney's CBD. For more information about the Session 2 continuing education classes, please visit www.atax.unsw.edu.au/conteds205.htm

For more information and an application form, visit <http://www.atax.unsw.edu.au/conteds205.htm> or phone Atax Student Services on 02 9385 9333 or email anna.b@unsw.edu.au

Annual GST and Indirect Tax Weekend Workshop, Noosa. Atax hosts one of Australia's leading professional forums on GST between 14 – 17th April. Thirteen papers will be presented on a range of GST issues from a legal and technical perspective. Expert commentators from either the Corporate Tax Association or the ATO stimulate debate following the presentation of each paper. Registration forms are available from www.atax.unsw.edu.au/news/gstwkshop_brochure.pdf
If you would like more information about this workshop, please telephone Anna Bartholomaeus on 02 9385-9320 or email: anna.b@unsw.edu.au

Taxation Institute of Australia <http://www.taxinstitute.com.au/cda/cpd/events/1.1335,.00.html> lists many of the TIA conferences, conventions, seminars, breakfast clubs. 20th National Convention - Western Australia, 16 - 19 March 2005. For further enquiries, contact Sarah Hadfield by telephone on (02) 8223 0031, or by email by clicking <mailto:sarahhadfield@taxinstitute.com.au>

Taxation Law units of study available on a single unit "attendance only" basis through the **Faculty of Law, University of Sydney** for 2005.

We would like to advise you concerning special Taxation Law related units of study available during 2005. (Cost \$1,890 per unit). Units available are:

- * Australian International Taxation
- * Comparative Corporate Taxation
- * Comparative Income Tax
- * Comparative International Taxation
- * Corporate Taxation
- * Customs Law
- * Goods & Services Tax Principles
- * Netherlands International Tax
- * Stamp Duties
- * Tax Administration
- * Tax & Economic Development
- * Taxation of Financial Institutions & Financial Transactions
- * Tax Law in Asia and the Pacific
- * Taxation of Business & Investment Income A
- * Taxation of Business & Investment Income B
- * Tax of CFCs, FIFs and Transferor Trusts
- * Tax Treaties
- * Taxation of Corporate Groups
- * Taxation of Partnerships and Trusts
- * Taxation of Remuneration
- * The Impact of Tax on Business Structures & Operations
- * Transfer Pricing in Taxation
- * US International Taxation

To obtain a full copy of the brochure relating to Single Unit Enrolments in Taxation in 2005 please download the following document from the Faculty's website: <http://www.law.usyd.edu.au/cle/2005/2005TaxBrochure.pdf>

If you have any queries concerning single unit enrolment or are unable to download the brochure, please contact Ms Val Carey, Continuing Legal Education, Faculty of Law (Telephone No. 9351 0238), email: valc@law.usyd.edu.au (Val Carey, CLE 9/12/04)

Full details of the Law School's Postgraduate Programs may be found at <http://www.law.usyd.edu.au>, or alternatively you can telephone No. 9351 0351 for an information pack.

International Fiscal Association Lecture, Melbourne Law School

Date Wed 23/03/2005 **Time** 6.30pm - 8.00pm **Activity** Special Lecture

Speaker Professor Kees van Raad

Description Topic: Is the European Court of Justice destroying international tax systems in Europe?

Venue Lecture Theatre 104

Address Melbourne Law School, University Square, 185 Pelham St, Carlton

Contact Person Professor Cameron Rider **Contact Details** c.rider@unimelb.edu.au

<http://www.law.unimelb.edu.au/taxgroup/>

Tuesday 12 April - Inaugural Melbourne Law School Taxation Lecture

12 April 2005 - Law School Public Lecture

Speaker: Mr Allan Myers QC

Topic: "Tax Avoidance and the High Court since Sir Garfield Barwick"

Time: 6.30 for pre-lecture drinks. Lecture to commence at 7.00.

<http://www.law.unimelb.edu.au/taxgroup/>

Eighteenth Annual Australasian Tax Teachers Association Conference 2006, 30 January-1

February 2006, University of Melbourne Law School. Contact Miranda Stewart,

m.stewart@unimelb.edu.au A location map of the Law School is available:

<http://www.law.unimelb.edu.au/LawSchoolStreetPlan.jpg>

Australian Society of Legal Philosophy Annual Conference, 29 April - 1 May 2005, Law School, University of New South Wales CALL FOR PAPERS. The theme of the conference will be *Constitutions, Sovereignty and Democracy*. The keynote speakers will be: *Professor Sir Neil MacCormick* (University of Edinburgh and Freehills Visiting Professor, UNSW) and *Professor Jeff Goldsworthy* (Monash) on common law constitutionalism. The subject of the book symposium will be *Indigenous Sovereignty and the Democratic Project* by *Steven Curry* (Ashgate, 2004). As usual, papers on any topic in legal theory and the philosophy of law, as well as papers related specifically to the conference theme, will be most welcome. Offers of papers (including an abstract of no more than 100 words) should be sent to the Secretary, Professor Peter Cane at peter.cane@anu.edu.au as soon as possible and certainly no later than 25 March 2005.

Jurisprudential Perspectives of Income Tax Law, Professor John Prebble: 11 - 14 May 2005.

Auckland University of Technology warmly invites members of the Australasian Tax Teachers Association to attend Professor Prebble's innovative masters block course, *Jurisprudential Perspectives of Income Tax Law*, over four days, May 11 to 14, 2005. Several members of Australian and New Zealand faculties attended this course in 2004. All warmly recommend it to their colleagues.

Professor Prebble presented a paper on the course at the 2005 ATTA teaching workshop, where it attracted a great deal of interest. The course examines income tax law from the perspective of a number of jurisprudential theories, including natural law, positivism, autopoiesis, Kant's theory of the categorical imperative, Fuller's study of legal fictions and Dicey's and more modern authors' work on the rule of law.

A limited number of places are available to tax teachers. AUT is pleased to invite ATTA members to register to attend the course as auditors, free of charge. A book of readings will be circulated in advance. The AUT campus is in Wellesley Street East, in the centre of Auckland. There is plenty of reasonably priced accommodation nearby.

Please direct enquiries to Associate Professor Chris Ohms at AUT (Chris.Ohms@aut.ac.nz) or to Professor Prebble (> John.Prebble@vuw.ac.nz).

"The Challenge of Law in Asia: from Globalization to Regionalization?" Call for Papers

The 2nd Asian Law Institute (ASLI) Conference, 26 & 27 May 2005, Chulalongkorn University in Bangkok, Thailand. More information can be found at www.law.chula.ac.th/asli. The registration form can be downloaded from <http://www.law.chula.ac.th/asli/download.html> and contains information such as submission of paper abstracts, hotel reservations, conference fees, social activities etc. We regret that no subsidies are available for expenditures such as air flights, hotel charges and conference fees. Details on the conference programme (speaker panels etc.) may be subject to change. If you require more information, please contact Dr.Pareena Srivanit of the Faculty of Law, Chulalongkorn University at asli@law.chula.ac.th

The Australasian Law Teachers Association Conference, 5 - 8 July 2005, Hamilton, New Zealand.

Submission Date for Abstracts: 11 May 2005. As nation-states struggle with internal diversity while globalisation demands harmonisation, the issue of legal uniformity is one which resonates across all subjects and jurisdictions. From the foreshore of New Zealand to the deserts of Iraq we see

controversial decisions justified on the basis of democracy, the rule of law and legal equality, but does one size fit all? With the aid of leading speakers from New Zealand, Australia and around the globe ALTA 2005 will explore the question of: One Law for All? This is a call for Indigenous Peoples & the Law Interest Group papers. You are invited to use the webform to submit abstracts at <http://www.alta2005.waikato.ac.nz>. If you do not wish to use the webform, you can download a copy of the webform and fax your submission. Proposals for papers etc for the Revenue Law Interest Group can be sent to Robin Woellner at robinhw@hotmail.com

The **fifth Annual States' Taxation Conference**, a national event jointly organised by the State Revenue Offices and the Taxation Institute of Australia is to be held in late July 2005. Topics to be discussed at the conference include pay-roll tax and stamp duty. For further details visit the NSW Office of State Revenue website at www.osr.nsw.gov.au

ASBBS Conference Join fellow Australasian business and behavioural scientists for the 2005 Annual Meeting of the Australasian Society of Business and Behavioural Sciences to be held in Pacific International Hotel, Cairns, Australia during August 5-7, 2005.

Conference Theme - *Academia and industry - Communication and dialogue*

Scholarship: The conference committee invites papers from all areas of Business and Behavioural Sciences. We are interested in papers that reflect applications of business and behavioural science research and scholarship to real-world business problems. Submit completed papers to the appropriate track chair with a copy to elias.shehadie@jcu.edu.au. The deadline for submission of papers was **February 28, 2005. Papers will be doubleblind reviewed.**

Papers may be submitted as follows:

Adee Athiyaman, **Conference Chair**, adee.athiyaman@jcu.edu.au Greg Teal, Program Chair, New Zealand, greg.teal@uws.edu.au **Legal Studies:** All Areas Colin Anderson andersoc@usq.edu.au

Thematic Paper and Keynote Speaker Competition: Separate proposals are invited on the conference theme "Academe and industry: Communication and dialogue".

Submit your complete paper to the Conference Chair by the deadline of February 28, 2005. The author of the best paper will be selected as the Keynote Speaker for the Annual Banquet of ABBSA with a special recognition. Further details may be obtained from the conference chair or at <http://ecommercial.jcu.edu.au/~cber/conferences.html>

Information can be found at <http://www.jcu.edu.au/flbca/public/business/cber/index.shtml>

Last date for early bird registration is 1 July 2005. For enquiries please contact the conference director Adee Athiyaman, Associate Professor - Marketing and Director, Centre for Business & Economic Research, p: +61 7 4781 5690, fax: +61 7 4781 6533

Interpreting the GST Law *Five years into the life of Australia's GST and the first genuine GST assessment cases are now reaching the courts. Preceding judicial consideration of GST assessments, there have been a rash of decisions interpreting the law in the context of contract, tort and administrative law cases, on top of tax administration interpretation of the legislation through many dozens of public rulings, determinations and published ATO IDs.*

The Taxation Law and Policy Research Institute at Monash University, in conjunction with principal sponsorship by **ATP** and further sponsorship by **IFA** and **Atax** is holding an international seminar on interpretation of the GST

Friday, 5 August and the morning of Saturday, 6 August at the Atax premises, UNSW Cliffbrook Campus, 45 Beach Street, Coogee. Seminar enrolment fee includes lunch on Friday and a Friday evening seminar dinner at the Crowne Plaza, Coogee Beach. The seminar features papers by Australia's leading experts on interpretation of the GST and also features international experts on GST interpretation.

Speakers: Tom Reid, formerly of the Office of Parliamentary Counsel, currently consultant to Department of Treasury

Ken Fehily, PriceWaterhouseCoopers

Michael D'Ascenzo, Australian Taxation Office

Rebecca Millar, University of Sydney

Neil Brooks, Osgoode Hall Law School

Graham Hill, Federal Court of Australia

Jacqui McManus and Michael Walpole (joint paper), Atax

Ben Terra, Professor, Erasmus University, Rotterdam and Executive Chairman, Academic Activities,

International Bureau of Fiscal Documentation

To ensure the seminar remains an opportunity for close discussion and participation, enrolment will be limited and filled on a first-come, first-serve basis.

Fee: \$423.50 inclusive of GST, lunch and conference. **ATTA Members:** Members are entitled to a 30% discount on the enrolment fee. **\$296.45** (cheque payable to "Monash University"). See attachment to this *ATTA News* or please visit

<http://www.atax.unsw.edu.au/news/brochurestandard.pdf>

Nineteenth Annual Australasian Tax Teachers Association Conference 2007, January 2007, University of Queensland Law School. Contact Kerrie Sadiq, k.sadiq@law.uq.edu.au

Overseas

American Accounting Association Calls for paper website <http://aaahq.org/calls/default.cfm>

Canadian Tax Foundation <http://www.ctf.ca/profDev/schedule1.asp> has a 2005 events schedule. Fifty-Seventh Tax Conference, 25-27 September, Vancouver Hyatt Regency

Institute for Fiscal Studies Conferences and seminars

<http://www1.ifs.org.uk/conferences/index.shtml>

International Bureau of Fiscal Documentation Various courses in Amsterdam, the Netherlands. For details, see <http://www.ibfd.org> The IBFD International Tax Academy runs an extensive international course program. Generally all courses are held in Amsterdam. Should you require any further information or wish to register please refer to their web site www.ibfd.org or contact the International Tax Academy at +31-20-554 0160 or by e-mail ita@ibfd.org

Corporate Financing. Two-day course providing participants with an in-depth analysis of the tax issues arising from the implementation of various cross-border corporate financing techniques. Amsterdam, 03 & 04 March 2005

Principles of Transfer Pricing. Two-day introductory course focussing on the most important principles of transfer pricing for tax purposes. You will obtain a good understanding of transfer pricing rules and will be able to identify transfer pricing issues in practice and design solutions to the most common transfer pricing problems. Amsterdam, 10 & 11 March 2005

Investing in South Asia. Get a more in-depth understanding of the tax and regulatory considerations in the South Asia region, particularly India. This conference also focuses on a number of key sectors, such as business process outsourcing, the software industry and investment in infrastructure. 21 & 22 April - Conference

Summer Course: Principles of International and Comparative Taxation. For newcomers in the world of cross-border taxation the ITA Summer Course is the best introduction you can get. Or it is a great course to refresh your memory! This course deals with the basic concepts and principles of international tax law and what the main current issues of international tax law are. You will acquire a structured understanding of the concepts and principles of international tax law. Amsterdam, 22 August - 02 September 2005

For 2005 courses go to http://www.ibfd.org/news/course_calendar.htm

The ITA also offers tailor-made in-house courses on a worldwide basis for corporate clients, tax administrations and other organizations. Should you have any queries, please contact Arcotia Hatsidimitris, Head of the International Tax Academy by telephone +31-20-554 0180, or by a.hatsidimitris@ibfd.org

International Tax Planning Association Forthcoming meetings <http://www.itpa.org/meetings.html>

International Atlantic Economic Society (IAES) conference. You can visit IAES's web site (www.iaes.org) for more information. Prof dr M. Peter van der Hoek Academy of Economic Studies, Bucharest, Romania and Erasmus University, Rotterdam, Netherlands. Mailing address: Erasmus

University (L 7-20) P.O. Box 1738 NL-3000 DR Rotterdam Netherlands Phone/Fax: +31-10-4081622
E-mail: vanderHoek@frg.eur.nl 60th International Atlantic Economic Conference will be held in New York, 6-9 October 2005; then Berlin 15-19 March 2006; Philadelphia 5-8 October 2006

The University of North Carolina's Eighth Annual Tax Symposium April 1-2, 2005, Chapel Hill, North Carolina, USA Participation Deadline: None Provided. Submission Deadline: January 14, 2005. The University of North Carolina is organizing its eighth annual symposium designed to bring together leading tax scholars from economics, accounting, finance, law, political science, and related fields. The symposium will be held in Chapel Hill on Friday afternoon and Saturday morning, April 1 & 2, 2005, and will be sponsored by the KPMG Foundation. The goal is to bring together scholars from different areas who share a common interest in current tax research. Previous conferences have been very successful, and we anticipate the same this year.

Paper details: Papers should be well developed, but at a stage where they can still benefit from the group's discussion. The symposium will include no more than six papers. Travel and lodging expenses for presenters will be reimbursed up to \$500. Contact: Professor Ed Maydew
Edward_Maydew@unc.edu Postal: Kenan-Flagler Business School University of North Carolina at Chapel Hill Campus Box 3490, McColl Building Chapel Hill, NC 27599-3490. Paper selection was finalized by February 4, 2005.

European Association of Tax Law Professors Meetings and conferences <http://www.eatlp.org>
Naples 2-4 June 2005; Budapest 2006; Helsinki 2007

Tax Research Network (TRN) Annual Conference, “*Tax in a changing world*,” Edinburgh University, Edinburgh, Scotland, 8-9 September 2005.
http://users.wbs.ac.uk/group/trn/home/whats_new Abstracts, or full papers, if available, should be sent in electronic format by e-mail for consideration in the first instance to the conference organizer Sandra Eden (s.eden@ed.ac.uk) The deadline for submission of abstracts is 31 March 2005. Presenters will be informed as soon as possible after that whether their papers have been accepted. If not provided initially, full papers will be required by 31 July 2005 to allow time for conference packs to be compiled.

Sixth Annual Global Conference on Environmental Tax Issues, Leuven, Belgium from 22-24 September. The URL to the conference's site is: <http://www.law.kuleuven.ac.be/imer/nieuws.html>

Organisation : Professor Kurt Deketelaere and Professor Geert Van Calster, Institute of Environmental and Energy Law, University of Leuven, Flanders, Belgium & Professor Janet Milne, Environmental Tax Policy Institute, Vermont Law School, Vermont, USA
Conference Venue : Faculty Club, University of Leuven, Leuven
<http://www.facultyclub.be/site/home.php?p=infrastructuur&newlang=uk>
Conference Theme: The central theme of the 6th ETC will be : “*The Promotion of Renewable Energy Sources through Tax or Other Market-Based Measures – Challenges and Obstacles*”.

This central theme will be developed during the first conference day, by different invited keynote speakers and panels. Traditionally, the second conference day will tackle a broad variety of environment and energy taxation issues, from a multidisciplinary perspective. Abstracts for these presentations and panels are hereby invited.

Further information: Kurt Deketelaere : kurt.deketelaere@law.kuleuven.ac.be Geert Van Calster : geert.vancalster@law.kuleuven.ac.be Janet Milne : jmilne@vermontlaw.edu
More info on: City of Leuven : <http://www.leuven.be/showpage.asp?iPageID=2721>
University of Leuven : <http://www.kuleuven.ac.be/english/>
Institute for Environmental and Energy Law : <http://www.law.kuleuven.ac.be/imer/>

Other useful tax and law related conference websites include the **IBFD Course calendar** http://www.ibfd.org/news/course_calendar.htm **UNSW Faculty of Law Conference Calendar** http://www.law.unsw.edu.au/news_and_events/events/events.asp **New South Wales Bar Association** http://www.nswbar.asn.au/Professional/Noticeboard/ComingUp/contents_coming.htm **Law Council of Australia** <http://www.lawcouncil.asn.au/events.html> **Law Courts Library** <http://www.lawlink.nsw.gov.au/conference> **LexisNexis Professional Development Calendar of**

events <http://www.lexisnexis.com.au/aus/conferences/calendar/default.asp> See also the *inTax* Seminars Directory, published in *inTax Magazine*. **Practising Law Institute** <http://www.pli.edu/> **New York County Lawyers Association** <http://www.nycla.org> **American Bar Association** <http://w3.abanet.org/home.cfm> **New York Bar Association** <http://www.nysba.org/> **Hieros Gamos** Worldwide Law Events Calendar http://www.hierosgamos.org/hg/db_meetings.asp?action=search <http://www.hg.org/calendar.html>
For social sciences and humanities conferences, meetings etc, see Mind: The Meetings Index <http://www.interdok.com/mind> See also the magazine *Australian Conference & Exhibition Diary*, Vamosi Information Publication.

11 Recent publications

Bold indicates ATTA members. Readers are encouraged to notify the Editor of recently written publications for notification, in these pages. Please note some of the overseas publications listed may not yet be available locally.

Local

Alley, Clinton; Chan, Carolyn; Dunbar, David; Flannery, Patrick; Frost, Alan; Maples, Andrew; Smith, Nigel & Veal, John *New Zealand taxation: principles, cases and questions 2005*, Wellington, Brookers, 2005

(2004) 4 (11) *Australian GST Journal*

- **Millar, Rebecca** "GST issues for international services transactions"
- Wolfers, Lachlan and Evans, Michael "Critical comment: The Recoveries Trust – the test case with no credi[ta]ble purpose"
- **Millar, Rebecca** and Stacey, Paul "Case update"

(2005) 4 *CCH Tax Week*

- Donovan, Peter "Life post Hart – searching for the halfway house"

(2005) 5 *CCH Tax Week*

- Batalha, Luis "NSW land tax – the 2005 regime"

(2005) 6 *CCH Tax Week*

- **Blissenden, Michael** "Penalties, GIC and other self assessment issues"

(2004) 7 *CCH Tax Week*

- **Burton, Mark** "Numbers on a page or tax policy report card?"

Constitutional law 2005, Gilbert + Tobin Centre of Public Law, University of New South Wales Papers and audio from the 2005 Constitutional Law Conference and Dinner, held on 18 February 2005. Speakers included Anne Twomey, John Uhr, Senator George Brandis, Andrew Lynch, Arthur Glass and George Williams <http://www.gtcentre.unsw.edu.au/Conference-Papers-February-2005.asp>

Critical issues in environmental taxation: International and Comparative Perspectives Vol II, Editors **Hope Ashiabor**, Macquarie University; Kurt Deketelaere, University of Leuven; Larry Kreiser, Cleveland State University; Janet Milne, *Vermont Law School*
Format Hardbound, 625 pages approx Publication Date October 2004 ISBN 1-904501-19-2 Price £95.00 / €185.00 / \$215.00. You can order online at www.richmondlawtax.com

Description

Critical Issues in Environmental Taxation II is an international refereed publication devoted to environmental taxation issues on a worldwide basis. It seeks to provide insights and analysis for achieving environmental goals through tax policy. By sharing the perspectives of the authors in response to the diverse challenges posed by environmental taxation issues, effective approaches used in one country may be considered and possibly implemented by governmental authorities in other countries.

This volume (the second in the annual series) contains 37 articles written by authors from 12 countries, with the articles grouped into five categories by topic. Preliminary drafts of the articles were previously

presented at the Fourth Annual Global Conference on Environmental Taxation Issues held on June 5-7 2003 in Sydney, Australia. The articles in this volume were selected after being subjected to a rigorous peer review process.

The articles are interesting, thought provoking, and have been written by some of the best environmental taxation scholars in the world. We hope you enjoy reading them and reflecting on the perspectives of the authors.

Readership

This work presents valuable research and analysis for anyone involved in environmental and tax law and policy in the private and public sector, including legislators, policymakers, legal advisers and scholars.

Table of contents

- I Environmental Taxation in General
- II Taxation of Energy
- III Environmental Taxation and Economic Considerations
- IV National Experiences with Environmental Taxation
- V Perspectives on Environmental Taxation

Dunbar, David "A historical review of the CFC and FIF regimes: Part one 1987 to 1 December 2003," Working paper No 13, Centre for Accounting, Governance and Taxation Research, Victoria University of Wellington

<http://sacl.fca.vuw.ac.nz/vuw/fca/sacl/files/No13ReviewofCFCFIFregimes.pdf>

Ernst & Young *International GAAP 2005*, Sydney, LexisNexis Butterworths, 2004

Granger, Jennie "Focus on compliance issues for the Tax Office in 2005," delivered at the fifth annual Tribeca tax planning strategies conference, 28 February 2005, Sydney
<http://www.ato.gov.au/corporate/content.asp?doc=/content/55484.htm>

(2004) 7 (2) *Journal of Australian Taxation*

- **Millar, Rebecca** "Time is of the essence: supplies, grouping schemes and cancelled transactions"
- **Sadiq, Kerrie** "Transfer pricing"
- **Orow, Nabil** and Teo, Eu-Jin "Duties general anti-avoidance rules"
- James, Simon; Murphy, Kristina and Reinhart, Monika "The Taxpayers' Charter"
- D'Ascenzo, Michael, "Part IVA: post-Hart"

Marshall, Kate "Sharp end offers a Hollywood high - Tax education" and "Mastering the skills of the profession," *Australian Financial Review*, 7 March 2005, p 30. Quoted ATTA members, **Michael Walpole, Lee Burns, Michael Dirkis** and **Cameron Rider**.

(2005) 11 (1) *New Zealand Journal of Taxation Law and Policy*

- EDITORIAL: **Adrian Sawyer** and **Lin Mei Tan**

COMMENTS:

- Tread Carefully With GST and Agreements For Sale: **Andrew J Maples**
- The United Kingdom System of Disclosure of Tax Avoidance Schemes - A First Step Towards A General Anti-Avoidance Principle?: Marika Toumi-Mejia

ARTICLES

- The Abracadabra Effect and Tax Avoidance - Comments on Inland Revenue's Exposure Draft INA0009: Interpretation of Sections BG 1 and GB 1 of the Income Tax Act 2004 - Part 2: Eugen Trombitas
- Finding Solutions for Taxing Electronic Commerce - A Consideration of Two Polarised Alternatives: Part 2: **Dale Pinto**
- The Scope for Invoking Legitimate Expectation in the New Zealand Tax Context: Nicola Williams
- Harmful Tax Practices - 2004 OECD Progress Report: David E Spencer

Quiggin, John "Reform should not focus on marginal rates for higher earners", originally published in the *Australian Financial Review*, http://www.apo.org.au/webboard/print-version.shtml?filename_num=01024

Swan, Allan "CGT triggers in trusts and estates" (2005) 7 *Retirement & Estate Planning Bulletin* 101-103

(2005) 39 (8) *Taxation in Australia*

- Earle, Neil "Issues & Agendas"
- Rowland, Noel "CEO's message"
- Taxwrite Services "Technical News"
- Taxwrite Services "Tax tips: The self assessment initiatives – some further thoughts"
- Bickford, Peter "Director's penalties – an overview and some recent developments"
- Kelly, John and Kelly, Sharon "Uniform capital allowances...3 years later: Part IV"
- Page, Stephen "Are you paying too much Division 8A interest?"
- Czulowski, Teague "Puzey's case – beyond mass marketed projects"
- Mann, Geoff and McMahon, Janina "GST – real property, real issues: Part II"
- Mathison, Neil "A matter of trusts"
- Yong, Maree "Tax case: G Cassegrain & Co Pty Ltd v Commissioner of Taxation [2005] AATA 72"
- Ong, Cindy "Tax case: AAT case [2005] AATA 47"
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- McMahon, Janina "Member profile"

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- Frost, Tony "Taxation of financial arrangements: what's next for financial institutions?"
- **Nethercott, Les** "Consolidations: an accounting tax interface"
- Bilyard, Neil & Young, Alison "International tax reform – has RITA hit the mark?"
- **Woellner, Robin** "Avoiding a bum RAP"

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- Hourigan, Vince "The 'convoluted' CGT small business concessions"
- Szekely, Les "No option – tax law goes 'missing'"

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- Snowden, David and Marion, Heather "US Jobs Creation Act 2004 – opportunities for Australian companies"
- Schaffer, Ron and Young, Alistair "The All Knowing ATO: two recent cases may change the way the ATO addresses applications to defer payment of tax-related liabilities or pay by instalments"

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- Wolfers, Lachlan; Curkovic, Anetta and Wilson, Kirk "CGT and the spouse trap"
- Edwards, Stuart "Transfer pricing – will the ATO be targeting your company?"

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- Woollard, Andrew and Kirk, Geoff "Company tax loss recoupment rules: exposure draft – good and not so good!"
- **Sridaran, Maheswaran** "What Pt IVA lessons can be learned from the Sleight case?"
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- "The AFTA Rules of Origin" - Edwin van der Bruggen and Charin Nimitvilai
- "Legal Professional Privilege and Third Party Documents" - Anton Joseph
- "Getting It Right: Financing Urban Development in China" - Prof. Richard M. Bird
- "Casenote from Hong Kong: Lam Soon Trademark Limited v Commissioner of Inland Revenue" - Jacqueline Shek
- "Hong Kong's International Gateway: Belgium" - Pieter de Ridder and Jan Van Gompel

- "Japan Recent Developments in Tax Policy" - Tomoyuki Saisu
- "Turkmenistan - An Overview of the Tax Regime" - Roustam Vakhitov

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- "Taxing Electronic Commerce: The End of the Beginning?" - Richard M. Bird
- "Norway's Tax Reform 2004-2006" - Prof. Ole Gjems-Onstad
- "United Kingdom: The House of Lords and Tax Avoidance - Scottish Provident and BMBF" -
Jefferson VanderWolk
- "The Dividend Withholding Tax and Net Remittance Procedures in Switzerland" - Howard R. Hull
and Nancy Sturzenegger
- "China's Income Tax Concept of "Enterprise" and the Concept of "Company" - Interaction with the
Australia-China Tax Treaty" - **Nolan Sharkey**

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and driving*, Oxford, Oxford University Press, 2005

Cooper, Graeme S "Australia. (2004 Year in Review)" (2005) 37 *Tax Notes International* 8-9

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- "A New Impetus for the Arbitration Convention?" - Luc de Hert
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Lavoie, Richard "Making a list and checking it twice: must tax attorneys divulge who's naughty and
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Rachel Lloyd, Ann Harding and **Neil Warren** "Redistribution, the welfare state and lifetime
transitions," National Centre for Social and Economic Modelling, University of Canberra, Paper
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the 1920s" (2004) 29 *Law & Social Inquiry* 819-56

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Sawyer, Adrian "Report recommends investment taxation reforms" (2004) 36 *Tax Notes International*
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van de Ven, Justin & Creedy, John "Taxation, reranking and equivalence scales" (2005) 57 *Bulletin of
Economic Research* 13-36

12 Quotable quotes

“On Friday 18 February 2005, the House of Representatives Standing Committee on Economics, Finance and Public Administration held a hearing to inquire into and report on the Reserve Bank of Australia (RBA) 2004 annual report, the Payment Systems Board 2004 annual report and the RBA's Statement on monetary policy: February 2005.

In responding to questions relating to supply issues and the development of the Australian economy, the Governor of the RBA, Mr Ian Macfarlane, outlined welfare and tax reform as needing to be high on the agenda.

Mr Macfarlane said that this was "largely because they are having an effect on labour force participation. I think they are holding it down. We have got a very low labour force participation rate by males over the age of 45 by world standards. It is something to do with taxes and retirement incomes policy. Again improvements have been made there but it still has to be on the agenda. At the lower end, there are obviously very large obstacles in terms of high marginal tax rates and withdrawal of benefit rates for social security beneficiaries who wish to enter the labour force".

The Transcript of the hearing is available on the Parliament of Australia Web site (<http://www.aph.gov.au>”).

Source: KPMG Daily Tax News, 23 February 2005

“Laying down some raw law

As a rule lawyers aren't good at coping criticism, but as this is coming from one of their own it might stick. Queensland's Chief Justice Paul de Jersey has warned wayward judges and lawyers to think before embarking on conduct that might embarrass the profession. Speaking at a Gold Coast District Law Association lunch, de Jersey expressed concern over damaging media coverage given to tax-avoiding barristers and over-charging lawyers. Taxation breaches were “outrageous”, he said, while over-charging exposed a “raw nerve”. His comments are appreciated, but tell us something we don't know, Chief Justice.”

Source: Leys, Nick “Strewth,” *The Australian*, 2 March 2005, p 11

“Tax law has also been crying out for expertise with each successive wave of legislation.

“We've had the Ralph report, we've had the GST, we've had capital gains changes.

“Add to that between 200 [and] 300 tax bills in parliament, 300 public rulings a year from the Tax Office plus another 2500 private rulings and you begin to understand what's driving the growth in master's courses,” Dirkis says.”

Source: Marshall, Kate “Sharp end offers a Hollywood high - Tax education,” *Australian Financial Review*, 7 March 2005, p 30

“Single-earner married couples on average wages with two children in Ireland and Luxembourg actually received more money in cash transfers from the state than they paid out in income tax and social security contributions, and in neither of these countries were higher effective marginal tax rates a disincentive to such families to seek to earn more (see Chart 1).

By contrast, the disincentive from marginal effective net tax rates was particularly high for single-earner families with two children on average wages in the United Kingdom, Australia, Canada and the United States. Due to the progressive design of tax credits and benefit systems in these countries, tax reliefs fell as income rose, increasing the marginal rate on every additional pound or dollar of earnings.

For a single employee on average production wages, tax wedges in 2004 ranged from a high of 54.2

per cent of total labour costs in Belgium and 50.7 per cent in Germany to a low of 15.4 per cent in Mexico and 16.6 per cent in Korea. This means that the costs to employers of taking on new workers in Belgium or Germany is more than twice the workers' take-home pay, while in Mexico and Korea the cost is less than one and a quarter times take-home pay.

For single parents with two children on two thirds of average production wages, tax wedges ranged from a high of 41.8 per cent in Turkey to a low of -20.2 per cent in Ireland and -11.2 per cent in the United Kingdom, where benefits received by single parents at this income level exceeded income tax and social security contributions. The largest increase for this family type was 6.2 percentage points in Australia while the largest decline was 2.0 percentage points in Austria. For one-earner married couples with two children earning average production wages, tax wedges ranged from a low of 5.9 per cent in Ireland and 9.3 per cent in Luxembourg to a high of 42.7 per cent in Turkey”.

Source: “Tax wedges on employee earnings rose slightly in OECD countries in 2004,” 9 March 2005
http://www.oecd.org/document/35/0,2340,en_2649_201185_34547875_1_1_1_1,00.html

JOURNALIST:

Are Australians paying too much tax in your view?

TREASURER:

Well since we are talking about the OECD the OECD does compare amongst 30 countries and its revenue statistics show that out of the 30 OECD countries, Australia is the eighth lowest. And some of those countries that are lower than Australia are countries we wouldn't normally compare ourselves with, they include countries like Mexico, Korea and Turkey. What these statistics show is that the United Kingdom for example, Britain has a higher tax take. It shows that the United States is below Australia but Australia of course is below all of the European countries, the Scandinavian countries and amongst the Anglo countries, lower, lower than New Zealand, lower than Britain and higher than the United States.

Source: Doorstop Interview, Senate Courtyard, Parliament House, Canberra, Thursday, 10 March 2005, 12.15 pm, SUBJECTS: Labour Force Figures, OECD Report, WMC, Budget
<http://www.treasurer.gov.au/tsr/content/transcripts/2005/025.asp>

OECD corrects its report

The OECD has today placed the following correction to its report Taxing Wages 2004 on its website www.oecd.org:

Errata: Please note that the figures given for Australia on page 183 (Taxes on the average production worker as a percentage of labour cost) do not provide a consistent series as they only include payroll tax from 2002 onwards. Accordingly, the statement on page 182 that there has been an increase in the taxes on a production worker in Australia is incorrect. The tax wedge for the average production worker in Australia actually declined by 0.8 percentage points between 1996 and 2003 (see: [OECD Study Shows Tax Wedges Continue to Fall](#)). The Australian authorities are working with the OECD Secretariat to resolve this issue for future publications.

Those news outlets that reported that there had been an increase in tax on the average worker in Australia now have the opportunity to correct the record.

CANBERRA

17 March 2005

Source: Treasurer, Press Release, No 18, 2005
<http://www.treasurer.gov.au/tsr/content/pressreleases/2005/018.asp>

“The Government argues it must use the media most people are familiar with – television – to inform them about issues.

The Special Minister of State, Eric Abetz, is responsible for monitoring government spending on advertising. He argues public information campaigns, such as recruiting for the defence forces or announcing tax changes, are not political advertising.

... However getting these messages across is coming at an increasing cost.

The biggest spending department last year was the Department of Health and Aged Care, which spent \$47.1 million, including \$16.9 million to place advertisements about Medicare and \$1.4 million on booklets.

It spent \$560,000 telling people about the Pharmaceutical Benefits Scheme and another \$153,000 on an information video.

The Australian Taxation Office spent \$17.7 million, while the Department of Education, Science and Training spent \$13.1 million, according to annual reports.”

Source: Peatling, Stephanie “Just ad your money,” *Sydney Morning Herald*, Weekend Edition 12-13 March 2005, My career, p 19

13 Jurisprudential Perspectives of Income Tax Law: Invitation to Course in May 2005

Professor John Prebble: 11 - 14 May 2005.

Auckland University of Technology warmly invites members of the Australasian Tax Teachers Association to attend Professor Prebble's innovative masters block course, Jurisprudential Perspectives of Income Tax Law, over four days, May 11 to 14, 2005. Several members of Australian and New Zealand faculties attended this course in 2004. All warmly recommend it to their colleagues.

Professor Prebble presented a paper on the course at the 2005 ATTA teaching workshop, where it attracted a great deal of interest. The course examines income tax law from the perspective of a number of jurisprudential theories, including natural law, positivism, autopoiesis, Kant's theory of the categorical imperative, Fuller's study of legal fictions and Dicey's and more modern authors' work on the rule of law.

A limited number of places are available to tax teachers. AUT is pleased to invite ATTA members to register to attend the course as auditors, free of charge. A book of readings will be circulated in advance. The AUT campus is in Wellesley Street East, in the centre of Auckland. There is plenty of reasonably priced accommodation nearby.

Please direct enquiries to Associate Professor Chris Ohms at AUT (Chris.Ohms@aut.ac.nz) or to Professor Prebble (> John.Prebble@vuw.ac.nz).

A working description of the course follows

Jurisprudential Perspectives of Income Tax Law

Course developer

John Prebble, BA, LLB (Hons) Auckland; BCL Oxon; JSD Cornell; Inner Temple, Professor and former Dean of Law at the Victoria University of Wellington. www.vuw.ac.nz/~prebble ; john.prebble@vuw.ac.nz .

Broad description

The course examines income tax law from the perspective of a number of schools of jurisprudence. Most of the syllabus is based on theories of law or on legal analysis, for instance natural law; Kelsen and other positivists, autopoiesis theory, and fictions. A smaller number of classes consider jurists of more sociological or politico-economic schools, such as Epstein, Rawls, Hayek and Unger.

A significant theme is that income tax law may be seen as qualitatively different from other areas of law and that jurisprudential theory can shed light on the reasons for and the nature of this difference. That is, while the course gives some time to the political and social policy aspects of income tax law, its main thrust is in legal theory.

The course studies legal theory through the lens of reports of decided cases, choosing mainly cases that turn on the distinction between capital and revenue. The cases in the syllabus on following pages are mainly from the United Kingdom and Australia. An appendix lists a sample of United States cases that might be added for comparison or for an American audience.

Main features

An advanced course in income tax law and jurisprudence.

Prerequisite: an undergraduate course in income tax law. Previous study of jurisprudence can be an advantage.

Duration of teaching hours: between about 18 and 30, depending on syllabus configuration.

Level: LLM or senior undergraduate.

Syllabus and materials

1. Introduction

- 1.1. Harris, JW *Legal Philosophies* London Butterworths 1980 1 - 5.
- 1.2. Prebble, John "Why is Tax Law Incomprehensible?" [1994] *British Tax Review* 380-393.
- 1.3. White, Patricia D (ed) "Contents" and "Introduction" from Volume 1, *Tax Law* (1995) ix - xvii.

2. Legal and economic concepts of income

- 2.1. Prebble, John, *Asomatous Income*, (1995) Institute for Taxation and Business Law, Conference Paper Fourth Annual New Zealand, - Pacific Tax and Business Law Conference, Tonga, 1995.
- 2.2. Thuronyi, Victor "The Concept of Income" (1990) 46 *Tax Law Review* 45. The following pages only: "Introduction" 45 - 46; "Nature of the income concept: the Haig-Simons tradition 48 - 53; "Specific problems in defining income" 64 - 92.

3. Income redistribution: socialism and social justice

- 3.1. Rawls, John "The Main Idea of the Theory of Justice" and other extracts from *A Theory of Justice* (Cambridge, Mass: The Belknap Press of Harvard University Press 1971) 11 – 303, excerpted in Smith, JC and David N Weisstub (eds) *The Western Idea of Law* (Canada: Butterworth & Co Ltd, 1983) 479 – 490.
- 3.2. Hayek, Friedrich A. von "The Atavism of Social Justice", in *Social Justice, Socialism, and Democracy: Three Australian Lectures*, Centre for Independent Studies, Turramurra, N.S.W. 1979. 3 – 15.
- 3.3. Hayek, Friedrich A. von "'Social' or Distributive Justice" Chapter 9 of *Law, Legislation and Liberty, Volume 2, The Mirage of Social Justice* London : Routledge and Keegan Paul, 1973, 62 – 106.

4. Ectopia and fictions

- 4.1. Prebble, John "Income taxation, a structure built on sand" (2002) 24 *Sydney Law Review* 301 - 317.
- 4.2. Prebble, John *Fictions of Income Tax Law*, (2002) Working Paper No 7 Centre for Accountancy, Governance and Taxation Research, Wellington.
- 4.3. Priban, Jiri "Legalist Fictions and the Problem of Scientific Legitimation" (2003) 16 *Ratio Juris* 14 - 36.
- 4.4. *Strick (Inspector of Taxes) v Regent Oil Co Ltd* [1966] AC 295 HL. Headnote 295 - 296 and judgment of Lord Reid 310 - 326 only.

5. Form and substance

- 5.1. Salmond, John W *Jurisprudence* 3rd ed London 1910. “Law logically subsequent to the administration of justice” 12 - 14; “Defects of the Law”, 23 - 27 (especially formalism, p 25).
- 5.2. Isenbergh, Joseph “Musings on Form and Substance in Taxation” (1982) 49 *Chicago Law Review* 859, 863 - 883 only.
- 5.3. *IRC v Wesleyan & General Assurance Society* (1948) 30 TC 11 - 27 CA &HL; [1948] 1 All ER 555 HL.
- 5.4. *Commissioners of Inland Revenue v John Lewis Properties plc* [2003] Ch 513- 551, [2002] EWCA Civ 1869.
- 5.5. *BP Australia Ltd v FCT* [1966] AC 224, PC. Headnote 224 - 227 and judgment of Lord Pearce 260 - 274 only.
- 5.6. *Strick (Inspector of Taxes) v Regent Oil Co Ltd* [1966] AC 295 HL. Judgment of Lord Reid only. Printed earlier in these materials.
- 5.7. *Heather v P-E Consulting Group Ltd* (1972) 48 TC 293 CA. Headnote 293 - 294 and judgments 320 - 329 only.

6. Positivism

- 6.1. Austin, John, *Austin on Jurisprudence* ed Campbell, Vol 1 (London; John Murray 1885) 86 – 227 excerpted in Smith, JC and David N Weisstub (eds) *The Western Idea of Law* (Canada: Butterworth & Co Ltd, 1983) 510 - 518.
- 6.2. Prebble, John *Advance Rulings on Tax Liability* (Wellington 1986) 48 - 49.
- 6.3. Kelsen, Hans “What is the Pure Theory of Law?” (1960) 34 *Tulane Law Review* 269 - 276.

7. Natural law

- 7.1. Prebble, Rebecca, *Naturalism and Neo-Naturalism* (2003) unpublished paper.
- 7.2. Sabine, George H, *A History of Political Theory* (1937 New York, Holt Rinehart and Winston) 163 – 173, (On Cicero) excerpted in Smith, JC and David N Weisstub (eds) *The Western Idea of Law* (Canada: Butterworth & Co Ltd, 1983) 345 – 351.
- 7.3. Dias, R.W.M. “Natural Law”, from *Jurisprudence* 5th ed, London, 1985, pages 78 - 85, Machiavelli to Democracy & Kant, 475 - 476. (Readers should focus on Locke, 81 - 83.)
- 7.4. Epstein, Richard A “Taxation in a Lockean World” 4 *Social Philosophy and Policy* 49 - 74.

8. Evasion, and the evasion/avoidance interface

- 8.1. Prebble, John “Criminal law, tax evasion, shams, and tax avoidance: Part i - Tax evasion and general doctrines of criminal law” (1996) 2 *NZ Journal of Taxation Law and Policy*, 3-16.
- 8.2. Prebble, John “Criminal law, tax evasion, shams, and tax avoidance: Part i i - Criminal law consequences of categories of evasion and avoidance” (1996) 2 *NZ Journal of Taxation Law and Policy*, 59-74.
- 8.3. Green, Stuart P. “Introduction” and “B. Cheating and Criminal Offenses”, from “Cheating” (2003) Draft, forthcoming in *Law and Philosophy*, pages 1 - 3 and 35 - 44 only.

9. Statutory interpretation

- 9.1. Unger, RM *Law in Modern Society* (1976 New York, The Free Press, 192 – 203, excerpted in Smith, JC and David N Weisstub (eds) *The Western Idea of Law* (Canada: Butterworth & Co Ltd, 1983) 617 – 623.
- 9.2. Prebble, John “Should tax legislation be written from a ‘principles and purpose’ point of view or a ‘precise and detailed’ point of view?” [1998] *British Tax Review* 112-123. Readers familiar with the author’s ectopia thesis may prefer to begin at page 117.
- 9.3. *Duke of Westminster v IRC* [1936] AC 1 HL, only the following: headnote 1 - 2, Lord Tomlin 19 - 21, Lord Russell of Killowen 21 - 25.
- 9.4. *MacNiven (Inspector of Taxes) v Westmoreland Investments Ltd* (2001) 73 TC 1 HL. Summary pages 1 - 6 and judgment of Lord Hoffman pages 60 to 78.
- 9.5. *CIR v Mitsubishi Motors New Zealand Ltd* [1995] 3 NZLR 513 - 520 PC.

10. Autopoiesis

- 10.1. Teubner, Gunther “Introduction to Autopoietic Law” in Teubner, Gunther, *Autopoietic Law: a New Approach to Law and Society* (1987, de Gruyter, Berlin, New York), 1, 1 – 11 only.
- 10.2. Francois Ost, “Between Order and Disorder: the Game of Law”, in Teubner, Gunther, *Autopoietic Law: a New Approach to Law and Society* (1987, de Gruyter, Berlin, New York) 70, 70 – 83 only.
- 10.3. Ladeur, Karl-Heinz “The Theory of Autopoiesis as an Approach to a Better Understanding of Postmodern Law” (1999) European University Institute Working Paper, Law No 99/3 3 - 44, 3 - 18 only.
- 10.4. Prebble, John “Autopoiesis of Income Tax Law: a Problem for Reform” draft article, fragment only.
- 10.5. *IRC v Wesleyan & General Assurance Society* (1948) 30 TC 24 CA &HL; [1948] 1 All ER 555 HL. Printed earlier in these materials.

11. Kant: the categorical imperative

- 11.1. Dias, R.W.M. “Natural Law”, from *Jurisprudence*, extracted and printed earlier in this volume.
- 11.2. Bird, Graham “Kant, Immanuel” in Hondereich, Ted *The Oxford Companion to Philosophy* Oxford 1995 435, “The categorical imperative” 436 - 437.

12. The general anti-avoidance rule from several jurisprudential perspectives

- 12.2. Prebble, John “Ectopia, formalism, and anti-avoidance rules in income tax law” (1994) in W. Krawietz N. MacCormick & G.H. von Wright (eds) *Prescriptive Formality and Normative Rationality in Modern Legal Systems*, Festschrift for Robert S. Summers, Duncker and Humblot, Berlin, 367-383.
- 12.3. Reflections on the general anti-avoidance rule
 - The only way to derive a rule is by induction from a number of cases. Once cannot derive a rule by deduction from a single case.
 - Hypothesis: From a rule of law point of view, the test of the quality of a GAAR should be the same as the test of fiscal nullity or of the United States common law avoidance rule or the Continental abuse of rights. No one says that these are a breach of the rule of law. So why should the same rule in statutory for be a breach?
 - Rawls says that two wrongs can a right. See extract in Smith & Weisstub. Does this consideration afford comfort to proponents of a GAAR?
 - Richardson, Ivor LM “Appellate court responsibilities and tax avoidance” (1985) 2 *Australian Tax Forum* 3

Sample of questions for class preparation: class on Kelsen

- a) *Does income tax law comply with the law of contradiction (271)?*
One could argue that it does not. Cases where virtually same facts come to opposite results.
- b) *Why is the pure theory of law so called (272)?*
 - (a) Law is only ought statements, not is statements.

- (b) Law is distinguished from ethics or morals.
- c) *How does income tax law demonstrate the dichotomy between law and morals?*
Duke of Westminster. Rowlatt J .
- d) *Is the separation of law and ethics the reason for the absence of morality from tax law?*
 No. Law can coincide with morality, as Kelsen points out. But income tax law cannot. Why? Ectopia.
- e) *Why does Kelsen mean by saying that law is created by human will, not human reason (274).*
- f) *Are there examples in tax law where reasoning proceeds illogically from is to ought (275)?*
 Small examples: Taxpayer treats an item as capital: argued that this is a reason for saying that it (ought to be and therefore) is capital. Eg, *Federal Coke*. Company has power to do x or y in its constitution as a trading operation. Therefore it is a trading operation. *Miramar Land*.

Topics under review for development and possible addition to the course

Coherence theory: Dworkin, McCormick, Raz.
 Gotlob Frege: theory of sense and reference, empty names
 The fiscal paradox: in tax design, equity and simplicity are in conflict.
 Popper: the problem of induction.
 Causation in taxation: deductibility of interest.
 History: origins of the tax base.
 Honouring and ignoring the corporate veil in tax cases.

Examples of United States cases that might be added for American audiences or for comparative study

Helvering v Gregory 69 F 2d 809 (2d Cir 1934) affirmed 293 US 465 (1935).
Commissioner v Court Holding Co 324 US 331 (1945).
Goldstein v Commissioner 364 F 2d (2d Cir 1966) certificate denied 385 US 1005 (1967).
Waterman Steamship Corp v Commissioner 430 F 2d 1185 (5th Cir 1970) certificate denied 401 US 939 (1971).

ATTA News April 2005

<http://www.orange.usyd.edu.au/atta/newsletter.htm>

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ATTA website <http://www.orange.usyd.edu.au/atta>

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1 Vice-Presidential column

Warm greetings from over here in Perth aka the ‘Wild West’ (don’t believe what you read about so-called ‘Dullsville’).

I would like to start my column by extending my congratulations to Paul Kenny on being elected as President of ATTA, and indeed to all office bearers for ATTA who give so generously of their time to make our Association such a supportive and welcoming organisation for all its Members. I am very humbled and honoured to be serving as one of the Vice- Presidents on the ATTA Executive as well as being involved with the Editorial Board for the forthcoming ATTA journal.

Well, since our last Newsletter Easter has come and gone – I trust that you enjoyed your break - however short it was - and that you consumed appropriate amounts of chocolate while you finished your marking and articles and teaching notes and doing all the other things expected of tax academics.

It is interesting and challenging to see tax featuring prominently in the press and government debates. Everything from tax reform to GST and Federal-State relations is currently centre-front in most newspapers and it is in these areas that we are able to valuably and sensibly contribute to the debates and discussions. Incidentally, the rumours of Western Australian planning to secede on the basis of strained Commonwealth-State relations are not true.

I thought I would conclude my column with some Tax-GAGA – keep smiling and until next month I hope your tax books treat you well.

TAX REFORM

One tax expert, discussing a proposed new approach with another tax expert, said: “It seems likely to be all right in practice, but will it also work in theory?”

SLEEP

A man wrote to the Australian Taxation Office:

"I have been unable to sleep, knowing that I have cheated on my income tax. I understated my taxable income and now enclose a cheque for \$1,500. If I still can't sleep, I will send you the rest."

FOI

A man made a Freedom of Information request to the Australian Taxation Office, asking whether there was an audit file on him.

A week later he received the reply. It said: "There is now."

Source: <http://users.bigpond.net.au/renton/916.htm>

And one final joke, which is a modified version of one I heard recently:

A tax accountant is having a hard time getting to sleep and goes to see his doctor.

"Doctor, I just can't get to sleep at night."

"Have you tried counting sheep?"

"That's the problem – I make a mistake and then spend three hours trying to find it."

Dale Pinto

2 Data Access from the Revenue Authorities for Tax Academics

Dear Colleagues,

In recent discussions/feedback from the Australian Taxation Office, regarding applications for research funding, it was mentioned that both individual and group researchers should persist with their efforts to gain access to tax data held by revenue authorities, via formal channels.

However, it was also suggested by senior tax office staff that a formal submission on behalf of the ATTA Executive be put to both the ATO and IRD with regard to improving academics' access to tax data. As you are probably aware, the IRS in the US provide data willingly to academic researchers every 3 years and the Dutch authorities have been doing it for some time now.

This issue was also raised during the PhD workshop at our recent conference in Wellington, in January 2005. Obviously, academics are still having difficulty in accessing tax data from the both revenue authorities and could voice their concerns more strongly if they had the support of ATTA.

Consequently it is suggested that a formal submission be put to both the ATO and IRD based on this recent feedback with further comments/suggestions from ATTA members to be canvassed in addition.

Please provide any responses you have in regard to this issue to Ken directly for collation and a final submission will be considered by the ATTA Executive in due course.

Kind Regards,

Ken Devos
Victorian State Representative
Ken.Devos@Buseco.Monash.edu.au

Adrian Sawyer
South Island (NZ) Representative
adrian.sawyer@canterbury.ac.nz

3 Arrivals, departures and honours

Rebecca Millar will be working at the International Monetary Fund from 11 July 2005 to 11 January 2006 as a Technical Assistance Officer in the Legal Department, based in Washington, DC.

Tax law specialist Richard Edmonds SC has been appointed a Judge of the Federal Court of Australia, based in Sydney. Over the past 30 years, Mr Edmonds has published and presented widely in the field of taxation law education. He has practised as a barrister since 1985 and was appointed Senior Counsel in 1995. Prior to commencing at the Bar, he was a partner of Allen Allen & Hemsley in Sydney. *Source: Attorney-General's Media release, 7/4/05*

Malcolm Voyce, was interviewed in *The Law Report* on ABC Radio National on 12 April 2005 about Farms, Families and Fights over Wills

<http://www.abc.net.au/rn/talks/8.30/lawrpt/stories/s1342346.htm>

Renee McDonald is the new Publisher at the Tax Institute of Australia managing the content for the journals *Taxation in Australia*, the *Tax Specialist* and *Australian Tax Forum*. Please address future correspondence and direct any content queries to Renee. Alex Mohan, formerly the TIA's Publisher, will now be the General Manager, Information Products, overseeing a newly created Information Products Division. Please note also, that as of April 26 the Institute's National office will be in a new location - Level 2, 95 Pitt Street, Sydney, 2000. Fax and phone numbers remain the same.

4 ATTA Conference 2005 photos

We finally found some time to put the photos on the School's website. The photos can be viewed at <http://www.vuw.ac.nz/sacl> (Seminars and events).

Barbara Cordes

5 Do you know the way to San Jose?

Greetings from San Jose State University. My month here is quickly drawing to an end and of course I haven't finished everything that I thought I would! In spite of this I think it still has been a productive and rewarding time. The grand plan was to finish two papers, one we've managed to do and the other one is taking shape. To spend time as a research scholar at an overseas institution is a great experience and one that I would recommend to ATTA members.

I think to get the most out of your time in this role you do need to start planning in advance on possible projects of mutual interest and have in train any data that you might need. Stu Karlinsky and his wife Hilary are excellent hosts and I have managed to see and experience quite a bit of this part of California thanks to their kind hospitality. I'm happy to answer questions from ATTA members who are interesting in applying to come here in the future (m.mckerchar@unsw.edu.au).

Marg McKerchar

6 San Jose State University International Tax Policy Research Fellow

San Jose State University's Tax Policy Institute has established an *International Tax Policy Research Fellow Program*.

We will sponsor up to two (2) international visiting professors per year, who would visit the Silicon Valley/ San Francisco Bay area for a month, and work with SJSU faculty on areas of mutual interest in the tax, legal, finance, public tax policy, economics or accounting areas. The fellowship award would be US\$10,000.

The recipient would be expected to stay in the Bay area for one month and present at least one research paper to the faculty (members of Stanford University Law School, Santa Clara University Law and Business schools, SJSU, etc. would be invited to the presentation.), present to one class, sharing their experiences or research ideas, and work on at least one research project with other faculty.

The candidate's application would be reviewed by a committee of Joe Mori (Chair SJSU A/F Department, Stewart Karlinsky (Tax Policy Institute Director) and one of the trustees. A decision would be made within 30 days of the application deadline July 1, 2005. Candidates need to submit a current C.V., proposed research topic(s) and a description of the methodology and resources required to Dr. Stewart Karlinsky Karlin_s@cob.sjsu.edu or 408-924-3482.

7 Meaning of peer review

Whilst browsing in a University of Sydney Library email list, a question arose over the meaning of peer review. One librarian did a search using the Vivisimo search engine : <http://vivisimo.com/> on the topic of peer review and came across this website with the following title:

Peer review - info definition meaning The web site address is http://www.definition-info.com/Peer_review.html

Colin Fong

8 Australian and New Zealand tax and related PhDs and SJDs completed and in progress

In the *ATTA News* for December 2002 and March 2004, I published a list, which contained *Australian and New Zealand tax and related PhDs and SJDs completed and in progress*. During the past year, a number of PhD's were completed and I found out about others, which were not on the original lists. Please notify me of any, which have commenced or have been completed and or have been accepted for publication. I hope to issue a new list on an annual basis. See the earlier issues for information required ie Author, Title of thesis, Institution, Supervisor/s, expected date of completion (optional). For completed ones, if published, please supply the title, place of publication, publisher, date of publication. If available electronically, please supply the URL.

I acknowledge those people who have supplied information for this list.

* indicates SJD.

Completed ones

Author, Title, Institution, Supervisor/s, Completion, Publication or availability

Ahmed, Akhter *The macroeconomic impact of foreign aid to developing countries*, Deakin University Faculty of Business and Law, 1996

Atkinson, Margaret *A micro-simulation analysis of the intra-generational effects and equity of compulsory superannuation in Australia*, University of Melbourne Centre for Actuarial Studies, Dept. of Economics and Commerce, 1997

Azzi, John *The role of CFC legislation in protecting Australia's domestic income tax base*, University of Sydney Faculty of Law, Prof Richard Vann and Lee Burns, 1995*

Benge, Matt *Taxes, corporate financial policy and investment decisions in Australia*, Australian National University, 1998

Bessell, Maxwell *Australian Federal Government service revenues: a taxation perspective*, University of Adelaide Dept of Commerce, 1997

Birch, Charles *Evaluating mining and petroleum joint ventures in Australia: a revenue law perspective* Monash University Faculty of Law, A/Prof John Glover, 2001

Bitomsky, Greg *Investigations and the powers of access of the Commissioner of Taxation*, Bond University School of Law, Prof Jim Corkery, c1992*

Blount, Simon *The politics of the GST: the political influences upon tax reform in Australia*, University of New South Wales, School of Politics and International Relations, 1999

Brash, Nicholas *Does Australian law help or hinder the establishment of employee share schemes?* University of Melbourne, 1995

Burton, Adrian, P *Temples, texts, and taxes: the Bhagavad-gītā and the politico-religious identity of the Caitanya sect: an archival and textual investigation into the text and times of the Sārārtha-varṣiṇī commentary on the Bhagavad-gītā by Viśvanātha Cakravarti*, Australian National University, 2000

Burton, Mark *The interpretation of tax legislation in Great Britain and Australia: a study of the indeterminacy of law*, Australian National University, 1999

Cass, Bettina *Women, children and the state: A study of child endowment and family allowances in Australia 1916-1981*, University of New South Wales, 1984

Celestin, Lindsay C *Formulary approach to the taxation of transnational corporations: a realistic alternative?* University of Sydney Faculty of Law, Prof Richard Vann, 2000
http://setis.library.usyd.edu.au/adt/public_html/adt-NU/public/adt-NU20020917.133138

Compston, Hugh *The electoral impact of tax: a comparative study of Sweden and Australia*, Australian National University, 1990

Coskuner, Cagay *Fiscal policies and the real exchange rates*, University of Delaware, Stacie Beck, 2002

Eccleston, Richard *The capacity for reform: Australian taxation policy and the state 1970-2000*, School of Political Science and International Relations, University of Queensland, A/Prof Stephen Bell, 2001, *The thirty year problem: the politics of Australian tax reform*, Sydney, Australian Tax Research Foundation, 2004

Edgar, Tim *The income tax treatment of financial instruments: theory and practice*, Deakin University School of Law, Prof Rick Krever, 2000, Toronto, Canadian Tax Foundation, 2000

Edwards, Meredith Ann *The income unit in the Australian tax and social security systems*, Australian National University, 1983, Melbourne, Institute of Family Studies, 1984

Emerson, Craig *Minerals policy: taxation and domestic processing*, Australian National University, 1983

Evans, Chris *An evaluation of the impact of aspects of capital gains tax design on the burden of compliance costs of taxpayers*, University of New South Wales Faculty of Law, Profs Cedric Sandford and Yuri Grbich, 2003, *Taxing personal capital gains: operating cost implications*, Sydney, Australian Tax Research Foundation, 2003

Gillies, Argyle Douglas Stewart *Economic sensitivity of the Australian mining industry to some taxation and financial controls imposed by government*, University of New South Wales, 1978

Gray, Anthony *Excise taxation in the Australian federation*, University of New South Wales Faculty of Law, Prof George Winterton and A/Prof Neil Warren, 1997

Greenbaum, Abe *Comparative income tax administration: a study of the legislative structures in thirteen jurisdictions*, Osgoode Hall Law School, York University, Prof Neil Brooks, 1998*

Hanai, Kiyohito *Intergovernmental grants and distributional issues: the case of Japan*, Australian National University, 1993

Hancock, Graeme *Resource rent taxation and its effects on mineral resource development in Papua New Guinea*, University of Queensland Dept of Mining, Minerals and Materials Engineering, 2000.

Harper, Ian Ross *An economic analysis of the taxation and regulation of life insurance in Australia*, Australian National University, 1982

Harris, Peter *Corporate/shareholder income taxation and allocating taxing rights between countries: a comparison of imputation systems*, Cambridge University Faculty of Law, Prof John Tiley, 1995, IBFD Publications, 1996

Holmes, Kevin *The concept of income: a multi-disciplinary analysis*, Victoria University of Wellington, Prof John Prebble, 2000, Amsterdam, IBFD Publications, 2001

Holub, Mark *Taxes and the choice of organisational form in Australia*, University of Western Australia Dept of Accounting and Finance, 2001

Hustler, Murray H *Tax haven use and control: a study of tax haven use by Australian public companies and the development of controlled foreign company legislation in Australia*, University of Sydney, 1994

Hynes, BR *Mineral taxation: A comparative analysis*, The University of Nottingham, 1990

Ingles David James *Options for reforming the interaction of tax and social security in Australia*, Australian National University, 2002

Jiang, Tingsong *Economic instruments of pollution control in an imperfect world: theory, and implications for carbon dioxide emissions control in China*, Australian National University, 2001

Jiang, Yuanyuan *Taxes, debt, and firm value: New evidence*, Yale University, Shyam Sunder, 2004

Jones, Chris *Corporate financial policy and taxation*, Australian National University, 1988
Kawaguchi, Akira *Effects of taxes and transfer payments on married women's labour supply and welfare*, Australian National University, 1991

Khan, Muhammad Aslam *The feasibility of introducing a value-added tax in Pakistan*, Australian National University, 1995

Kobetsky, Michael *Taxation of branches of international banks: towards a multilateral tax treaty approach*, Deakin University School of Law, Prof Rick Krever, 2004

Lawrence, Elaine *Framework investigations for harmonizing global taxation of internet commerce*, Deakin University School of Computing and Mathematics of the Faculty of Science and Technology, 2000

Leigh, Andrew Keith *Essays in poverty and inequality (Australia)*, Harvard University, Christopher Jencks, 2004

McNamara, Michael *Policy formulation and the limits of plausibility: a case study of policy formulation in a revenue office*, University of Western Sydney School of Management, 2001
<http://library.uws.edu.au/adt-NUWS/public/adt-NUWS20030410.164044>

Maher, Sean *Structural reorganisation of the Australian film industry in the 1980s under dvision 10BA tax incentives*, University of New South Wales, 1997

Markham, Michelle *The transfer pricing of intangibles: US, OECD and Australian perspectives - a comparative analysis*, Bond University, Faculty of Law, Prof Duncan Bentley, 2004, *The Transfer pricing of intangibles*, The Hague, Kluwer Law International, 2005

Martini, Christine *Some optimization problems in aspects of taxation*, University of Melbourne, 1993.

McGill, Stuart *The Australian social wage*, New School for Social Research, 1990 and on microfilm by
and published Ann Arbor, Mich, UMI, 1990

McFarlane, John *The efficacy of Australian government policy to increase both business expenditure on R&D and the export of elaborately transformed manufactures*, Faculty of Economics and Business, University of Sydney, 2004

McKerchar, Margaret *The effect of rewriting the income tax laws upon compliance levels in Australia*, University of New South Wales Faculty of Law, A/Profs Chris Evans and Ian Wallschutsky, 2003, *The impact of complexity upon tax compliance: a study of Australian personal taxpayers*, Sydney, Australian Tax Research Foundation, 2003
<http://www.library.unsw.edu.au/~thesis/adt-NUN/public/adt-NUN20040330.085148>

- Monem, Reza Mohammed *Earnings management in response to political costs: an investigation of Australian gold mining firms*, University of Queensland Dept of Commerce, 2000.
- Murray, Jane *Taxes, transfers and the labour supply of sole parents*, University of Sydney, 1996
- Nualnoi, Treerat *Tax policy reforms in Thailand: a computable general equilibrium approach*, Australian National University, 1993
- Oats, Lynne *The evolution of federal company and shareholder taxation in Australia: 1915-1995*, University of Western Australia Dept of Accounting and Finance, 2000
- Ohms, Chris *General income tax anti-avoidance provisions: analysis and reform*, University of Auckland, Department of Commercial Law, Faculty of Business and Economics, 1995
- Ongwamuhana, Kibuta *The taxation of income from foreign investments: a tax study of some developing countries*, University of Adelaide, 1989, Deventer, Kluwer, 1991
- Orow, Nabil *Solving the mystery of tax avoidance: A comparative study of general anti-avoidance rules*, University of New South Wales Faculty of Law, Prof Bob Deutsch and Sir Anthony Mason, 1999, *General anti-avoidance rules: a comparative international analysis*, London, Jordans, 2000
- Pattenden, Kerry Ruth *Tax effects in corporate finance: three essays*, University of New South Wales Australian Graduate School of Management, 2000
- Pinto, Dale *The continued application of source-based taxation in an electronic commerce environment*, University of Melbourne Faculty of Law, Prof Graham Cooper, 2002, *E-commerce and source-based income taxation*, IBFD Publications, 2003
- Polome, Samson Mamau *Export instability, investment risks and mineral taxation in Papua New Guinea*, Australian National University, 1987
- Richardson, Grant *The influence of culture on the design of national taxation systems: a theoretical and empirical analysis*, Department of Accounting & Finance, Monash University, Professor Graham Peirson, 2002
- Roberts, DM *Inflation, taxation and Australian housing decisions: housing investment*, University of Sydney, 1989
- Rowntree, Bruce *The effectiveness of Liechtenstein entities to prevent the application of Australian income tax attribution regimes*, Deakin University Law School, Prof Rick Krever, 2003*
- Rumble, Tony *Synthetic equity and franked debt: capital markets savings cures*, University of New South Wales Faculty of Law, Prof Bob Deutsch, 1998
<http://www.library.unsw.edu.au/~thesis/adt-NUN/public/adt-NUN20010119.152830> Parts of which were reproduced in Rumble, Tony (ed) with Amin, Mohammed & Kleinbard, Edward D *Taxation of equity derivatives and structured products*, Houndmills, Basingstoke, Hampshire, Palgrave Macmillan, 2003
- Sadiq, Kerrie *Interjurisdictional allocation of multinational banking income: aligning taxation principles with economic activity*, Deakin University School of Law, Prof Rick Krever, 2003

Selig, Matt *Characterisation of foreign entities for tax purposes*, Deakin University School of Law, Prof Rick Krever, 2003

Sidhu, Baljit Kaur *The role of political costs in the tax effect accounting policy choice*, University of Sydney, 1993

Smith, David Michael *Stock-in-trade valuation in the United Kingdom 1840 to 1959*, Deakin University School of Accounting and Finance/Faculty of Business and Law, 2000

Smith, Dominic Scott *The taxation of the offshore oil industry*, University of Western Sydney, School of Business, 1990 <http://library.uws.edu.au/adt-NUWS/public/adt-NUWS20030707.092254>

Smith, Julie Patricia *The changing redistributive role of taxation in Australia since federation*, Australian National University, 2002

Sullivan, Robert *Trade, protection and taxation: the formation of Australian tariff policy, 1901-14*, Australian National University, 1997

Tadmore, Niv *The interaction between tax treaties and e-commerce re-examined*, Deakin University School of Law, Prof Rick Krever, 2003*

Tran, Alfred Van-Ho *Relationship of tax and financial accounting rules: an empirical study of the alignment issue*, Australian National University, 1997

Walker, Julie K *Accounting for pre-discovery costs in Australia: an efficient contracting approach*, University of Queensland, Dept of Commerce, 1994.

Weekes, Leslie Jean *Tax avoidance: An analysis of current judicial approaches (Canada, Australia)*, University of Toronto, Arnold Weinrib, 1996

White, David I *Trans-Tasman company tax horizons: why mutual recognition of company tax credits would create an inward looking investment area in Australasia*, University of Sydney Faculty of Law, Prof Richard Vann, 1997

Whitted, G *The evolution of consolidated financial reporting in Australia: an evaluation of alternative hypotheses*, University of New South Wales, New York, Garland Pub, 1988

Wilkinson, Brett Raymond *Testing the 'new' and traditional views on dividend taxation in an integrated tax setting*, Texas Tech University, Robert C Ricketts, 2002

Wittwer, Glyn *The Australian wine industry during a period of boom and tax changes*, University of Adelaide Dept. of Economics, 2000

PhDs and SJDs in progress

Author, Title, Institution, Supervisor, Expected completion date (optional and voluntary)

Abehodie, Wollala *VAT in Ethiopia*, Atax, University of New South Wales, A/P Binh Tran-Nam

Cheng, Alvin Man Hung *Taxation of capital gains in New Zealand*, University of Waikato, Waikato Management School, Dept of Accounting, Prof Howard Davey and Prof Keith Hooper, Auckland University of Technology

Cheong, Virginia *Problems associated with the international interaction of controlled foreign company rules*, University of New South Wales School of Business Law and Taxation, A/Prof John Taylor, 2005

Devos, Ken *An international comparative study of the deterrent effect of penalties and sanctions for taxation offences and the implications for taxpayer compliance and development of tax policy*, Monash University, Prof Paul Von Nessen and A/Prof Julie Cassidy (Deakin University)

Dirkis, Michael *Terms of engagement - A qualitative examination of the basic building blocks of Australia's international tax regime (residency and source) against the tax policy objectives of equity, efficiency, simplicity and the prevention of tax avoidance and an exploration of the avenues for reform*, Australian National University, 2005

Fernandez, Prafula *International taxation of multinational activities*, Curtin University of Technology School of Economics and Finance, A/Prof Jeff Pope

Fernandez, Rodger *The implications of the flow of information in revenue law on the protection of privilege against self incrimination*, University of Sydney Faculty of Law, Prof Rob Woellner (JCU) and A/Prof Lee Burns (University of Sydney)

Freudenberg, Brett *Small business taxation re hybrid taxation - whether this methodology meets the needs of small business more efficiently*, Griffith University, Dr Peter McDermott (UQ) and Errol Iselin (Griffith).

Fullarton, Alex *Tax avoidance, tax expenditures and their impact upon personal income tax reform*, Atax, University of New South Wales, Prof Chris Evans

Gerber, Solomon *Taxation of trusts*, Atax, University of New South Wales, Prof Bob Deutsch

Gousmett, Michael *A comparative study of the law of tax-exempt charitable organisations in Australia, Canada, New Zealand, the United Kingdom and the United States*, University of Canterbury, Adrian Sawyer

Hamil, David *The GST and the dynamics of fiscal federalism*, University of Queensland School of Political Science & International Studies, A/Prof Stephen Bell

Hui, Robert Man Cheong *Cross-border aircraft leasing into China: a case for international tax arbitrage. Towards harmonization in international taxation*, University of Sydney Faculty of Law, Prof Richard Vann

Hunter, Tony *Taxing treatment for discretionary trusts*, University of New South Wales School of Business Law and Taxation, A/Prof John Taylor

Ikin, Catherine *Australian corporate tax planning/management*, Australian National University, Dr Alfred Tran

Italia, Maria *The protection of taxpayers' confidential communications with their tax advisers*, Deakin University School of Law, Prof Mirko Bagaric

Latham, Craig *The Australian income taxation of electronic commerce*, Charles Sturt University, Dr Anne Ardagh, Dr Nabil Orow and Stephen Gates

Lignier, Philip *Managerial benefits of GST*, Atax, University of New South Wales, Prof Chris Evans

Loo, Ern Chen *The influence of the introduction of self assessment on compliance behaviour of personal income taxpayers in Malaysia*, University of Sydney Faculty of Rural Management, Dr Marg McKerchar and Ann Hansford, UK

McManus, Jacqui *The impact of design aspects of a VAT*, Atax, University of New South Wales, A/Prof Neil Warren

Mulyani, Yeni *APA: Its benefits and benefits in solving transfer pricing issues to avoid double taxation in Indonesia*, Atax, University of New South Wales, Prof Bob Deutsch

Nolan, Patrick, *Targeting families' assistance: Evaluating family and employment tax credits in New Zealand's tax-benefit system*, School of Government, Victoria University of Wellington, A/Prof Robert Stephens, 2005

Olsen, Mark *Prescribed powers of revenue administration in developing countries*, Deakin University School of Law, Prof Rick Krever.

Rametse, Nthathi *Start-up tax compliance costs of the GST for small businesses in Australia*, Curtin University of Technology, A/Prof Jeff Pope

Rankine, Campbell *The costs and burdens imposed by the Australian tax system on small investors*, University of New South Wales Faculty of Law, Prof Bob Deutsch

Rothengatter, Maarten R. *Taxing taxis: limits and possibilities in regulating the tax compliance behaviour of marginalised taxi-workers - an Australian case study*, University of Queensland - School of Social Sciences (Sociology/Criminology), A/Prof James McKay, A/Prof Michael Emmison and A/ Prof Geoff Dow.

Sanguhl, Elfriede *The impact of globalisation on nation states' ability to legislate with respect to corporate taxation*, University of Western Sydney, Dr Scott Mann and Michael Blissenden

Sawyer, Adrian *Globalization and international taxation policy: a new approach for new era*, University of Virginia School of Law, Prof Paul B Stephan, 2006*

Smart, Martha *The effect of the compliance and penalties regime on voluntary tax compliance: a New Zealand study*, University of Canterbury, Adrian Sawyer

Schostok, Thomas *Analysis of the consolidation regime*, Bond University School of Law, Prof Duncan Bentley*

Sharkey, Nolan *International tax laws, double taxation treaties and the Australia-China interrelationship*, University of New South Wales Faculty of Law, Prof Yuri Grbich (Atax, University of New South Wales), A/Prof Hans Hendrichske (Arts, University of New South Wales), Prof Jinyan Li (Osgoode Hall Law School, York University, Canada), 2006

Smart, Martha *An examination of the New Zealand compliance and penalties regime*, University of Canterbury, Adrian Sawyer

Sridaran, Maheswaran *A study on whether the Australian regime of income tax on capital gains causes widespread violation of horizontal equity*, Macquarie University, Hope Ashiabor and Dr Malcolm Voyce, 2006

Tan, Lin Mei *Tax practitioners' role in tax compliance*, Australian National University, Prof Valerie Braithwaite

Tooma, Rachel *General anti-avoidance and indirect taxation*, Atax, University of New South Wales, Prof Bob Deutsch

Tregoning, Ian *Legal and accounting concepts of goodwill*, Deakin University School of Law, Prof Rick Krever

Venning, Meg *GST, the cash economy and business to household consumer transactions in Australia*, Atax, University of New South Wales, A/Prof Neil Warren

Walpole, Michael *Taxation of intangibles*, University of New South Wales Faculty of Law, Prof Bob Deutsch

Other resources:

Australian Digital Theses Program <http://adt.caul.edu.au>

Canadian theses and information about the Theses Canada program may be found at <http://www.collectionscanada.ca/thesescanada/index-e.html>

Index to Theses (UK) <http://www.theses.com>

ProQuest Digital Dissertations <http://wwwlib.umi.com/dissertations/gateway> for subscribers only

UNESCO Clearing House on Electronic Theses and Dissertations

<http://www.eduserver.de/unesco>

Universal Index of Doctoral Dissertations in Progress <http://www.phddata.org>

Various university online library catalogues, eg Australian National University, Deakin University, University of New South Wales, University of Sydney etc.

Colin Fong

9 Vacancies

Lecturer/Senior Lecturer in Taxation (up to 2 positions) AUSTRALIAN TAXATION STUDIES PROGRAM (ATAX) UNSW REF 3529

The Australian Taxation Studies Program (Atax) is a leading national provider of education, training and research for the tax profession in Australia. It is part of the Faculty of Law at UNSW and currently has over 1,300 students enrolled in its undergraduate and postgraduate taxation degree programs. Atax programs and courses are taught in both flexible delivery and traditional classroom modes.

There are opportunities to teach at undergraduate and postgraduate levels in all areas of taxation but special needs exist in relation to administrative law, corporate taxation, taxation of commercial entities, superannuation, taxation of employee remuneration and international taxation (particularly in the context of Asian Pacific rim tax jurisdictions). Applications are encouraged from both legal and accounting professionals, and from those with strong tax technical, policy or academic backgrounds. The successful applicants will also be expected to make strong contributions to Atax research activities and participate in a thriving research culture.

Essential criteria at either level: teaching or professional experience in the area of taxation or a related discipline; completion or near completion of a relevant postgraduate qualification or equivalent experience; excellent oral and written communication skills; understanding of equity and diversity principles; knowledge of OHS responsibilities and commitment to attending relevant OHS training.

Additional Essential criteria at Senior Lecturer level: postgraduate qualifications in a relevant discipline or equivalent experience; capacity for academic leadership; significant record of achievement in independent research and publication of scholarly output or high level professional experience; significant record of high quality teaching or professional practice; excellent oral and written communication skills as well as the ability to implement equity and diversity policies and programs.

Desirable criteria at either level: an established program of on-going research; capacity to contribute to the development of on-line teaching; involvement with professional organisations.

The salary range for Lecturer is \$62,619 - \$73,800 per year and for Senior Lecturer is \$76,033 - \$87,213 per year depending on qualifications and experience. This salary includes a superable UNSW academic loading of \$3,000 per annum payable to all academic staff (pro rata for fractional academic staff). A salary supplement may be negotiated with the successful applicant.

Membership of a University approved superannuation scheme is a condition of employment.

For informal discussions about the positions please contact the Director of the Atax Program, Professor Chris Evans, on telephone (02) 9385 9346, mobile 0418 90 60 10 or email: cc.evans@unsw.edu.au. Further information about Atax and an application package can be obtained from Anita Clarke on telephone (02) 9385 9343 or email a.clarke@unsw.edu.au

Applications close on 9 May 2005.

As a result of this ARC Linkage Grant on personal income taxation reform, Atax is seeking to appoint an Australian Postgraduate Award Industry (APAI) Research Student. Applicants for this position must be an Australian citizen or permanent resident or a New Zealand citizen; hold a relevant degree (commerce, law, taxation) of at least second class honours (upper division) or equivalent (eg, significant research experience in industry); and not have completed a PhD or its equivalent. The successful applicant must commence full-time study in the Atax PhD Program in July 2005 (or earlier) and write a thesis in an area relating to PIT tax reform, drawing in part from materials derived from the ARC Linkage Project. The award will be provided for two years initially, with a strong prospect of funding for a third year. An annual, tax-free stipend of \$26,000 and other allowances will be provided each year. Interested persons should in the first instance contact A/Prof Binh Tran-Nam, Atax, UNSW Sydney NSW 2052, Tel: 02-9385 9361, Fax: 9385 9380, Email: b.tran-nam@unsw.edu.au

Full-Time Member, Queensland Law Reform Commission Ref No. J79/05

Closing date: 26 April 2005

Applications are invited for the position of full-time member of the Queensland Law Reform Commission established under the *Law Reform Commission Act 1968*. The permanent support staff consists of a Director, Senior Research Officer, Commission Secretary, two

Legal Officers and two Administrative Officers. The Commission's Office is located at level 7, State Law Building, 50 Ann Street, Brisbane.

Functions and duties of Commission: The function of the Commission is to review all the law of Queensland with a view to its systematic development and reform. The Commission reviews areas of law referred to it by the Attorney-General.

Qualifications: Applicants must possess a degree in Law, preferably with Honours and eligibility for admission as a Barrister or Solicitor. Post Graduate qualifications in Law and a relevant background in legal research will be highly regarded. Suitably qualified applicants presently employed by an Educational Institution may be seconded.

Period of Appointment: Up to three years with eligibility for reappointment.

Salary: \$76,998 to \$81,433 per annum

Applications: Applications should contain full particulars of name, address, contact telephone number, qualifications and experience and address the selection criteria and supply the names of two referees. Envelopes should be marked "Confidential" and quoting the relevant reference number and forwarded to The Vacancy Processing Officer, Department of Justice and Attorney-General, GPO Box 149, Brisbane, QLD 4001.

Further information: Claire Riethmuller (07) 3247 5690

10 Tax, Accounting, Economics and Law Related Meetings

Local

Atax Continuing Education classes in taxation are suitable for those wishing to update their skills without assessment tasks or exams. The intensive short courses and evening classes offered by continuing education mode provide tax teachers with the opportunity to focus on their professional development. The intensive short courses are held over 5 days at Atax's Cliffbrook Campus in Coogee, Sydney. Evening classes start during the week of July 25 and are held during Session 2 (between 6-8pm) at AGSM, 1 O'Connell Street, Sydney.

Intensive classes (Atax, 45 Beach St, Coogee, Sydney):

Specific Tax Jurisdictions: North America (18-23 August)

This course examines in detail the domestic tax laws of the US. Particular attention is paid to domestic taxation laws in the US from the perspective of international investors and their advisors. These tax laws are compared to international norms.

Double Tax Agreements (25-30 August)

This intensive short course provides a comprehensive and in-depth study of DTAs including DTA coverage, dual residency issues, and taxation of passive income flows, taxation of business income and capital gains, and mechanisms to alleviate double tax.

**no classes are scheduled on Sundays*

Evening Classes (July – November)

- Taxation of Employee Remuneration (Monday nights)
- Taxation and Investment Regulation in China (Monday nights at UNSW's Kensington Campus)
- Principles of GST Law (Tuesday nights)
- Taxation of Trusts (Wednesday nights)
- Principles of Australian International Taxation (Thursday nights)

For more information about Session 2 continuing education opportunities at Atax and an application form, please visit www.atax.unsw.edu.au/conteds205.htm or phone Atax Student Services on **02 9385 9333** or email anna.b@unsw.edu.au

Taxation Institute of Australia

<http://www.taxinstitute.com.au/cda/cpd/events/1,1335,,00.html> lists many of the TIA conferences, conventions, seminars, breakfast clubs. 20th National Convention - Western Australia, 16 - 19 March 2005. For further enquiries, contact Sarah Hadfield by telephone on (02) 8223 0031, or by email by clicking <mailto:sarahhadfield@taxinstitute.com.au>

Taxation Law units of study available on a single unit "attendance only" basis through the **Faculty of Law, University of Sydney** for 2005.

We would like to advise you concerning special Taxation Law related units of study available during 2005. (Cost \$1,890 per unit). Units available are:

- * Australian International Taxation
- * Comparative Corporate Taxation
- * Comparative Income Tax
- * Comparative International Taxation
- * Corporate Taxation
- * Customs Law
- * Goods & Services Tax Principles
- * Netherlands International Tax
- * Stamp Duties
- * Tax Administration
- * Tax & Economic Development
- * Taxation of Financial Institutions & Financial Transactions
- * Tax Law in Asia and the Pacific
- * Taxation of Business & Investment Income A
- * Taxation of Business & Investment Income B
- * Tax of CFCs, FIFs and Transferor Trusts
- * Tax Treaties
- * Taxation of Corporate Groups
- * Taxation of Partnerships and Trusts
- * Taxation of Remuneration
- * The Impact of Tax on Business Structures & Operations
- * Transfer Pricing in Taxation
- * US International Taxation

To obtain a full copy of the brochure relating to Single Unit Enrolments in Taxation in 2005 please download the following document from the Faculty's website: <http://www.law.usyd.edu.au/cle/2005/2005TaxBrochure.pdf>

If you have any queries concerning single unit enrolment or are unable to download the brochure, please contact Ms Val Carey, Continuing Legal Education, Faculty of Law (Telephone No. 9351 0238), email: valc@law.usyd.edu.au (Val Carey, CLE 9/12/04)

Full details of the Law School's Postgraduate Programs may be found at <http://www.law.usyd.edu.au>, or alternatively you can telephone No. 9351 0351 for an information pack.

Eighteenth Annual Australasian Tax Teachers Association Conference 2006, 30 January-1 February 2006, University of Melbourne Law School. Contact Miranda Stewart, m.stewart@unimelb.edu.au A location map of the Law School is available: <http://www.law.unimelb.edu.au/LawSchoolStreetPlan.jpg>

Australian Society of Legal Philosophy Annual Conference, 29 April - 1 May 2005, Law School, University of New South Wales CALL FOR PAPERS. The theme of the conference will be *Constitutions, Sovereignty and Democracy*. The keynote speakers will be: *Professor Sir Neil MacCormick* (University of Edinburgh and Freehills Visiting Professor, UNSW) and

Professor Jeff Goldsworthy (Monash) on common law constitutionalism. The subject of the book symposium will be *Indigenous Sovereignty and the Democratic Project* by *Steven Curry* (Ashgate, 2004). As usual, papers on any topic in legal theory and the philosophy of law, as well as papers related specifically to the conference theme, will be most welcome. Offers of papers (including an abstract of no more than 100 words) should be sent to the Secretary, Professor Peter Cane at peter.cane@anu.edu.au as soon as possible and certainly no later than 25 March 2005.

Jurisprudential Perspectives of Income Tax Law, Professor John Prebble: 11 - 14 May 2005.

Auckland University of Technology warmly invites members of the Australasian Tax Teachers Association to attend Professor Prebble's innovative masters block course, *Jurisprudential Perspectives of Income Tax Law*, over four days, May 11 to 14, 2005. Several members of Australian and New Zealand faculties attended this course in 2004. All warmly recommend it to their colleagues.

Professor Prebble presented a paper on the course at the 2005 ATTA teaching workshop, where it attracted a great deal of interest. The course examines income tax law from the perspective of a number of jurisprudential theories, including natural law, postivism, autopoiesis, Kant's theory of the categorical imperative, Fuller's study of legal fictions and Dicey's and more modern authors' work on the rule of law.

A limited number of places are available to tax teachers. AUT is pleased to invite ATTA members to register to attend the course as auditors, free of charge. A book of readings will be circulated in advance. The AUT campus is in Wellesley Street East, in the centre of Auckland. There is plenty of reasonably priced accommodation nearby.

Please direct enquiries to Associate Professor Chris Ohms at AUT (Chris.Ohms@aut.ac.nz) or to Professor Prebble (> John.Prebble@vuw.ac.nz).

International Tax Planning Conference 16-17 May 2005, Four Points by Sheraton Darling Harbour Sydney, 161 Sussex Street, Sydney, NSW 2000 Ph: (+ 61 2) 9290 4000 Fax: (+61 2) 9299 3340

ON-LINE www.informa.com.au/internationaltax FAX (+61 2) 9290 3677 MAIL IBC Conferences

GPO Box 2728, Sydney NSW 2001 E-MAIL michael.casey@informa.com.au PHONE (+61 2) 9080 4351 PHONE (+61 2) 9080 4351 E-MAIL michael.casey@informa.com.au

Attending this conference will offer maximum benefit. However, if you are unable to attend, a bound set of conference notes are available at a cost of \$695 + 10% GST = \$764.50. Simply tick the "Conference notes only" box on the registration form and forward it with payment to Informa Australia Pty Ltd. The papers will be sent to you within 3 weeks of the event.

"The Challenge of Law in Asia: from Globalization to Regionalization?" Call for Papers The 2nd Asian Law Institute (ASLI) Conference, 26 & 27 May 2005, Chulalongkorn University in Bangkok, Thailand. More information can be found at www.law.chula.ac.th/asli. The registration form can be downloaded from <http://www.law.chula.ac.th/asli/download.html> and contains information such as submission of paper abstracts, hotel reservations, conference fees, social activities etc. We regret that no subsidies are available for expenditures such as air flights, hotel charges and conference fees. Details on the conference programme (speaker panels etc.) may be subject to change. If you require more information, please contact Dr.Pareena Srivani of the Faculty of Law, Chulalongkorn University at asli@law.chula.ac.th

The Australasian Law Teachers Association Conference, 5 - 8 July 2005, Hamilton, New Zealand. Submission Date for Abstracts: 11 May 2005. As nation-states struggle with internal diversity while globalisation demands harmonisation, the issue of legal uniformity is one which resonates across all subjects and jurisdictions. From the foreshore of New Zealand to the deserts of Iraq we see controversial decisions justified on the basis of democracy, the rule of law and legal equality, but does one size fit all? With the aid of leading speakers from New Zealand, Australia and around the globe ALTA 2005 will explore the question of: One Law for All? This is a call for Indigenous Peoples & the Law Interest Group papers. You are invited to use the webform to submit abstracts at <http://www.alta2005.waikato.ac.nz>. If you do not wish to use the webform, you can download a copy of the webform and fax your submission. Proposals for papers etc for the Revenue Law Interest Group can be sent to Robin Woellner at robinhw@hotmail.com

The **fifth Annual States' Taxation Conference**, a national event jointly organised by the State Revenue Offices and the Taxation Institute of Australia is to be held in late July 2005. Topics to be discussed at the conference include pay-roll tax and stamp duty. For further details visit the NSW Office of State Revenue website at www.osr.nsw.gov.au

ASBBS Conference Join fellow Australasian business and behavioural scientists for the 2005 Annual Meeting of the Australasian Society of Business and Behavioural Sciences to be held in Pacific International Hotel, Cairns, Australia during August 5-7, 2005.

Conference Theme - *Academia and industry - Communication and dialogue*

Scholarship: The conference committee invites papers from all areas of Business and Behavioural Sciences. We are interested in papers that reflect applications of business and behavioural science research and scholarship to real-world business problems. Submit completed papers to the appropriate track chair with a copy to elias.shehadie@jcu.edu.au. The deadline for submission of papers was **February 28, 2005. Papers will be doubleblind reviewed.**

Papers may be submitted as follows:

Adee Athiyaman, **Conference Chair**, adee.athiyaman@jcu.edu.au Greg Teal, Program Chair, New Zealand, greg.teal@uws.edu.au **Legal Studies:** All Areas Colin Anderson andersoc@usq.edu.au

Thematic Paper and Keynote Speaker Competition: Separate proposals are invited on the conference theme "Academe and industry: Communication and dialogue".

Submit your complete paper to the Conference Chair by the deadline of February 28, 2005.

The author of the best paper will be selected as the Keynote Speaker for the Annual Banquet of ABBSA with a special recognition. Further details may be obtained from the conference chair or at <http://ecomm-trial.jcu.edu.au/~cber/conferences.html>

Information can be found at <http://www.jcu.edu.au/flbca/public/business/cber/index.shtml>

Last date for early bird registration is 1 July 2005. For enquiries please contact the conference director Adee Athiyaman, Associate Professor - Marketing and Director, Centre for Business & Economic Research, p: +61 7 4781 5690, fax: +61 7 4781 6533

Interpreting the GST Law *Five years into the life of Australia's GST and the first genuine GST assessment cases are now reaching the courts. Preceding judicial consideration of GST assessments, there have been a rash of decisions interpreting the law in the context of contract, tort and administrative law cases, on top of tax administration interpretation of the legislation through many dozens of public rulings, determinations and published ATO IDs.*

The Taxation Law and Policy Research Institute at Monash University, in conjunction with principal sponsorship by ATP and further sponsorship by IFA and Atax is holding an international seminar on interpretation of the GST

Friday, 5 August and the morning of Saturday, 6 August at the Atax premises, UNSW Cliffbrook Campus, 45 Beach Street, Coogee. Seminar enrolment fee includes lunch on

Friday and a Friday evening seminar dinner at the Crowne Plaza, Coogee Beach. The seminar features papers by Australia's leading experts on interpretation of the GST and also features international experts on GST interpretation.

Speakers: Tom Reid, formerly of the Office of Parliamentary Counsel, currently consultant to Department of Treasury

Ken Fehily, PriceWaterhouseCoopers

Michael D'Ascenzo, Australian Taxation Office

Rebecca Millar, University of Sydney

Neil Brooks, Osgoode Hall Law School

Graham Hill, Federal Court of Australia

Jacqui McManus and Michael Walpole (joint paper), Atax

Ben Terra, Professor, Erasmus University, Rotterdam and Executive Chairman, Academic Activities,

International Bureau of Fiscal Documentation

To ensure the seminar remains an opportunity for close discussion and participation, enrolment will be limited and filled on a first-come, first-serve basis.

Fee: \$423.50 inclusive of GST, lunch and conference. **ATTA Members:** Members are entitled to a 30% discount on the enrolment fee. **\$296.45** (cheque payable to "Monash University"). See attachment to this *ATTA News* or please visit

<http://www.atax.unsw.edu.au/news/brochurestandard.pdf>

Nineteenth Annual Australasian Tax Teachers Association Conference 2007, January 2007, University of Queensland Law School. Contact Kerrie Sadiq, k.sadiq@law.uq.edu.au

Overseas

American Accounting Association Calls for paper website <http://aaahq.org/calls/default.cfm>

Canadian Tax Foundation <http://www.ctf.ca/profDev/schedule1.asp> has a 2005 events schedule.

Fifty-Seventh Tax Conference, 25-27 September, Vancouver Hyatt Regency

Commonwealth Law 2005, 11 – 15 September 2005, QEII Conference Centre, London, UK
www.commonwealthlaw2005.com

Institute for Fiscal Studies Conferences and seminars

<http://www1.ifs.org.uk/conferences/index.shtml>

International Bureau of Fiscal Documentation Various courses in Amsterdam, the Netherlands. For details, see <http://www.ibfd.org> The IBFD International Tax Academy runs an extensive international course program. Generally all courses are held in Amsterdam. Should you require any further information or wish to register please refer to their web site www.ibfd.org or contact the International Tax Academy at +31-20-554 0160 or by e-mail ita@ibfd.org

Summer Course: Principles of International and Comparative Taxation. For newcomers in the world of cross-border taxation the ITA Summer Course is the best introduction you can get. Or it is a great course to refresh your memory! This course deals with the basic concepts and principles of international tax law and what the main current issues of international tax law are. You will acquire a structured understanding of the concepts and principles of international tax law. Amsterdam, 22 August - 02 September 2005

For 2005 courses go to http://www.ibfd.org/news/course_calendar.htm

The ITA also offers tailor-made in-house courses on a worldwide basis for corporate clients, tax administrations and other organizations. Should you have any queries, please contact Arcotia Hatsidimitris, Head of the International Tax Academy by telephone +31-20-554 0180, or by a.hatsidimitris@ibfd.org

International Tax Planning Association Forthcoming meetings

<http://www.itpa.org/meetings.html>

International Atlantic Economic Society (IAES) conference. You can visit IAES's web site (www.iaes.org) for more information. Prof dr M. Peter van der Hoek Academy of Economic Studies, Bucharest, Romania and Erasmus University, Rotterdam, Netherlands. Mailing address: Erasmus University (L 7-20) P.O. Box 1738 NL-3000 DR Rotterdam Netherlands Phone/Fax: +31-10-4081622 E-mail: vanderHoek@frg.eur.nl 60th International Atlantic Economic Conference will be held in New York, 6-9 October 2005; then Berlin 15-19 March 2006; Philadelphia 5-8 October 2006

The University of North Carolina's Eighth Annual Tax Symposium April 1-2, 2005, Chapel Hill, North Carolina, USA Participation Deadline: None Provided. Submission Deadline: January 14, 2005.

The University of North Carolina is organizing its eighth annual symposium designed to bring together leading tax scholars from economics, accounting, finance, law, political science, and related fields. The symposium will be held in Chapel Hill on Friday afternoon and Saturday morning, April 1 & 2, 2005, and will be sponsored by the KPMG Foundation. The goal is to bring together scholars from different areas who share a common interest in current tax research. Previous conferences have been very successful, and we anticipate the same this year.

Paper details: Papers should be well developed, but at a stage where they can still benefit from the group's discussion. The symposium will include no more than six papers. Travel and lodging expenses for presenters will be reimbursed up to \$500. Contact: Professor Ed Maydew Edward_Maydew@unc.edu Postal: Kenan-Flagler Business School University of North Carolina at Chapel Hill Campus Box 3490, McColl Building Chapel Hill, NC 27599-3490. Paper selection was finalized by February 4, 2005.

European Association of Tax Law Professors Meetings and conferences

<http://www.eatlp.org> Naples 2-4 June 2005; Budapest 2006; Helsinki 2007

Tax Research Network (TRN) Annual Conference, "*Tax in a changing world*," Edinburgh University, Edinburgh, Scotland, 8-9 September 2005.

http://users.wbs.ac.uk/group/trn/home/whats_new Abstracts, or full papers, if available, should be sent in electronic format by e-mail for consideration in the first instance to the conference organizer Sandra Eden (s.eden@ed.ac.uk) The deadline for submission of abstracts is 31 March 2005. Presenters will be informed as soon as possible after that whether their papers have been accepted. If not provided initially, full papers will be required by 31 July 2005 to allow time for conference packs to be compiled.

Sixth Annual Global Conference on Environmental Tax Issues, Leuven, Belgium from 22-24 September. The URL to the conference's site is:

<http://www.law.kuleuven.ac.be/imer/nieuws.html>

Organisation : Professor Kurt Deketelaere and Professor Geert Van Calster, Institute of Environmental and Energy Law, University of Leuven, Flanders, Belgium & Professor Janet Milne, Environmental Tax Policy Institute, Vermont Law School, Vermont, USA

Conference Venue : Faculty Club, University of Leuven, Leuven

<http://www.facultyclub.be/site/home.php?p=infrastructuur&newlang=uk>

Conference Theme: The central theme of the 6th ETC will be : “*The Promotion of Renewable Energy Sources through Tax or Other Market-Based Measures – Challenges and Obstacles*”.

This central theme will be developed during the first conference day, by different invited keynote speakers and panels. Traditionally, the second conference day will tackle a broad variety of environment and energy taxation issues, from a multidisciplinary perspective. Abstracts for these presentations and panels are hereby invited.

Further information: Kurt Deketelaere : kurt.deketelaere@law.kuleuven.ac.be Geert Van Calster : geert.vancalster@law.kuleuven.ac.be Janet Milne : jmilne@vermontlaw.edu
More info on: City of Leuven : <http://www.leuven.be/showpage.asp?iPageID=2721>
University of Leuven : <http://www.kuleuven.ac.be/english/>
Institute for Environmental and Energy Law : <http://www.law.kuleuven.ac.be/imer/>

Other useful tax and law related conference websites include the **IBFD Course calendar** http://www.ibfd.org/news/course_calendar.htm **UNSW Faculty of Law Conference Calendar** http://www.law.unsw.edu.au/news_and_events/events/events.asp **New South Wales Bar Association** http://www.nswbar.asn.au/Professional/Noticeboard/ComingUp/contents_coming.htm **Law Council of Australia** <http://www.lawcouncil.asn.au/events.html> **Law Courts Library** <http://www.lawlink.nsw.gov.au/conference> **LexisNexis Professional Development Calendar of events** <http://www.lexisnexis.com.au/aus/conferences/calendar/default.asp> See also the *inTax* Seminars Directory, published in *inTax Magazine*. **Practising Law Institute** <http://www.pli.edu/> **New York County Lawyers Association** <http://www.nycla.org> **American Bar Association** <http://w3.abanet.org/home.cfm> **New York Bar Association** <http://www.nysba.org/> **Hieros Gamos** Worldwide Law Events Calendar http://www.hierosgamos.org/hg/db_meetings.asp?action=search <http://www.hg.org/calendar.html>
For social sciences and humanities conferences, meetings etc, see Mind: The Meetings Index <http://www.interdok.com/mind> See also the magazine *Australian Conference & Exhibition Diary*, Vamosi Information Publication.

11 Recent publications

Bold indicates ATTA members. Readers are encouraged to notify the Editor of recently written publications for notification, in these pages. Please note some of the overseas publications listed may not yet be available locally.

Local

Australian Bureau of Statistics *Taxation Revenue, Australia*. “This publication contains statistics of taxation revenue collected by all levels of government in Australia for the period 1998-99 to 2003-04. The taxation revenue statistics presented are for the general government sector and include taxes received from public corporations (i.e. government owned/controlled corporations). The amount of taxes received from these corporations is provided in the relevant tables”. Source: Australian Bureau of Statistics at: www.abs.gov.au/ausstats/abs@.nsf/mf/5506.0

(2005) 5 (1) *Australian GST Journal*

- Bladwell, Stephen “Supplies of going concerns”
- Stacey, Paul “Critical comment: The 2004 GST year that was”
- **Krever, Richard** “GST and death: the puzzle is missing some pieces”

(2005) 5 (2) *Australian GST Journal*

- Tafft, Mark "GST and Tax Office audits – statistical sampling"
- Cridland, Matthew "Critical comment: Precedent GST clauses: the advantage and risks"
- Penning, Rhys "Financial supply facilitators – a friend indeed"
- Stacey, Paul "Case update"

(2005) 16 (7) *Australian Superannuation Law Bulletin*

- Davis, Noel "Fund exemptions: no choice?"
- Stanhope, Bill "Investment choice – consumer or beneficiary?"
- Vrisakis, Michael "Superfund internal rationalisations and the concept of 'interest' – Houston we have a problem?"
- Levy, Michelle "Choice of fund"
- Mackenzie, Gordon "Treasury's review of pensions in small superannuation funds"
- Bourke, Stephen "CGT and SMSF super splits"

(2005) 16 (8) *Australian Superannuation Law Bulletin*

- Stanhope, Bill "Choice regulations: how'd we get here, Toto?"
- "Super news: choice regulations released"
- Vrisakis, Michael "Frankenstein's monster lives! – more on 'superannuation interests' and a retail/wholesale vivisection"
- ASIC news: Australian Securities and Investment Commission Class Order 04/1574"
- Paskin, Jane "Investing in the Australian retirement fund system"
- Riordan, Gary "Super cases: William William v Commissioner of Taxation [2005] AATA 112 Member SC Fisher 8 February 2005; Benross Pty Ltd v Commissioner of Taxation"

(2005) 20 (1) *Australian Tax Forum*

- **Freudenberg, Brett** "Are asset revaluation reserve distributions 'ordinary income' for discretionary beneficiaries?"
- **Sridaran, Maheswaran** "Taxation of capital gains and horizontal equity: a review of the Australian perception"
- Hanlon, Dean and **Nethercott, Les** "The increasing divergence between accounting practice and taxation law: the case of in-substance debt defeasance"
- Jordan, Desiderio Romero and Sanz Sanz, Jose Felix "An international comparison of marginal effective tax rates on labour use"

(2005) 34 (1) *Australian Tax Review*

- **Evans, Chris** "Editorial: Some light summer reading"
- **Fisher, Rodney** "An assessment by any other name ... 'Making an assessment' under self-assessment"
- Tang, Reynah "The Commissioner's power to assess taxpayer information from third parties and a taxpayer's right to privacy – A case for reform?"
- Wiley, Nicholas "Is the sole unit holder in a unit trust the 'owner of the trust assets?'"
- **Hill, Peter** "Case note: Igloo Homes Pty Ltd v Sammut Construction Pty Ltd"

Australian Taxation Office *Access and information gathering manual* Chapter 6 relates to legal professional privilege and chapter 7 relates to access to professional accounting advisors' papers, have been updated <http://www.ato.gov.au>

Carmody, Michael "Corporate governance and its role in tax," 2005 Taxation Institute National Convention "Tax Unmasked," Perth on 17 March 2005
<http://www.ato.gov.au/corporate/content.asp?doc=/content/56224.htm>

Carmody, Michael "Revitalising the revenue system: the Australian experience". A summary of the presentation given by the Commissioner of Taxation, Michael Carmody, to the Tax Administration Advisory Board meeting held in Phoenix, Arizona, USA, 11-12 January 2005.

<http://www.ato.gov.au/corporate/content.asp?doc=/content/57349.htm> or
<http://www.ato.gov.au/content/downloads/oced.pdf>

(2005) 8 *CCH Tax Week*

- Perkins, Sally-Jane "IFRS – what does it all mean?"

(2005) 9 *CCH Tax Week*

- Bolton, Rebecca "The perils of goodwill"

(2005) 10 *CCH Tax Week*

- Batalha, Luis "NSW: land rich vendor duty – another episode in stamp duty"

(2005) 12 *CCH Tax Week*

- Perkins, Sally-Jane "IFRS – the bottom line"

Crisp, Jane & Wilson, Anthony "Dick Smith - High Court majority affirms Commissioner's duty assessment" (2005) 2 *Australian Stamp Duties in Practice* 37-38

D'Ascenzo, Michael "Managing consolidation," 20th National Tax Institute Conference, Perth, 17 March 2005 <http://www.ato.gov.au/corporate/content.asp?doc=/content/56177.htm>

Granger, Jennie "Welcoming Address - University of NSW Law Faculty annual prize night," 9 March 2005 <http://www.ato.gov.au/corporate/content.asp?doc=/content/55902.htm>

(2005) 2 *GST News*

- McCouat, Phillip "Non-reviewable contacts: what happens now?"

McDonald, Peter and Kippen, Rebecca *Reform of income tax in Australia: a long term agenda*, Demography and Sociology Program, Research School of Social Sciences, Australian National University, Working Papers in Demography No 95, March 2005 <http://demography.anu.edu.au/Publications/WorkingPapers/95.pdf>

MacKenzie, Gordon "Has Australia been avoiding tax arbitrage?" (2005) Issue 232 *Lawyers Weekly* 12-15.

Morrison, David *Taxation law: in principle*, 3rd ed, Sydney, Lawbook Co, 2005

Saunders, Peter "The \$85 billion tax/welfare churn," Centre for Independent Studies, No 57, *Issue Analysis*, 2005 <http://www.cis.org.au/IssueAnalysis/ia57/IA57.pdf>

Sim, D & Allan, GC "Public or private: what good do clergy do anyway?" [2005] *New Zealand Law Journal* 72-74. Note on *Hester v Commissioner of Inland Revenue* (CA 6/04), 14/12/04) also known as the Mormon Pension Fund case

(2005) 2 *Superannuation & Financial Services Bulletin*

- Jones, Stuart and Mansell, Leigh "CGT exemption on sale of business: implications for allocated pensions"

(2005) 3 *Superannuation and Financial Services Bulletin*

- Pizzacalla, Mark "CGT concession enables property transfers into superannuation"

(2005) 39 (9) *Taxation in Australia*

- de Wijn, John "Issues and Agendas"

- **Dirkis, Michael** "Tax Director's Report"

- Taxwrite Services “Technical news”
- Taxwrite Services “Tax tips: Trust borrowing”
- Ketsakidis, Chris and Sudano, John “SMSF’s and property development through unit trusts and private companies”
- O’Donohue, Robert “Superannuation and independent contractors”
- Mann, Geoff and McMahon, Janina “GST: real property, real issues: Part III”
- Alexander, Adam “The direct tax story: Part 1”
- Smedley, Daniel “A matter of trusts”
- Pinson, Julian “Tax case: Pridecraft Pty Ltd v Commissioner of Taxation [2004] FCAFC 339”
- Taylor, Graham “Tax case: Chief Commissioner of State Revenue v Dick Smith Electronic Holdings Pty Ltd [2005] HCA 3”
- Hughson, Leanne “Q&A: Countdown to 1 July 2005 – Time to review your non-reviewable contracts to account for GST!”
- Page, Stephen “Member profile”

(2005) 9 *Weekly Tax Bulletin*

- Prestney, Sue “Just venting – the tax system and SMEs – give us a break!”
- Stitt, Ross and Massingham, Sean “GST and long-term non-reviewable contracts – the arbitration process”

(2005) 10 *Weekly Tax Bulletin*

- Appleby, Daniel “Protecting employees against terrorism”
- Northeast, Mark “The risk of rewards: new tax implications for consumer loyalty”

(2005) 11 *Weekly Tax Bulletin*

- Campbell, Jacqueline “Resolving conflicts between family law and bankruptcy in Australia”
- Snowden, David and Marion, Heather “US Jobs Creation Act practitioner article”

(2005) 12 *Weekly Tax Bulletin*

- Pizzacalla, Mark “CGT concession enables property transfers into superannuation”
- McCuliffe, Thomas “Tax treaty relief from Australian interest withholding tax for US or UK financial institutions”

(2005) 13 *Weekly Tax Bulletin*

- Williams, Glen and Antonelli, Margherita “ATO reiterates its views on tax avoidance and corporate governance”
- Penning, Rhys and Howe, Andrew “GST – red tape and adversarial process to determine ‘appropriate change’ for 1 July 2005”

Overseas

Brown, Brendan & Connolly, Shaun "New thin capitalisation rules for banks operating in New Zealand" (2005) 20 *Journal of International Banking Law and Regulation* 201-205

Doernberg, Richard *International taxation in a nutshell*, St Paul, Thomson West, 6th ed, 2004

Donga, Jean-Paul “Australia. (Global Transfer Pricing Update)” (2005) 37 *Tax Notes International* 470-471

European Taxation No. 4 (2005)

- The Implications of the ECJ Holding the Denial of Finnish Imputation Credits in Cross-Border Situations to Be Incompatible with the EC Treaty in the Manninen Case - Lari Hintsanen and Kennet Pettersson
- The Only Way Out Is the Way Through: Taxation of Partnerships in Italy - Raffaele Russo and Edoardo Pedrazzini
- Ireland Becomes an Even More Attractive Prospect for Corporate Entities - Liam Grimes and Tom Maguire
- CFE Opinion Statement on the Joint Case C-361/02 and C-362/02: The Greek State v. Nikolaos Tsapalos and Konstantinos Diamantakis
- ECJ to Rule on Taxation of Inbound Dividends in Belgium - Patrick Smet and Hannes Laloo
- The Marks & Spencer Case: The Final Countdown Has Begun - Gerard T.K. Meussen
- Recent Developments Regarding Judicial Anti-Tax Avoidance in Russia - Roustam Vakhitov
- Swiss Supreme Court Judgment Facilitates Outbound Transfer of Participations - Frantisek J. Safarik
- Swiss Supreme Court Judgment Facilitates Outbound Transfer of Participations - Frantisek J. Safarik

International VAT Monitor No. 2 (2005)

- Editorial – “Hollow-sounding arguments”

Articles

- “Tax Neutrality and Cross-Border Services” - Joep Swinkels
- “Art and European VAT” - Sigrid J.C. Hemels
- “VAT Refunds to Non-EU Banks” - Joep Swinkels
- “Securitization - The Position of SPV under Australian GST” - Anton Joseph
- “Focus on Norway” - Morten Chr. Stegard
- “Overview of General Turnover Taxes and Tax Rates” - Fabiola Annacondia and Walter van der Corput

Markham, Michelle "The resolution of transfer pricing disputes through arbitration" (2005) 33 *Intertax* 68-74

Murphy, Liam & Nagel, Thomas *The myth of ownership: taxes and justice*, New York, Oxford University Press, 2005

Organisation for Economic Co-operation and Development (OECD) *The application of consumption taxes to the international trade in services and intangibles: Progress report and draft principles*, 2004 <http://www.oecd.org>

Todres, Jacob L "Tax malpractice: areas in which it occurs and the measure of damages - an update" (2004) 78 *St John's Law Review* 1011-93

Viitala, Tomi *Taxation of investment funds in the European Union*, Amsterdam, International Bureau of Fiscal Documentation, Doctoral Series: Vol. 8, 2005

12 Quotable quotes

"This mass jailing of white collar tax crimes is not only transforming accounting practices, but boardrooms are now much more cautious. As a result boards are increasingly concentrating on governance issues and less on the strategies to expand the business. In time that will affect businesses' profit growth."

Gottlieb, Robert "Collared: no mercy for rich rascals," *The Australian*, 15 April 2005, p23 at 26

“Once the output of these consultancies is available, it is intended that there be a period of consultation with stakeholders on the list of confirmed inoperative provisions. The Board’s work is primarily for the benefit of tax practitioners and their support will be important to the outcome. The work undertaken to date has benefited from stakeholder input.

The Board would then be in a position to make recommendations to Ministers on whether, for example, the inoperative provisions could be repealed or remain on the statute book but be 'archived' in some way.

The objective would be to reduce the size and improve the ease of use of the existing stock of income tax legislation. This work is part of a wider Board project that could lead to recommendations to Ministers for future rationalisation of the two Acts. These issues are discussed further in the Board's 2003-04 Annual Report.

It should be emphasised that the Board's work in this area is about finding ways to 'unclutter' and improve the useability of the income tax legislation, not about re writing or simplifying the detailed provisions of the law”.

Source: “Identifying inoperative provisions,” Board of Taxation
http://www.taxboard.gov.au/content/inoperative_provisions.asp

ATTA News May 2005

<http://www.orange.usyd.edu.au/atta/newsletter.htm>

Editor: Colin Fong, Faculty of Law, The University of New South Wales

c.fong@unsw.edu.au

ATTA website <http://www.atax.unsw.edu.au/atta>

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1 Vice-Presidential column

Greetings from New Zealand.

Right across the country we have been enjoying the most wonderful Indian summer. At the same time the tax community has been grappling with the joys of the *Income Tax Act 2004* (NZ) that came into force for the majority of taxpayers on 1 April. This is apparently the largest piece of legislation ever passed by a British Commonwealth parliament – and it shows! The new Act is a rewrite into plainer English so that income tax will be more easily understood. There is, however, no evidence of an unsatisfiable demand in popular bookshops – but there can be no disputing that is in plainer English. Some of the phrases that trip easily off the tongue, such as ‘necessarily incurred’, are gone. Gone too are a whole lot of overheads and other useful teaching aids as the words, if not the substance, have changed.

We have also received the last Privy Council word on avoidance, *CIR v Petersen*. It will, of course, be sometime before we get the first word from the new Supreme Court.

While the golden summer draws to a close, it would seem the golden weather of the economy is also coming to an end. In the Budget, due on 18 May, the Finance Minister is promising a ‘conservative fiscal approach’. He is foreshadowing a package of tax changes to encourage saving, reduce compliance for small business and changes to the tax depreciation rules and the tax treatment of r & d expenditure. No- one ever thought the 2004 Act would remain pristine for long!

Shelley Griffiths
University of Otago

2 New ATTA website

Please note the ATTA website has changed venue and is now located at <http://www.atax.unsw.edu.au/atta> Please email Marg McKerchar on m.mckerchar@unsw.edu.au regarding change of membership/employment details.

3 Arrivals, departures and honours

The Minister for Revenue and Assistant Treasurer, Mal Brough, announced today that the Governor-General has re-appointed Mr Michael D’Ascenzo to the position of Second Commissioner of Taxation. The re-appointment is for a statutory term of seven years. Source: Minister for Revenue and the Assistant Treasurer Press release, 28 April 2005 <http://assistant.treasurer.gov.au/mtb/content/pressreleases/2005/023.asp>

Rachel Tooma joins Atax as an Associate Lecturer from 1 June 2005. Rachel is currently a solicitor with Blake Dawson Waldron, where she specialises in GST and Stamp Duty. She is also enrolled as a PhD student with Atax.

Kathryn James (BA/LLB(Hons)) has joined the Monash University Faculty of Law as an Assistant Lecturer with teaching interests in Administrative Law and Taxation Law. Her research interests are in the area of taxation law including income taxation, tax avoidance, GST and tax policy. Kathryn was formerly with the Australian Government Solicitor.

4 Double doctorates in tax?

The editor received an interesting inquiry from an ATTA member. Is anyone else in Australia/New Zealand conducting a second doctorate in tax, and has anyone completed two

doctorates in tax? We understand multiple doctorates are all the rage overseas. It would be interesting to know.

5 Stone's case and the winner is

When I was President, of ATTA I initiated two competitions to predict the outcome of Hart's case, then as no one predicted this correctly, I suggested that ATTA members predict the outcome of Stone's case. The High Court of Australia handed down its decision in Stone's case on the 26 April 2005. There was to be a prize of a shopping voucher. We had only one entry from an ATTA member and he considered that it would not be income. In other words we have no winner... Better luck next time.

Tom Delany

6 San Jose State University International Tax Policy Research Fellow

San Jose State University's Tax Policy Institute has established an *International Tax Policy Research Fellow Program*.

We will sponsor up to two (2) international visiting professors per year, who would visit the Silicon Valley/ San Francisco Bay area for a month, and work with SJSU faculty on areas of mutual interest in the tax, legal, finance, public tax policy, economics or accounting areas. The fellowship award would be US\$10,000.

The recipient would be expected to stay in the Bay area for one month and present at least one research paper to the faculty (members of Stanford University Law School, Santa Clara University Law and Business schools, SJSU, etc. would be invited to the presentation.), present to one class, sharing their experiences or research ideas, and work on at least one research project with other faculty.

The candidate's application would be reviewed by a committee of Joe Mori (Chair SJSU A/F Department, Stewart Karlinsky (Tax Policy Institute Director) and one of the trustees. A decision would be made within 30 days of the application deadline July 1, 2005. Candidates need to submit a current CV, proposed research topic(s) and a description of the methodology and resources required to Dr. Stewart Karlinsky Karlinsky@cob.sjsu.edu or 408-924-3482.

7 Report on Visiting Fellowship - Professor Stewart Karlinsky

During April 2005, Professor Karlinsky was a Visiting Fellow at the Curtin Business School (CBS). He was jointly hosted by the Schools of Economics and Finance (A/Prof Jeff Pope) and Business Law (A/Prof Dale Pinto). Stewart was very giving of his time while in Perth and conducted an Executive Dean's Seminar and doctoral student presentation; 2 tax policy classroom presentations; Discussions with 2 Ph.D. students; is working on two tax policy articles- Darwinian Evolution of the Taxation of Trusts: a Comparative Analysis (with A/Prof Pinto) and Top Ten Myths of a Consumption Tax System (with A/Prof Pinto and Pope); and prepared a working paper on Taxpayers Perceptions of Tax Evasion as a Crime.

Despite the busy time that Stewart had at CBS, he DID get out and thoroughly enjoyed the Wild West town of Perth; its ambiance, friendliness, quiet beauty, its zoo, aquarium, Rottnest, closeness to Margaret River and Swan Valley, its opportunity to see the world's largest fish, the whale shark in Ningaloo Reef, and meet friendly productive colleagues.

Sincere thanks for visiting Perth, Professor Karlinsky - your academic scholarship, energy and friendship were much appreciated.

A/Prof Dale Pinto

8 Special offer of Tax Summary 2004-05

Dear Colleague,

Re: Special offer of Tax Summary 2004-05

Taxpayers Australia Inc is pleased to offer you a complimentary copy of Tax Summary 2004-05 and fortnightly Taxpayer e-newsletter. They would help you with course development and in your teaching. Please send your details and we arrange the rest for you.

We would also like to offer your students Tax Summary 2004-05 printed or electronic version with full search facilities for \$22 includes postage and handling (retail price is \$83.75) plus Taxpayers e-newsletter and DIY Super e-newsletter. Also your students will have full and free access for a year to members only website to download any articles and information to help in their courses. We would be very happy if you could let your students know about this special offer which is valid till 1 August 2005.

You and your students can contact us directly at 1300 657 572 or by sending an email with your contact details at ekoken@taxpayer.com.au

We invite you to check the Taxpayers Australia's website is www.taxpayer.com.au for its full services and publications.

Please fax the completed following form to us at (03) 9819 7720

Thank you for your support.

Kind regards

Ed Koken

Education and Marketing Director

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3102

9 Vacancies

ASSOCIATE PROFESSOR (TAXATION LAW)

An outstanding candidate is sought for a continuing appointment as an Associate Professor to contribute to leadership in teaching, research and administration in the Faculty of Law, particularly in the further development of the faculty's undergraduate and graduate programs in taxation law.

Remuneration: professorial salary \$110,081 (associate professorial salary \$85,458 – 94,146) plus superannuation. Relocation travel and removal allowances, temporary housing assistance and salary packaging are available.

Selection documentation may be accessed electronically on the world wide web:

<http://www.adm.monash.edu/sss/employment/senior>

Confidential enquiries regarding the positions may be made with Professor Arie Freiberg, Dean, Faculty of Law, telephone (03) 9905 3357, fax (03) 9905 9216, email arie.freiberg@law.monash.edu.au

Applications should reach Ms Liz Anderson, Human Resources Manager, Faculty of Law, Monash University, Victoria 3800, no later than Friday, 20 May 2005.

The university reserves the right to appoint by invitation.

Monash respects the privacy of your personal information. For more details, visit www.privacy.monash.edu.au

An Equal Opportunity Employer

FACULTY OF LAW ASSOCIATE PROFESSOR LEVEL D

POSITION DESCRIPTION

Continuing position

The Associate Professor is expected to make a significant contribution to all activities of the organisational unit or interdisciplinary area and play a significant role within their profession or discipline.

The position will provide academic leadership in teaching, research and administration within the faculty and standing within the profession nationally and internationally.

The appointee will develop, teach and administer undergraduate and graduate subjects within the Faculty, particularly in the area of Taxation Law. The appointee is also responsible for undertaking activities that maintain and develop scholarly research and the professional activities of the Faculty.

Appointees will be required to offer some flexibility in their availability to teach outside normal teaching hours. Teaching would be either in the LLB program or the LLM (Legal Practice).

Specific Duties for a Lecturer C Academic include:

- preparation, coordination and delivery of lectures, seminars and tutorials
- initiation and development of units and course materials
- course leadership, co-ordination and consultation with students
- supervision of student research and professional projects
- publication of research arising from scholarship, promotion of Faculty research programs and leadership in the acquisition of external research funding and other professional activities
- undertake administrative functions relevant to teaching, research and Faculty consultative processes and development
- attendance at and participation in faculty meetings and a major role in planning and committee work
- undertake activities that promote the Faculty as a leader in teaching and research excellence.

Selection criteria:

- A PhD qualification
- A significant and sustained history of excellence in research in taxation law with a demonstrated capacity and enthusiasm to undertake continued independent published research and to generate external funding for research
- A demonstrated commitment and enthusiasm for teaching, plus a substantial quality teaching record
- Demonstrated experience in curriculum development, management, design and materials preparation
- A high level of oral, written, administration and IT skills
- Excellent interpersonal skills with a willingness and capacity to contribute to the collegial activities of the Faculty and to work collaboratively towards the enhancement of the Faculty environment for all staff and students.

As a result of an ARC Linkage Grant on personal income taxation reform, Atax is seeking to appoint an Australian Postgraduate Award Industry (APAI) Research Student. Applicants for this position must be an Australian citizen or permanent resident or a New Zealand citizen; hold a relevant degree (commerce, law, taxation) of at least second class honours (upper division) or equivalent (eg, significant research experience in industry); and not have completed a PhD or its equivalent. The successful applicant must commence full-time study in the Atax PhD Program in July 2005 (or earlier) and write a thesis in an area relating to PIT tax reform, drawing in part from materials derived from the ARC Linkage Project. The award

will be provided for two years initially, with a strong prospect of funding for a third year. An annual, tax-free stipend of \$26,000 and other allowances will be provided each year. Interested persons should in the first instance contact A/Prof Binh Tran-Nam, Atax, UNSW Sydney NSW 2052, Tel: 02-9385 9361, Fax: 9385 9380, Email: <<mailto:b.tran-nam@unsw.edu.au>>b.tran-nam@unsw.edu.au

10 Tax, Accounting, Economics and Law Related Meetings

Local

Atax Continuing Education classes in taxation are suitable for those wishing to update their skills without assessment tasks or exams. The 5-day intensive courses, evening classes **and flexible distance** courses offered in continuing education mode provide tax teachers with the opportunity to focus on their professional development. The intensive short courses are held over 5 days at Atax's Cliffbrook Campus in Coogee, Sydney. Evening classes start during the week of July 25 and are held during Session 2 (between 6-8pm) at AGSM, 1 O'Connell Street, Sydney. Flexible distance courses (starting in Session 2) are delivered by Comprehensive Study Materials, Audio Conferences and Regional Classes (1 full day of classes).

Intensive classes (Atax, 45 Beach St, Coogee, Sydney):

Specific Tax Jurisdictions: North America (18-23 August)

This course examines in detail the domestic tax laws of the US. Particular attention is paid to domestic taxation laws in the US from the perspective of international investors and their advisors. These tax laws are compared to international norms.

Double Tax Agreements (25-30 August)

This intensive short course provides a comprehensive and in-depth study of DTAs including DTA coverage, dual residency issues, and taxation of passive income flows, taxation of business income and capital gains, and mechanisms to alleviate double tax.

**no classes are scheduled on Sundays*

Evening Classes (July – November)

- Taxation of Employee Remuneration (Monday nights)
- Taxation and Investment Regulation in China (Monday nights at UNSW's Kensington Campus)
- Principles of GST Law (Tuesday nights)
- Taxation of Trusts (Wednesday nights)
- Principles of Australian International Taxation (Thursday nights)

Flexible Distance Courses (July – November)

- Tax Policy
- Taxation of Trusts
- Current Problems in Tax Decision Making
- Taxation of Corporate Finance
- Selected Problems in Stamp Duty
- Taxation of Industry and Technology
- Current Research Problems in Taxation
- Complex Corporate Structures
- Principles of Australian International Taxation
- Taxation of Structured Finance

- Principles of GST Law
- Taxation of Employee Remuneration
- Tax and Investment Regulation in China
- International Tax Research

For more information about Session 2 continuing education opportunities at Atax and an application form, please visit www.atax.unsw.edu.au/conteds205.htm or phone Atax Student Services on **02 9385 9333** or email anna.b@unsw.edu.au

Taxation Institute of Australia

<http://www.taxinstitute.com.au/cda/cpd/events/1,1335,,00.html> lists many of the TIA conferences, conventions, seminars, breakfast clubs. For further enquiries, contact Sarah Hadfield by telephone on (02) 8223 0031 or by email by clicking <mailto:sarahhadfield@taxinstitute.com.au>

Taxation Law units of study available on a single unit “attendance only” basis through the **Faculty of Law, University of Sydney** for 2005.

We would like to advise you concerning special Taxation Law related units of study available during 2005. (Cost \$1,890 per unit). Units available are:

- * Australian International Taxation
- * Comparative Corporate Taxation
- * Comparative Income Tax
- * Comparative International Taxation
- * Corporate Taxation
- * Customs Law
- * Goods & Services Tax Principles
- * Netherlands International Tax
- * Stamp Duties
- * Tax Administration
- * Tax & Economic Development
- * Taxation of Financial Institutions & Financial Transactions
- * Tax Law in Asia and the Pacific
- * Taxation of Business & Investment Income A
- * Taxation of Business & Investment Income B
- * Tax of CFCs, FIFs and Transferor Trusts
- * Tax Treaties
- * Taxation of Corporate Groups
- * Taxation of Partnerships and Trusts
- * Taxation of Remuneration
- * The Impact of Tax on Business Structures & Operations
- * Transfer Pricing in Taxation
- * US International Taxation

To obtain a full copy of the brochure relating to Single Unit Enrolments in Taxation in 2005 please download the following document from the Faculty's website: <http://www.law.usyd.edu.au/cle/2005/2005TaxBrochure.pdf>

If you have any queries concerning single unit enrolment or are unable to download the brochure, please contact Ms Val Carey, Continuing Legal Education, Faculty of Law (Telephone No. 9351 0238), email: valc@law.usyd.edu.au (Val Carey, CLE 9/12/04)

Full details of the Law School's Postgraduate Programs may be found at <http://www.law.usyd.edu.au>, or alternatively you can telephone No. 9351 0351 for an information pack.

Second Annual International Tax Seminar - presented by Sydney Law School -
Wednesday 15 June 2005, 9.30 am - 1.00 pm

Speakers:

Michael Dirkis, Taxation Institute of Australia

A/Prof. Lee Burns, Faculty of Law, University of Sydney

Celeste Black, Faculty of Law, University of Sydney

Prof. Richard Vann, Faculty of Law, University of Sydney

Location: Sydney Law School, 173 Phillip Street, Sydney. Cost: \$165 (GST free)

Brief Description:

Following on from the successful seminar in 2004 on the NITA bill and the Taxation of Foreign Income, it was decided to hold an annual seminar devoted to current issues in international tax. This year the seminar will focus on the NITA 2005 Bill (particularly CFC reform and cross border employee share schemes), corporate residence (particularly the implications of Taxation Ruling 2004/14), and tax treaty issues.

To obtain a full copy of the seminar brochure and registration form please download the following document from the Sydney Law School website:

<http://www.law.usyd.edu.au/cle/2005/taxseminar.pdf>

If you have any queries concerning the seminar or are unable to download the brochure, please contact Ms Val Carey, Continuing Legal Education, Sydney Law School (Telephone No. 9351 0238) email; valc@law.usyd.edu.au

Eighteenth Annual Australasian Tax Teachers Association Conference 2006, 30 January-1 February 2006, University of Melbourne Law School. Contact Miranda Stewart,

m.stewart@unimelb.edu.au A location map of the Law School is available:

<http://www.law.unimelb.edu.au/LawSchoolStreetPlan.jpg>

The Australasian Law Teachers Association Conference, 5 - 8 July 2005, Hamilton, New Zealand. Submission Date for Abstracts: 11 May 2005. As nation-states struggle with internal diversity while globalisation demands harmonisation, the issue of legal uniformity is one which resonates across all subjects and jurisdictions. From the foreshore of New Zealand to the deserts of Iraq we see controversial decisions justified on the basis of democracy, the rule of law and legal equality, but does one size fit all? With the aid of leading speakers from New Zealand, Australia and around the globe ALTA 2005 will explore the question of: One Law for All? This is a call for Indigenous Peoples & the Law Interest Group papers. You are invited to use the webform to submit abstracts at <http://www.alta2005.waikato.ac.nz>. If you do not wish to use the webform, you can download a copy of the webform and fax your submission. Proposals for papers etc for the Revenue Law Interest Group can be sent to Robin Woellner at robinhw@hotmail.com

The **fifth Annual States' Taxation Conference**, a national event jointly organised by the State Revenue Offices and the Taxation Institute of Australia is to be held in late July 2005. Topics to be discussed at the conference include pay-roll tax and stamp duty. For further details visit the NSW Office of State Revenue website at www.osr.nsw.gov.au

ASBBS Conference Join fellow Australasian business and behavioural scientists for the 2005 Annual Meeting of the Australasian Society of Business and Behavioural Sciences to be held in Pacific International Hotel, Cairns, Australia during August 5-7, 2005.

Conference Theme - *Academia and industry - Communication and dialogue*

Scholarship: The conference committee invites papers from all areas of Business and Behavioural Sciences. We are interested in papers that reflect applications of business and behavioural science research and scholarship to real-world business problems. Submit completed papers to the appropriate track chair with a copy to elias.shehadie@jcu.edu.au. The

deadline for submission of papers was **February 28, 2005. Papers will be doubleblind reviewed.**

Papers may be submitted as follows:

Adee Athiyaman, **Conference Chair**, adee.athiyaman@jcu.edu.au Greg Teal, Program Chair, New Zealand, greg.teal@uws.edu.au **Legal Studies:** All Areas Colin Anderson andersoc@usq.edu.au

Thematic Paper and Keynote Speaker Competition: Separate proposals are invited on the conference theme "Academe and industry: Communication and dialogue".

Submit your complete paper to the Conference Chair by the deadline of February 28, 2005.

The author of the best paper will be selected as the Keynote Speaker for the Annual Banquet of ABBSA with a special recognition. Further details may be obtained from the conference chair or at <http://ecomm-trial.jcu.edu.au/~cber/conferences.html>

Information can be found at <http://www.jcu.edu.au/flbca/public/business/cber/index.shtml>

Last date for early bird registration is 1 July 2005. For enquiries please contact the conference director Adee Athiyaman, Associate Professor - Marketing and Director, Centre for Business & Economic Research, p: +61 7 4781 5690, fax: +61 7 4781 6533

Interpreting the GST Law *Five years into the life of Australia's GST and the first genuine GST assessment cases are now reaching the courts. Preceding judicial consideration of GST assessments, there have been a rash of decisions interpreting the law in the context of contract, tort and administrative law cases, on top of tax administration interpretation of the legislation through many dozens of public rulings, determinations and published ATO IDs.*

The Taxation Law and Policy Research Institute at Monash University, in conjunction with principal sponsorship by **ATP** and further sponsorship by **IFA** and **Atax** is holding an international seminar on interpretation of the GST

Friday, 5 August and the morning of Saturday, 6 August at the Atax premises, UNSW Cliffbrook Campus, 45 Beach Street, Coogee. Seminar enrolment fee includes lunch on Friday and a Friday evening seminar dinner at the Crowne Plaza, Coogee Beach. The seminar features papers by Australia's leading experts on interpretation of the GST and also features international experts on GST interpretation.

Speakers: Tom Reid, formerly of the Office of Parliamentary Counsel, currently consultant to Department of Treasury

Ken Fehily, PriceWaterhouseCoopers

Michael D'Ascenzo, Australian Taxation Office

Rebecca Millar, University of Sydney

Neil Brooks, Osgoode Hall Law School

Graham Hill, Federal Court of Australia

Jacqui McManus and Michael Walpole (joint paper), Atax

Ben Terra, Professor, Erasmus University, Rotterdam and Executive Chairman, Academic Activities,

International Bureau of Fiscal Documentation

To ensure the seminar remains an opportunity for close discussion and participation, enrolment will be limited and filled on a first-come, first-serve basis.

Fee: \$423.50 inclusive of GST, lunch and conference. **ATTA Members:** Members are entitled to a 30% discount on the enrolment fee. **\$296.45** (cheque payable to "Monash University"). <http://www.atax.unsw.edu.au/news/brochurestandard.pdf>

Nineteenth Annual Australasian Tax Teachers Association Conference 2007, January 2007, University of Queensland Law School. Contact Kerrie Sadiq, k.sadiq@law.uq.edu.au

Overseas

American Accounting Association Calls for paper website <http://aaahq.org/calls/default.cfm>

Canadian Tax Foundation <http://www.ctf.ca/profDev/schedule1.asp> has a 2005 events schedule.

Fifty-Seventh Tax Conference, 25-27 September, Vancouver Hyatt Regency

Commonwealth Law 2005, 11 – 15 September 2005, QEII Conference Centre, London, UK
www.commonwealthlaw2005.com

Institute for Fiscal Studies Conferences and seminars

<http://www1.ifs.org.uk/conferences/index.shtml>

International Bureau of Fiscal Documentation Various courses in Amsterdam, the Netherlands. For details, see <http://www.ibfd.org> The IBFD International Tax Academy (ITA) runs an extensive international course program. Generally all courses are held in Amsterdam. Should you require any further information or wish to register please refer to their web site www.ibfd.org or contact the International Tax Academy at +31-20-554 0160 or by e-mail ita@ibfd.org

Summer Course: Principles of International and Comparative Taxation. For newcomers in the world of cross-border taxation the ITA Summer Course is the best introduction you can get. Or it is a great course to refresh your memory! This course deals with the basic concepts and principles of international tax law and what the main current issues of international tax law are. You will acquire a structured understanding of the concepts and principles of international tax law. Amsterdam, 22 August - 02 September 2005

For 2005 courses go to http://www.ibfd.org/news/course_calendar.htm

The ITA also offers tailor-made in-house courses on a worldwide basis for corporate clients, tax administrations and other organizations. Should you have any queries, please contact Arcotia Hatsidimitris, Head of the International Tax Academy by telephone +31-20-554 0180, or by a.hatsidimitris@ibfd.org

International Tax Planning Association Forthcoming meetings

<http://www.itpa.org/meetings.html>

International Atlantic Economic Society (IAES) conference. You can visit IAES's web site (www.iaes.org) for more information. Prof dr M. Peter van der Hoek Academy of Economic Studies, Bucharest, Romania and Erasmus University, Rotterdam, Netherlands. Mailing address: Erasmus University (L 7-20) P.O. Box 1738 NL-3000 DR Rotterdam Netherlands Phone/Fax: +31-10-4081622 E-mail: vanderHoek@frg.eur.nl 60th International Atlantic Economic Conference will be held in New York, 6-9 October 2005; then Berlin 15-19 March 2006; Philadelphia 5-8 October 2006

European Association of Tax Law Professors Meetings and conferences

<http://www.eatlp.org> Naples 2-4 June 2005; Budapest 2006; Helsinki 2007

Tax Research Network (TRN) Annual Conference, “*Tax in a changing world*,” Edinburgh University, Edinburgh, Scotland, 8-9 September 2005.

http://users.wbs.ac.uk/group/trn/home/whats_new Abstracts, or full papers, if available, should be sent in electronic format by e-mail for consideration in the first instance to the conference organizer Sandra Eden (s.eden@ed.ac.uk) The deadline for submission of abstracts is 31 March 2005. Presenters will be informed as soon as possible after that whether their papers have been accepted. If not provided initially, full papers will be required by 31 July 2005 to allow time for conference packs to be compiled.

Sixth Annual Global Conference on Environmental Tax Issues, Leuven, Belgium from 22-24 September 2005. The URL to the conference's site is:

<http://www.law.kuleuven.ac.be/imer/nieuws.html>

Organisation : Professor Kurt Deketelaere and Professor Geert Van Calster, Institute of Environmental and Energy Law, University of Leuven, Flanders, Belgium & Professor Janet Milne, Environmental Tax Policy Institute, Vermont Law School, Vermont, USA

Conference Venue : Faculty Club, University of Leuven, Leuven

<http://www.facultyclub.be/site/home.php?p=infrastructuur&newlang=uk>

Conference Theme: The central theme of the 6th ETC will be : “*The Promotion of Renewable Energy Sources through Tax or Other Market-Based Measures – Challenges and Obstacles*”.

This central theme will be developed during the first conference day, by different invited keynote speakers and panels. Traditionally, the second conference day will tackle a broad variety of environment and energy taxation issues, from a multidisciplinary perspective. Abstracts for these presentations and panels are hereby invited.

Further information: Kurt Deketelaere : kurt.deketelaere@law.kuleuven.ac.be Geert Van Calster : geert.vancalster@law.kuleuven.ac.be Janet Milne : jmilne@vermontlaw.edu

More info on: City of Leuven : <http://www.leuven.be/showpage.asp?iPageID=2721>

University of Leuven : <http://www.kuleuven.ac.be/english/>

Institute for Environmental and Energy Law : <http://www.law.kuleuven.ac.be/imer/>

Other useful tax and law related conference websites include the **IBFD Course calendar**

http://www.ibfd.org/news/course_calendar.htm **UNSW Faculty of Law Conference**

Calendar http://www.law.unsw.edu.au/news_and_events/events/events.asp **New South Wales Bar Association**

http://www.nswbar.asn.au/Professional/Noticeboard/ComingUp/contents_coming.htm **Law**

Council of Australia <http://www.lawcouncil.asn.au/events.html> **Law Courts Library**

<http://www.lawlink.nsw.gov.au/conference> **LexisNexis Professional Development Calendar**

of events <http://www.lexisnexis.com.au/aus/conferences/calendar/default.asp> See also the

inTax Seminars Directory, published in *inTax Magazine*. **Practising Law Institute**

<http://www.pli.edu/>

New York County Lawyers Association <http://www.nycla.org> **American Bar Association**

<http://w3.abanet.org/home.cfm> **New York Bar Association** <http://www.nysba.org/> **Hieros**

Gamos Worldwide Law Events Calendar

http://www.hierosgamos.org/hg/db_meetings.asp?action=search

<http://www.hg.org/calendar.html>

For social sciences and humanities conferences, meetings etc, see Mind: The Meetings Index

<http://www.interdok.com/mind> See also the magazine *Australian Conference & Exhibition*

Diary, Vamosi Information Publication.

11 Recent publications

Bold indicates ATTA members. Readers are encouraged to notify the Editor of recently written publications for notification, in these pages. Please note some of the overseas publications listed may not yet be available locally.

Local

“Athletes confused by tax ruling on sponsorship” PM on ABC Radio, 26 April 2005, Karen Barlow interviewed Richard Gelski, who acted for Joanna Stone

<http://www.abc.net.au/pm/content/2005/s1353856.htm>

Australia. Board of Taxation *Post-implementation Review of the Quality and Effectiveness of the Non-commercial Losses Provisions in Division 35 of the Income Tax Assessment Act 1997 — A Report to the Treasurer*, 2005

http://www.taxboard.gov.au/content/noncommercial_losses/index.asp

Australian Taxation Office *Test litigation program*, 2005

<http://www.ato.gov.au/taxprofessionals/content.asp?doc=/content/57395.htm> or

http://www.ato.gov.au/content/downloads/TaxProfessionals_57395_n4556_04_2005_w.pdf

Bagaric, Mirko & McConvill, James "Stop taxing happiness" (2005) Issue 236 *Lawyers Weekly* 11. Looks at reform of tax law

Braithwaite, John *Markets in vice, markets in virtue*, Leichhardt, NSW, Federation Press/Oxford University Press (USA), 2005. Contents: Part I - Competition policy, efficient vice and tax system integrity, Part II - Aggressive tax planning in Sydney and Melbourne, Part III - Aggressive tax planning in New York, Part IV - Controlling aggressive tax planning, Part V - Vice to Virtue

Braithwaite, Valerie; Reinhart, Monika and Job, Jenny "Getting on or getting by? Australians in the cash economy," 2004. Chapter for Chris Bajada and Friedrich Schneider *Size, causes and consequences of the underground economy*, Ashgate Publishing.

<http://ctsi.anu.edu.au/publications/taxpubs/BraithwaiteV.Bajada.pdf>

(2005) 13 *CCH Tax Week*

- MacIntyre, Amrit "What is consideration?: an analysis of the Dick Smith Electronics case"

(2005) 14 *CCH Tax Week*

- **Blissenden, Michael** "Access to professional accounting papers"

Cooper, Graeme S; Krever, Rick & Vann, Richard *Income taxation: commentary and materials*, 5th ed, Sydney, Lawbook Co, 2005

Dalton, Rodney & McDonald, Annabelle "Olympic gold to go to the taxman" *The Australian*, 27 April 2005, p3

Davidson, Sinclair "Unfair, outdated, flawed: land tax must go" *Australian Financial Review*, 27 April 2005, p 71. Based on research commissioned by the National Tax and Accountants Association.

Day, Phil *Incentives and disincentives: the potential of property taxes to support public policy objectives*, Urban Research Program, Griffith University, 2005, Issues Paper 4, January 2005

http://www.gu.edu.au/centre/urp/Issues_Papers/Day2005_IP4.pdf

Fabro, Allesandra "Court ruling erodes sports sponsorships" *Australian Financial Review*, 27 April 2005, p3

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12 Quotable quotes

“Earlier, a number of jurors were excused from serving on the trial including two men worried about their ability to understand evidence about the tax system.

“The Australian tax system is so convoluted and involved that most of the accountants out there don’t know it all and to expect a normal member of the public to understand it is impossible. I don’t see how we can judge him if we are not au fait with the system,” one of the jurors said before being excused by Justice Brian Sully.”

Buffini, Fiona “Petroulias on trial” *Australian Financial Review*, 27 April 2005, p6

“Russian President Vladimir Putin has tried to make peace with the nation’s increasingly critical clique of influential businessmen by ordering his tax police to stop “terrorising” companies.”

Page, Jeremy “Putin calls his tax police off tycoons” *The Australian*, 27 April 2005, p8

“In the foregoing remarks, I agree with what is expressed in the reasons of Gleeson CJ, Gummow, Hayne, Callinan and Heydon JJ (“the joint reasons”) and in the reasons of McHugh J. However, whilst the joint reasons criticise analogical, metaphorical and other attempts to gloss the language of statutes, they enter upon observations about the law of trusts which are unnecessary to resolve this appeal. It is sufficient that I agree that the operation of the Act, where it requires elucidation in the light of the provisions of company law dealing with the liquidation of companies, must comply with the “elaborate statutory provisions for bringing about the result for which the [companies] statute provides.

The introduction of analogies, taken from the law of trusts, which occasions the attempt, in the joint reasons in this Court, to distinguish this settled line of authority on this aspect of revenue law in the United Kingdom, is, with respect, a forensic red-herring. It appears to have been introduced into these proceedings in a not unfamiliar reaction to keep the Australian waters of equity and trust law unsullied by foreign and supposedly deleterious intrusions, even where (as here) the intrusions originated in the country from which the law of equity and trusts itself derives. I have no sympathy for such parochial inflexibilities.

The reference to “trust property” in the earlier English authority was not, as such, an attempt to import all of the features of the law of trusts into defined statutory relationships following a company liquidation. Self-evidently, that could not have been intended by the knowledgeable and experienced judges involved. Instead, it was an attempt (in effect in an aside in the course of reasoning) to explain the construction and operation of a statute in terms that would have

been understood by lawyers in the English Court of Chancery in 1874, who had the responsibility of applying the pertinent statute. The analogy was not the essence of the reasoning of the English judges. This can be seen by the simple expedient of deleting the reference to the analogy to trust property (shown in brackets in the foregoing quotation) from the reasons of James LJ. His Lordship's reasons remain coherent and convincing without the words in brackets. The essence of those words was an attempt to draw on a familiar analogy to help explain the operation which the Act of Parliament had upon the property in question. By that operation "it has ceased to be beneficially the property of the company".

In *Ayerst*, Lord Diplock noted that the holding in *Oriental Inland Steam Company*, based on the relevant United Kingdom legislation, had been repeated in successive editions of *Buckley on the Companies Acts* "from 1897 to the present day". As such, it had clearly passed muster before a great many English lawyers of high distinction and experience, who fully understood the law of company liquidation. Lord Diplock recorded the invitation before the House of Lords to say that the reasoning was wrong "because it was founded on the false premise that the property is subject to a 'trust' in the strict sense of that expression as it was used in equity before 1862". His Lordship rejected that sterile argument. Instead, he grounded his interpretation of the phrase in the settled meaning of beneficial ownership in this context which was to be taken as incorporated in revenue law when the notion of "beneficial ownership" was first used in a United Kingdom taxing statute in 1927. He thus expressly considered, and rejected, the reasoning that prevailed in the Federal Court in this case and now finds favour with a majority in this Court. Not a single Law Lord dissented from Lord Diplock's speech.

I can see no reason of legal authority, principle or policy to justify this Court's taking a different course from that adopted by the unanimous opinion of the House of Lords on a precisely identical point of revenue law. Only an elaborate reasoning, founded on metaphors, similes and analogical references (and based on a somewhat parochial antipodean inflexibility concerning the law of trusts), could persuade this Court to impose, on similar Australian statutory language, a construction opposite to that which has been followed for one and a quarter centuries in the United Kingdom. There is no reason why we should take such a course. There are many reasons why we should not.

The differences that emerge between the respective views expressed by Menzies J in *Franklin's* and by the House of Lords in *Ayerst* (concededly upon somewhat different statutory language) have been noted in a number of decisions and in text commentaries. The decision in *Ayerst*, as I have previously stated, is consistent with the approach taken by the courts of New Zealand, Ireland and Hong Kong. This fact should also make this Court pause before striking out on the opposite approach in what, clearly, is a common problem of revenue law arising in many like jurisdictions.

Conclusion: the s 80A(1) error: It is those last words that afford the ultimate justification for the line of authority, adopted in other countries of our legal tradition, which this Court should also, in my view, follow. The context of the provision for the deduction of past tax losses requires clear identification of the purpose and policy for such a deduction. Hence, it requires understanding of the statutory language in which the prerequisites are expressed. When these factors are given due weight, the conclusion reached in the overseas authorities is compelling. The only way to justify a different conclusion, in respect of similar language in the Act, is to impose upon that language presuppositions derived from notions of judge-made law, specifically the law of trusts. But if that is done, a judicial remark in analogical reasoning is pressed far beyond its intent. The fundamental duty of this Court, namely to interpret and uphold the purpose of the Parliament as stated in the language of the Act, is then forgotten. This is the flaw in the reasoning about s 80A(1) of the Act that led the judges of the Federal Court to their orders. It is an error that requires correction by this Court. It is to expose that error that I have added these remarks concerning that part of the joint reasons with which I respectfully disagree".

Kirby, J in *Commissioner of Taxation v Linter Textiles Australia Ltd (In Liquidation)* [2005] HCA 20 at [183]; [242-247]. Courtesy of Philip Burgess.

“The 2005 budget reminded me of the difference between the Liberals in Australia and the Republicans in America. When Liberals see too many people on welfare and too high taxes, they tend to nanny people off the dole and tinker around with a tax system that’s so convoluted it makes a NASA repair manual look like Hilary Duff’s diary.

When Republicans see too many people on welfare, they basically kill the welfare system. This eliminates a lot of your high-tax problem. It also eliminates a lot of Democrats in Congress because voters tend to dislike welfare cheats and having to bankroll them”.

Source: Ruehl, Peter “A bit more tinkering with the tax system” *Australian Financial Review*, 12 May 2005, p72

ATTA News June 2005

<http://www.atax.unsw.edu.au/atta/newsletter.htm>

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ATTA website <http://www.atax.unsw.edu.au/atta>

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1 Presidential column

Dear All, Hi I hope you are all well after another hectic semester of teaching. Soon exam marking will be over and there maybe time for a short mid year break and time to taste a few red wines (this cool weather is just ideal for wine drinking). Fortunately I have long service leave and will be off to England to watch the first three test matches and it does look good with England appearing to have a menacing line up (I don’t want to see any three day tests.)

Remember the ATTA 2006 conference at the University of Melbourne Law School is not too far away and I am looking forward to this event with great interest. Again, thanks to Miranda Stewart from us all for her efforts. I must book the tennis tickets soon.

On the ATTA journal front I am also delighted to see that progress is being made with an electronic journal of ATTA conference papers. This is s significant milestone for ATTA and

really provides a great incentive for members to attend the conference. Of course the conferences are always fantastic but a recognised publication is the icing on the cake. Thanks again to Miranda Stewart, Margaret McKerchar, Dale Pinto, Adrian Sawyer, Andrew Smith and Natalie Stoianoff.

I must mention CPA Australia. I have received a response to our letter regarding their taxation study requirements for CPA membership. They have advised that our letter was considered by the Board Education Committee and the letter states:

“The Committee note the concerns raised by your members and thank you for the comments. CPA Australia is committed to continuous review of the entry requirements and the professional education CPA Program. You can be assured that your concerns will be taken into account during the review scheduled for later this year”

Well, we will have to wait and see.

That’s all for now. All the best.

Paul Kenny

2 ATTA publishing

Further to the last update regarding this which appeared in the ATTA News March 2005, I am pleased to advise that the Editorial Board has made considerable progress with the publication for the 2003, 2004 and 2005 papers.

Significantly, and after some deliberation, the Board agreed on the name of the new electronic journal to be ... drum roll * Journal of the Australasian Tax Teachers' Association (JATTA).

The next step is to apply for the ISSN number and then to release our first issue live on our new website * thanks to ATAX for their generous support for agreeing to host the website. Other important decisions regarding the journal include that it will be double-blind refereed and that the Board agreed to adopt the Australian Guide to Legal Citation for referencing purposes. The Board will be putting together a detailed refereeing policy, along with author guidelines in what we hope may be contained in some sort of Information Pack in time for the 2006 Melbourne conference.

Meanwhile, the respective Convenors for 2003, 2004 and 2005 are busily finalising papers in preparing for publication. As you probably can imagine a lot of hard work has been going on behind the scenes on this project and I would like to extend to my fellow Board members a special thanks for all their efforts and goodwill on keeping this project moving. Also, the Board is grateful for the support that it has received from the ATTA Executive which has been kept up-to-date with the progress of the Board on a regular basis.

I will keep members informed when we reach our next milestone.

Dale Pinto

3 Arrivals, departures and honours

Rick Krever is moving from Deakin University to the Business Law and Taxation Department at Monash University in July 2005.

A Life Membership Award for services to the Taxation Institute has been awarded to The University of Western Australia's Associate Professor Glen Barton. Professor Barton, from the UWA Law School, was presented with the award at the Taxation Institute of Australia's recent National Convention held in Perth in recognition of his significant impact on the professional taxation body. A former Chair of the State Council of the Taxation Institute, Professor Barton has been an advocate of the Institute to professionals working in the taxation area and students entering it. He has worked on the Taxation Institute's submissions on Tax Reform following the Ralph Report and contributed to the Institute's technical journal. Professor Barton has held the positions of State Chairman, Education Committee member and Chairman, member of the Technical Committee and National Councillor and as a representative on National Executive was the Chair of the National Education Committee. He has presented numerous papers both at a State and National level of the Taxation Institute.

Source:

http://www.uwa.edu.au/media/statements/2005/march/taxation_award_to_uwa_associate_professor *Media release 23 March 2005*

Linda Greenleaf commences 1 July 2005, at the University of Sydney Faculty of Law, teaching in tax subjects. Linda was previously a research assistant to Richard Vann and gave birth to Liam last year.

Karen Rooke also commences 1 July 2005, at the University of Sydney Faculty of Law, teaching in tax subjects and was formerly a partner with Mallesons Stephen Jaques.

Prof Yitzhak Hadari, one of the Parsons Visitors for 2005, at the University of Sydney Faculty of Law, from 1 July – 31 August 2005, is a senior law professor at Tel Aviv University who specializes in tax and commercial law. He has published widely including in leading US journals and is currently pursuing comparative research on tax avoidance.

Linh Vu has accepted an Australian Postgraduate Award (Industry) to undertake a PhD study at Atax, UNSW, commencing in late June, 2005. Her thesis will be related to "Towards systemic reform of the Australian personal income tax: Developing a sustainable model for the future", an ARC Linkage project undertaken by a team led by Professor Chris Evans, Director of Atax.

Michael Carmody was made an Officer (AO) in the General Division as part of the Queen's Birthday Honours 2005 "for service to the community in the area of taxation administration and reform through innovative approaches to the design and implementation of new policies and operations."

Christopher Jordan was made an Officer (AO) in the General Division as part of the Queen's Birthday Honours 2005 "for service through the provision of high-level advice to government in relation to the development and implementation of taxation legislation and reform of Australia's taxation system."

Richard Warburton was made an Officer (AO) in the General Division as part of the Queen's Birthday Honours 2005 "for service to business and commerce through contributions to a range of government and industry bodies and business enterprises, particularly in the areas of corporate governance a policy formulation, and to the community."

Editor's note: Michael Carmody is the Commissioner of Taxation for Australia and along with Dick Warburton and Chris Jordan are members of the Board of Taxation, with Warburton being the Chair and Jordan as Deputy Chair. Warburton gave the ATTA Conference after dinner speech, in Adelaide in 2004.

4 Tax acronyms

As some readers are aware, when Paul Keating was the Australian federal Treasurer, his government's tax reform package was called *Reform of the Australian Taxation System*, 19 September 1985 or shortened to RATS. Then the present federal Government's tax reform package, introduced in 1998 was called A New Tax System or shortened to ANTS. So either way, the Australian federal governments have a penchant for naming their tax reform packages after either rodents or insects. To add to this, I was just informed there is the *A New Tax System (Family Assistance and Related Measures) Act 2000* (Cth) which could be shortened to ANTS FARM!

5 San Jose State University International Tax Policy Research Fellow

San Jose State University's Tax Policy Institute has established an *International Tax Policy Research Fellow Program*.

We will sponsor up to two (2) international visiting professors per year, who would visit the Silicon Valley/ San Francisco Bay area for a month, and work with SJSU faculty on areas of mutual interest in the tax, legal, finance, public tax policy, economics or accounting areas. The fellowship award would be US\$10,000.

The recipient would be expected to stay in the Bay area for one month and present at least one research paper to the faculty (members of Stanford University Law School, Santa Clara University Law and Business schools, SJSU, etc. would be invited to the presentation.), present to one class, sharing their experiences or research ideas, and work on at least one research project with other faculty.

The candidate's application would be reviewed by a committee of Joe Mori (Chair SJSU A/F Department, Stewart Karlinsky (Tax Policy Institute Director) and one of the trustees. A decision would be made within 30 days of the application deadline July 1, 2005. Candidates need to submit a current CV, proposed research topic(s) and a description of the methodology and resources required to Dr. Stewart Karlinsky Karlinsky@cob.sjsu.edu or 408-924-3482.

6 Digital Theses submission at the University of New South Wales

The following though applicable at the University of New South Wales, may apply to other universities throughout Australia and New Zealand.

New Requirements 2005

If you submit your PhD or Masters (by research) thesis for examination from January 2005 you are required to submit it to the Australian Digital Theses (ADT) Program <http://adt.caul.edu.au>

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- Complete restriction of certain files (e.g. for copyright, libel etc. purposes) while others can be accessible as per the options above. Apply to Registrar except when restricting for 3rd party copyright reasons. For the latter contact the ADT@UNSW Student Support: Technical Officer in the Library.

Note: Partial restriction is not available via the submission form, and you will need to advise the ADT Technical Support Officer of the files concerned.

Source: <http://info.library.unsw.edu.au/osd/services/adthesis.html>

7 Web-based student evaluations of professors: the relations between perceived quality, easiness, and sexiness

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JOHN MITCHELL Central Michigan University - Department of Finance and Law
MICHAEL STINSON Central Michigan University - Department of Computer Science

Abstract:

College students publicly rate their professors' teaching at RateMyProfessors.com, a web page where students anonymously judge their professors on Quality, Easiness, and Sexiness. Using the data from this web site, we examine the relations between Quality, Easiness, and Sexiness for 3,190 professors at 25 universities. For faculty with at least 10 student posts, the correlation between Quality and Easiness is 0.61, and the correlation between Quality and Sexiness is 0.30. Using simple linear regression, we find that about half of the variation in Quality is a function of Easiness and Sexiness. Accordingly, these results suggest that about half of the variation in student opinion survey scores used by universities for promotion, tenure, and teaching award decisions may be due to the easiness of the course and the sexiness of the professor. When grouped into sexy and non-sexy professors, the data reveal that students give sexy-rated professors higher Quality and Easiness scores. Based on these findings, universities need to rethink the use of student opinion surveys as a valid measure of teaching effectiveness. High student opinion survey scores might well be viewed with suspicion rather than reverence, since they might indicate a lack of rigor, little student learning, and grade inflation.

Keywords: Teaching, Evaluation, Student Opinion, Halo Effect

JEL Classifications: I21, J44, M51

Working Paper Series

Abstract has been viewed 4739 times

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The above was brought to our attention by Michael Littlewood.

Editor's note: See also Cervini, Erica "'Sexy' academics become major attractions," *Australian Financial Review*, 20 June 2005, p 36

8 Vacancies

Taxation , Lecturer or Senior Lecturer

Continuing , Full Time , Nathan

VRN GBS15154/05

Closing Date 01.07.05

The Department of Accounting, Finance and Economics within the Griffith Business School has a vacancy for a Lecturer or Senior Lecturer in Taxation to be located at its Nathan campus. The School is the sixth largest business education provider in Australia. It offers a number of commerce undergraduate and postgraduate programs. Applicants should have a PhD in Taxation or related field. Demonstrated abilities in teaching and research in Taxation Law and Tax Planning would be an advantage. Appointees will be required to contribute to the development and teaching of Taxation courses, including Revenue Law and Tax Planning. They will also be required to add to the School's research profile, contribute to the administration of the School, supervise Honours and research higher degree students, and provide service to Griffith and external community.

Key Accountabilities / Duties

Lecturer

1. Prepare and conduct teaching, including lecturers, workshops and tutorials.
2. Convene Revenue Law, Tax Planning and related taxation courses.
3. Prepare flexible learning materials.
4. Develop and review curriculum.
5. Conduct research and seek research grants in taxation and related areas.

6. Supervise Honours and research higher degree students.
7. Contribute to the Department administration.
8. Service to the profession and community.

Senior Lecturer

1. As above.

Conditions e.g. Salary, Superannuation

Annual Salary: Lecturer \$59,132 to \$70,221; Senior Lecturer \$72,436 to \$83,525. Salary package including 17% employer superannuation contribution: Lecturer \$69,184 to \$82,159 per annum; Senior Lecturer \$84,751 to \$97,725 per annum.

Selection Criteria

Lecturer - Essential

1. A PhD in taxation or a related field.
2. Prior teaching experience in Revenue Law and/or Tax Planning courses.
3. Demonstrate abilities to undertake research in taxation and related areas.
4. Experience in supervising Honours and research higher degree students.

Lecturer - Desirable

5. An active research profile in taxation and related areas.
6. Experience in thesis or project supervision.

Senior Lecturer - Essential

1. As above. Applications wishing to be considered for appointment at the Senior Lecturer Level must demonstrate a meritorious record of achievement in teaching and research, including publication in high quality international refereed journals

Senior Lecturer - Desirable

2. As above. It is also desirable that candidates have a demonstrated record of achievement in the administration of academic programs and that they have a number of years of significant/substantial practical work experience.

Application Process

Applications should include the following:

Quote VRN GBS 15154/05 and name of position sought;

Statement addressing each of the selection criteria

Current curriculum vitae/resume which should include:

- full name, address, telephone number, email address and facsimile number if available;
- names, addresses, facsimile and email contact of at least three referees to whom the University may write;
- country of permanent residence (optional but required at time of appointment);
- employment history, including present position and notice required; details of education, professional training and qualifications,
- summary of undergraduate academic record;

- details of relevant professional, consulting or industry experience;
- research interests and list of publications;
- research grants awarded; any other relevant information, such as offices held in professional bodies, community services etc;

Completed applications should be forwarded to Ms L.Blackstock, Recruitment Team (VRN GBS 15154/05), Griffith University, Human Resource Management, Room 1.26, Bray Centre, Nathan Campus, Qld 4111 Facsimile: (07) 3875 5371. Email:

l.blackstock@griffith.edu.au. Please note that we can only accept electronic applications in .doc, .rtf or .pdf formats. One document would be preferred. Applications close at 4.30 pm on the designated date. Late applications will be considered at the discretion of the Chair of the Selection Committee. All applications will be acknowledged; electronic lodgements will be acknowledged by email within 24 hours. If you do not receive an acknowledgement, your application has not been successfully lodged and you should lodge again or contact the HR Officer nominated in the advertisement.

For further information about the role, please contact Professor Chew Ng or email c.ng@griffith.edu.au

Further Enquiries:

Professor Chew Ng

Phone: (07) 3735 6492

Fax: n/a

Email: c.ng@griffith.edu.au

9 Tax, Accounting, Economics and Law Related Meetings

Local

Atax Continuing Education classes in taxation are suitable for those wishing to update their skills without assessment tasks or exams. The 5-day intensive courses, evening classes **and flexible distance** courses offered in continuing education mode provide tax teachers with the opportunity to focus on their professional development. The intensive short courses are held over 5 days at Atax's Cliffbrook Campus in Coogee, Sydney. Evening classes start during the week of July 25 and are held during Session 2 (between 6-8pm) at AGSM, 1 O'Connell Street, Sydney. Flexible distance courses (starting in Session 2) are delivered by Comprehensive Study Materials, Audio Conferences and Regional Classes (1 full day of classes).

Intensive classes (Atax, 45 Beach St, Coogee, Sydney):

Specific Tax Jurisdictions: North America (18-23 August)

This course examines in detail the domestic tax laws of the US. Particular attention is paid to domestic taxation laws in the US from the perspective of international investors and their advisors. These tax laws are compared to international norms.

Double Tax Agreements (25-30 August)

This intensive short course provides a comprehensive and in-depth study of DTAs including DTA coverage, dual residency issues, and taxation of passive income flows, taxation of business income and capital gains, and mechanisms to alleviate double tax.

**no classes are scheduled on Sundays*

Evening Classes (July – November)

- Taxation of Employee Remuneration (Monday nights)
- Taxation and Investment Regulation in China (Monday nights at UNSW's Kensington Campus)
- Principles of GST Law (Tuesday nights)
- Taxation of Trusts (Wednesday nights)
- Principles of Australian International Taxation (Thursday nights)

Flexible Distance Courses (July – November)

- Tax Policy
- Taxation of Trusts
- Current Problems in Tax Decision Making
- Taxation of Corporate Finance
- Selected Problems in Stamp Duty
- Taxation of Industry and Technology
- Complex Corporate Structures
- Principles of Australian International Taxation
- Taxation of Structured Finance
- Principles of GST Law
- Taxation of Employee Remuneration
- Tax and Investment Regulation in China

For more information about Atax's Session 2 continuing education opportunities, please visit www.atax.unsw.edu.au/conteds205.htm or phone Atax Student Services on **02 9385 9333** or email anna.b@unsw.edu.au

Atax Research Seminar Schedule: Session 2, 2005. Please note the forthcoming seminars in your diary. With the exception of Dr Ordower's seminar, they will be held at the CATS room, Atax, Cliffbrook campus, 45 Beach St, Coogee. Seminars begin at 1.30pm with a light lunch served from 12.30pm. The UNSW Law School has kindly agreed to host Dr Ordower's seminar – more details on this to follow.

It is not necessary to RSVP at this stage, but it would be appreciated if you contact me to ensure you are included on the seminar email list. You will then receive an invitation closer to the event. Please circulate this schedule to your colleagues.

Friday 12 August

"The Choice of Fixed Accounting Ratios in Thin Capitalisation Rules: Some Guidance from Commercial Debt Contracts". Dr Shee Boon Law, OECD, Paris.

Friday 26 August

Abe Greenbaum lecture: "Tax Treaties Between Developing and Developed Countries" Ms Kim Brooks, Assistant Professor, Faculty of Law, University of British Columbia

Friday 9 September

"Recovery of overpaid tax" Ms Monica Chowdry, Lecturer in Law at King's College, University of London

Friday 21 October

"Constitutional law protection of horizontal and vertical equity in taxation (US and Germany)"

Dr Henry Ordower, Professor of Law, Saint Louis University School of Law

Friday 11 November

"E-filing SA tax returns and IT adoption strategies" Dr Ann Hansford, Senior Lecturer, Bristol Business School, The University of the West of England

Telephone: +61 2 9385 9362; Fax: +61 2 9385 9380; m.mckerchar@unsw.edu.au

Taxation Institute of Australia

<http://www.taxinstitute.com.au/cda/cpd/events/1,1335,,00.html> lists many of the TIA

conferences, conventions, seminars, breakfast clubs. For further enquiries, contact Sarah Hadfield by telephone on (02) 8223 0031 or by email by clicking <mailto:sarahhadfield@taxinstitute.com.au>

Taxation Law units of study available on a single unit "attendance only" basis through the **Faculty of Law, University of Sydney** for 2005.

We would like to advise you concerning special Taxation Law related units of study available during 2005. (Cost \$1,890 per unit). Units available are:

- * Australian International Taxation
- * Comparative Corporate Taxation
- * Comparative Income Tax
- * Comparative International Taxation
- * Corporate Taxation
- * Customs Law
- * Goods & Services Tax Principles
- * Netherlands International Tax
- * Stamp Duties
- * Tax Administration
- * Tax & Economic Development
- * Taxation of Financial Institutions & Financial Transactions
- * Tax Law in Asia and the Pacific
- * Taxation of Business & Investment Income A
- * Taxation of Business & Investment Income B
- * Tax of CFCs, FIFs and Transferor Trusts
- * Tax Treaties
- * Taxation of Corporate Groups
- * Taxation of Partnerships and Trusts
- * Taxation of Remuneration
- * The Impact of Tax on Business Structures & Operations
- * Transfer Pricing in Taxation
- * US International Taxation

To obtain a full copy of the brochure relating to Single Unit Enrolments in Taxation in 2005 please download the following document from the Faculty's website: <http://www.law.usyd.edu.au/cle/2005/2005TaxBrochure.pdf>

If you have any queries concerning single unit enrolment or are unable to download the brochure, please contact Ms Val Carey, Continuing Legal Education, Faculty of Law (Telephone No. 9351 0238), email: valc@law.usyd.edu.au (Val Carey, CLE 9/12/04)

Full details of the Law School's Postgraduate Programs may be found at <http://www.law.usyd.edu.au>, or alternatively you can telephone No. 9351 0351 for an information pack.

Eighteenth Annual Australasian Tax Teachers Association Conference 2006, 30 January-1 February 2006, University of Melbourne Law School. Contact Miranda Stewart, m.stewart@unimelb.edu.au A location map of the Law School is available: <http://www.law.unimelb.edu.au/LawSchoolStreetPlan.jpg>

The Australasian Law Teachers Association Conference, 5 - 8 July 2005, Hamilton, New Zealand. Submission Date for Abstracts: 11 May 2005. As nation-states struggle with internal diversity while globalisation demands harmonisation, the issue of legal uniformity is one which resonates across all subjects and jurisdictions. From the foreshore of New Zealand to the deserts of Iraq we see controversial decisions justified on the basis of democracy, the rule of law and legal equality, but does one size fit all? With the aid of leading speakers from

New Zealand, Australia and around the globe ALTA 2005 will explore the question of: One Law for All? This is a call for Indigenous Peoples & the Law Interest Group papers. You are invited to use the webform to submit abstracts at <http://www.alta2005.waikato.ac.nz> . If you do not wish to use the webform, you can download a copy of the webform and fax your submission. Proposals for papers etc for the Revenue Law Interest Group can be sent to Robin Woellner at robinhw@hotmail.com

The **fifth Annual States' Taxation Conference**, a national event jointly organised by the State Revenue Offices and the Taxation Institute of Australia is to be held in Adelaide from 28 to 29 July, 2005. Topics to be discussed at the conference include pay-roll tax and stamp duty. For further details visit the NSW Office of State Revenue website at www.osr.nsw.gov.au For further information, please contact: Sarah Hadfield Professional Development Co ordinator Ph: (02) 8223 0031 sarahhadfield@taxinstitute.com.au

ASBBS Conference Join fellow Australasian business and behavioural scientists for the 2005 Annual Meeting of the Australasian Society of Business and Behavioural Sciences to be held in Pacific International Hotel, Cairns, Australia during August 5-7, 2005.

Conference Theme - *Academia and industry - Communication and dialogue*

Scholarship: The conference committee invites papers from all areas of Business and Behavioural Sciences. We are interested in papers that reflect applications of business and behavioural science research and scholarship to real-world business problems. Submit completed papers to the appropriate track chair with a copy to elias.shehadie@jcu.edu.au. The deadline for submission of papers was **February 28, 2005. Papers will be doubleblind reviewed.**

Papers may be submitted as follows:

Adee Athiyaman, **Conference Chair**, adee.athiyaman@jcu.edu.au Greg Teal, Program Chair, New Zealand, greg.teal@uws.edu.au **Legal Studies:** All Areas Colin Anderson andersoc@usq.edu.au

Thematic Paper and Keynote Speaker Competition: Separate proposals are invited on the conference theme "Academe and industry: Communication and dialogue".

Submit your complete paper to the Conference Chair by the deadline of February 28, 2005. The author of the best paper will be selected as the Keynote Speaker for the Annual Banquet of ABBSA with a special recognition. Further details may be obtained from the conference chair or at <http://ecommm-trial.jcu.edu.au/~cber/conferences.html>

Information can be found at <http://www.jcu.edu.au/flbca/public/business/cber/index.shtml>

Last date for early bird registration is 1 July 2005. For enquiries please contact the conference director Adee Athiyaman, Associate Professor - Marketing and Director, Centre for Business & Economic Research, p: +61 7 4781 5690, fax: +61 7 4781 6533

"Dealing with tax avoidance," Lunch Seminar, TBA August 2005, Light lunch 12:30pm – 1:00pm Seminar 1:00pm – 2:00pm Minter Ellison Room (Level 13), University of Sydney Faculty of Law, 173 Phillip St, Sydney. Professor Yitzhak Hadari is a senior law professor at Tel Aviv University who specializes in tax and commercial law. He has published widely including in leading US journals and is currently pursuing comparative research on tax avoidance. If you are not a full or part-time member of staff please give advance notice of your intention to attend a seminar to Becky Lai (contact details below). This is for catering purposes. For further details please contact the co-ordinator, Peter Butt on (02) 9351 0248 or peterb@law.usyd.edu.au or Becky Lai on (02) 9351 0279 or becky@law.usyd.edu.au

Interpreting the GST Law *Five years into the life of Australia's GST and the first genuine GST assessment cases are now reaching the courts. Preceding judicial consideration of GST assessments, there have been a rash of decisions interpreting the law in the context of*

contract, tort and administrative law cases, on top of tax administration interpretation of the legislation through many dozens of public rulings, determinations and published ATO IDs.

The Taxation Law and Policy Research Institute at Monash University, in conjunction with principal sponsorship by **ATP** and further sponsorship by **IFA** and **Atax** is holding an international seminar on interpretation of the GST

Friday, 5 August and the morning of Saturday, 6 August at the Atax premises, UNSW Cliffbrook Campus, 45 Beach Street, Coogee. Seminar enrolment fee includes lunch on Friday and a Friday evening seminar dinner at the Crowne Plaza, Coogee Beach. The seminar features papers by Australia's leading experts on interpretation of the GST and also features international experts on GST interpretation.

Speakers: Tom Reid, formerly of the Office of Parliamentary Counsel, currently consultant to Department of Treasury

Ken Fehily, PriceWaterhouseCoopers

Michael D'Ascenzo, Australian Taxation Office

Neil Brooks, Osgoode Hall Law School

Graham Hill, Federal Court of Australia

Jacqui McManus and Michael Walpole (joint paper), Atax

Ben Terra, Professor, Erasmus University, Rotterdam and Executive Chairman, Academic Activities,

International Bureau of Fiscal Documentation

To ensure the seminar remains an opportunity for close discussion and participation, enrolment will be limited and filled on a first-come, first-serve basis.

Fee: \$423.50 inclusive of GST, lunch and conference. **ATTA Members:** Members are entitled to a 30% discount on the enrolment fee. **\$296.45** (cheque payable to "Monash University"). <http://www.atax.unsw.edu.au/news/brochurestandard.pdf>

Ross Parsons Annual Lecture in Commercial, Corporate & Taxation Law, Thursday, 29 September 2005, Banco Court, Queens Square, Sydney, Lecture 5.30 pm (free) Speaker: Professor Charles Rickett, "Liability for gains made in breach of contract." Please RSVP to Louise Pierce, louisep@law.usyd.edu.au or call 02-9351 0327

Nineteenth Annual Australasian Tax Teachers Association Conference 2007, January 2007, University of Queensland Law School. Contact Kerrie Sadiq, k.sadiq@law.uq.edu.au

Overseas

American Accounting Association Calls for paper website <http://aaahq.org/calls/default.cfm>

Canadian Tax Foundation <http://www.ctf.ca/profDev/schedule1.asp> has a 2005 events schedule.

Fifty-Seventh Tax Conference, 25-27 September, Vancouver Hyatt Regency

Commonwealth Law 2005, 11 – 15 September 2005, QEII Conference Centre, London, UK www.commonwealthlaw2005.com

Institute for Fiscal Studies Conferences and seminars

<http://www1.ifs.org.uk/conferences/index.shtml>

International Bureau of Fiscal Documentation Various courses in Amsterdam, the Netherlands. For details, see <http://www.ibfd.org> The IBFD International Tax Academy (ITA) runs an extensive international course program. Generally all courses are held in Amsterdam. Should you require any further information or wish to register please refer to their web site www.ibfd.org or contact the International Tax Academy at +31-20-554 0160 or by e-mail ita@ibfd.org

Summer Course: Principles of International and Comparative Taxation. For newcomers in the world of cross-border taxation the ITA Summer Course is the best introduction you can get. Or it is a great course to refresh your memory! This course deals with the basic concepts and principles of international tax law and what the main current issues of international tax law are. You will acquire a structured understanding of the concepts and principles of international tax law. Amsterdam, 22 August - 02 September 2005

For 2005 courses go to http://www.ibfd.org/news/course_calendar.htm

The ITA also offers tailor-made in-house courses on a worldwide basis for corporate clients, tax administrations and other organizations. Should you have any queries, please contact Arcotia Hatsidimitris, Head of the International Tax Academy by telephone +31-20-554 0180, or by a.hatsidimitris@ibfd.org

International Tax Planning Association Forthcoming meetings

<http://www.itpa.org/meetings.html>

International Atlantic Economic Society (IAES) conference. You can visit IAES's web site (www.iaes.org) for more information. Prof dr M. Peter van der Hoek Academy of Economic Studies, Bucharest, Romania and Erasmus University, Rotterdam, Netherlands. Mailing address: Erasmus University (L 7-20) P.O. Box 1738 NL-3000 DR Rotterdam Netherlands Phone/Fax: +31-10-4081622 E-mail: vanderHoek@frg.eur.nl 60th International Atlantic Economic Conference will be held in New York, 6-9 October 2005; then Berlin 15-19 March 2006; Philadelphia 5-8 October 2006

European Association of Tax Law Professors Meetings and conferences

<http://www.eatlp.org> Budapest 2006; Helsinki 2007

Tax Research Network (TRN) Annual Conference, “*Tax in a changing world*,” Edinburgh University, Edinburgh, Scotland, 8-9 September 2005.

http://users.wbs.ac.uk/group/trn/home/whats_new Abstracts, or full papers, if available, should be sent in electronic format by e-mail for consideration in the first instance to the conference organizer Sandra Eden (s.eden@ed.ac.uk) The deadline for submission of abstracts was 31 March 2005. Presenters will be informed as soon as possible after that whether their papers have been accepted. If not provided initially, full papers will be required by 31 July 2005 to allow time for conference packs to be compiled.

Sixth Annual Global Conference on Environmental Tax Issues, Leuven, Belgium from 22-24 September 2005. The URL to the conference's site is:

<http://www.law.kuleuven.ac.be/imer/nieuws.html>

Organisation : Professor Kurt Deketelaere and Professor Geert Van Calster, Institute of Environmental and Energy Law, University of Leuven, Flanders, Belgium & Professor Janet Milne, Environmental Tax Policy Institute, Vermont Law School, Vermont, USA

Conference Venue : Faculty Club, University of Leuven, Leuven

<http://www.facultyclub.be/site/home.php?p=infrastructuur&newlang=uk>

Conference Theme: The central theme of the 6th ETC will be : “*The Promotion of Renewable Energy Sources through Tax or Other Market-Based Measures – Challenges and Obstacles*”.

This central theme will be developed during the first conference day, by different invited keynote speakers and panels. Traditionally, the second conference day will tackle a broad variety of environment and energy taxation issues, from a multidisciplinary perspective. Abstracts for these presentations and panels are hereby invited.

Further information: Kurt Deketelaere : kurt.deketelaere@law.kuleuven.ac.be Geert Van Calster : geert.vancalster@law.kuleuven.ac.be Janet Milne : jmilne@vermontlaw.edu
More info on: City of Leuven : <http://www.leuven.be/showpage.asp?iPageID=2721>
University of Leuven : <http://www.kuleuven.ac.be/english/>
Institute for Environmental and Energy Law : <http://www.law.kuleuven.ac.be/imer/>

Baker & McKenzie 21st Annual Asia-Pacific Tax Conference Hong Kong, 17-18 November 2005. For more information, contact Ms Marianne Shaw, Baker & McKenzie, Hong Kong. Tel: +852-2846 1078; Fax: +852-2842 0530 marianne.shaw@bakernet.com

Other useful tax and law related conference websites include the **IBFD Course calendar** http://www.ibfd.org/news/course_calendar.htm **UNSW Faculty of Law Conference Calendar** http://www.law.unsw.edu.au/news_and_events/events/events.asp **New South Wales Bar Association** http://www.nswbar.asn.au/Professional/Noticeboard/ComingUp/contents_coming.htm **Law Council of Australia** <http://www.lawcouncil.asn.au/events.html> **Law Courts Library** <http://www.lawlink.nsw.gov.au/conference> **LexisNexis Professional Development Calendar of events** <http://www.lexisnexis.com.au/aus/conferences/calendar/default.asp> See also the *inTax* Seminars Directory, published in *inTax Magazine*. **Practising Law Institute** <http://www.pli.edu/>
New York County Lawyers Association <http://www.nycla.org> **American Bar Association** <http://w3.abanet.org/home.cfm> **New York Bar Association** <http://www.nysba.org/> **Hieros Gamos Worldwide Law Events Calendar** http://www.hierosgamos.org/hg/db_meetings.asp?action=search
<http://www.hg.org/calendar.html>
For social sciences and humanities conferences, meetings etc, see Mind: The Meetings Index <http://www.interdok.com/mind> See also the magazine *Australian Conference & Exhibition Diary*, Vamosi Information Publication.

10 Recent publications

Bold indicates ATTA members. Readers are encouraged to notify the Editor of recently written publications for notification, in these pages. Please note some of the overseas publications listed may not yet be available locally.

Local

Business Council of Australia *Regulation blow-out risks economic growth and prosperity*, 2005 <http://www.bca.com.au>

Business Council of Australia *Taxation action plan – report*, Melbourne, 2005

Carmody, Michael “Managing Australia’s revenue system,” Address to the Australian Compliance Institute conference, Thursday 26 May 2005, Sydney
<http://www.ato.gov.au/corporate/content.asp?doc=/content/59019.htm>

(2005) 18 *CCH Tax Week*

- Galvin, Tim and Lockie, Damien “Linter Textiles: High Court decisions’ ramifications explored”

(2005) 19 *CCH Tax Week*

- **Burton, Mark** “Stones left unturned in Stone’s case”

D'Ascenzo, Michael "The intent of the consolidation regime," Speech to the Taxation Institute of Australia Consolidation Symposium, 19-20 May 2005

<http://www.ato.gov.au/corporate/content.asp?doc=/content/59313.htm>

(2004) 2 (2) *ejournal of Tax Research*

- Lee, Natalie "The Effect of the Human Rights Act 1998 on taxation policy and administration"
- Moss, Philip "Towards community ownership of the tax system: The taxation Ombudsman's perspective"
- **Prebble, John** "Trusts and double taxation agreements"
- **Sharkey, Nolan** "Tax reform in the China context: the corporate tax unit & Chinese enterprise"
- Karlinsky, Stewart; Burton, Hughlene and Blanthorne, Cindy "Perceptions of tax evasion as a crime"
- Turner, Liane and Apelt, Christine "Globalisation, innovation and information sharing in tax systems: The Australian experience of the diffusion and adoption of electronic lodgement"

(2005) 3 (1) *ejournal of Tax Research*

- Eden, Sandra "Judicial control of tax negotiation"
- **Tan, Lin Mei** and **Veal, John** "Tax knowledge for undergraduate accounting majors: conceptual v technical"
- **Loo, Ern Chen** and Ho, Juan Keng "Competency of Malaysian salaried individuals in relation to tax compliance under self assessment"
- O'Donnell, Jim "Quarantining interest deductions for negatively geared rental property investments"
- **Warren, Neil**; Harding, Ann and Lloyd, Rachel "GST and the Changing Incidence of Australian Taxes: 1994-95 to 2001-02"

Granger, Jennie "Striking the balance between service and enforcement," Speech to to the OECD, 1 - 2 June 2005, Dublin, Ireland

<http://www.ato.gov.au/corporate/content.asp?doc=/content/59915.htm>

Inspector-General of Taxation *Review of Tax Office administration of GST refunds resulting from the lodgment of credit BASs*, 2005

http://www.igt.gov.au/content/reports/GST_refunds/GST_refunds_Contents.asp

Inspector-General of Taxation *Review into the Tax Office's small business debt collection practices*, 2005 http://www.igt.gov.au/content/reports/debt_collection/debt_contents.asp

Koken, E & Smith, B *Tax & social security*, 8th ed, Pyrmont, NSW, Thomson, 2005

Leet, Martin *Should taxes be cut?* The Brisbane Institute, 2005

http://www.brisinst.org.au/resources/leet_martin_taxes.html

Leet, Martin Taxation: lower or higher? *In Brief*, April 2005, pp 1-7

http://www.brisinst.org.au/pdf/inbrief_tax.pdf

Leigh, Andrew *Can redistributive state taxes reduce inequality?* Centre for Economic Policy Research, Australian National University, Discussion Paper 490, April 2005

<http://econrssh.anu.edu.au/pdf/DP490.pdf>

Markham, Michelle "Transfer pricing of intangible assets in the US, The OECD and Australia: are profit-split methodologies the way forward?" (2004) 8 *University of Western Sydney Law Review* 55-78

Master tax examples 2005, 4th ed, North Ryde, NSW, CCH Australia, 2005

Monaghan, Michael “Ensuring effective identity fraud management,” Speech to the *Government Technology World Conference*, Canberra, 28 April 2005 on the Tax Office's approach to effective identity fraud management

<http://www.ato.gov.au/corporate/content.asp?doc=/content/57719.htm>

Quiggin, John *The budget changes: who benefits?*

http://www.apo.org.au/webboard/print-version.chtml?filename_num=01150

Robson, Alex *The costs of taxation*, The Centre for Independent Studies, Perspective on Tax Reform (8), CIS Policy Monograph 68, 2005

<http://www.cis.org.au/publications/policymonographs/pm68.pdf>

“Sources of personal income by electorate,” Information and Research Services, Parliamentary Library, 2005 Research Note No 53, 14 June 2005

<http://www.aph.gov.au/library/pubs/RN/2004-05/05rn53.pdf>

Taylor, Sharon *Financial planning in Australia*, Sydney, LexisNexis Butterworths, 2005

Top 100 questions and answers on tax, North Ryde, NSW, CCH Australia, 2004

Wilson, Shaun “A little bit of Alabama: On Australia’s low tax consensus,” Australian National University, *Australian Review of Public Affairs*, 30 May 2005

<http://www.econ.usyd.edu.au/drawingboard/digest/0505/wilson.html>

Overseas

Arendonk, Henk van; Engelen, Frank and Jansen, Sjaak (ed) *A Tax Globalist: Essays in Honour of Maarten J. Ellis*, Amsterdam, International Bureau of Fiscal Documentation/Erasmus University, 2005

This book comprises 20 essays on international and European tax law written by renowned tax experts in honour of the academic work of Maarten Ellis. This book was presented on the occasion of the retirement of Maarten Ellis on 17 March 2005 from his position of professor of international tax law at the Faculty of Law of the Erasmus University of Rotterdam. Main Contents

Part A – International Tax Law

Contributors include: John Avery Jones, Tanja Bender and Frank Engelen, Michael Lang, Jean-Pierre Le Gall, Loek van Kalmthout, Guglielmo Maisto, Dick Molenaar, Frank Pötgens, Kees van Raad, **Richard Vann**, Stef van Weeghel

Part B - European Tax Law

Contributors include: Henk van Arendok, Luc de Broe, Gijs Fibbe and Arnaud de Graaf, Malcolm Gammie, Luc Hinnekens, Sjaak Jansen, Dick Juch, Frans Vanistendael and Bertil Wiman

Asia Pacific Tax Bulletin No. 3 (2005)

Editor's Note

The articles in this issue are based on selected papers presented at the Baker & McKenzie 20th Annual Asia-Pacific Tax Conference, held in Singapore on 4 and 5 November 2004.

ARTICLES

Financial Products And Structured Equities

Reports on the following countries: Australia, China, Hong Kong, Malaysia, Singapore, South Korea and Thailand, pp. 160-195

Nexus for Taxation In Asia: Contemporary Permanent Establishment And Related Issues
Reports on the following countries: Australia, China, Hong Kong, India, Indonesia, Japan,
Malaysia, Philippines, Singapore, Taiwan and Vietnam, pp. 197-237

Outsourcing Tax Issues

Reports on the following countries: Australia, China, Hong Kong, India, Malaysia,
Philippines, Singapore, Taiwan, Thailand and Vietnam, pp. 239-277

DEVELOPMENTS

Reports on the following countries: Australia, Bangladesh, Hong Kong, India, Kazakhstan,
Kyrgyzstan, New Zealand, Singapore and Uzbekistan pp. 279-288

[2005] (1) *British Tax Review*

- "Some Historical Recollections of Tax Practice and of the Special Commissioners"
- "The Special Commissioners from Trafalgar to Waterloo" - John F Avery Jones
- "The Special Commissioners after 1842: from Administrative to Judicial Tribunal" -
John F Avery Jones
- "Access to Justice before the Special Commissioners of Income Tax in the Nineteenth
Century"- Chantal Stebbings
- "Masters of All They Surveyed: 1900-14" - David Williams
- "A Map of Society: Defining Income in British, British-Colonial and American Tax
Legislation" – Assaf Likhovski

[2005] (2) *British Tax Review*

- Lord Hoffman of Chedworth "Tax avoidance"
- Birla, Arun "The attribution of profits – fact or fiction?"
- Williams, David "Surveying taxes, 1900-14"

Contents pages are published on-line at

<http://www.sweetandmaxwell.co.uk/catalogue/journals/4350/index.html>

Bulletin for International Fiscal Documentation No. 6 (2005)

- Tax Treaty News - Klaus Vogel
- "Taxes Covered" - What is a "Tax" according to Article 2 of the OECD Model? - Michael
Lang
- Software Royalties in Tax Treaties: Should Copyright Rights Be Reconsidered in the OECD
Commentary on Article 12? - Alejandro García Heredia
- The Aftermath of the Lamesa Case: Australia's Tax Treaty Override - **Michael Kobetsky**
- Tax Avoidance Schemes in New Zealand: Limited-Recourse Loans and the Deferred-
Deduction Rule - **Andrew MC Smith** and **David G Dunbar**

EATLP International Tax Series: Volume I - *The Notion of income from capital*, Amsterdam,
International Bureau of Fiscal Documentation, 2005

The Notion of Income from Capital presents a unique proposal for a new concept of income
from capital based on a practical analysis of the various ways of taxing capital income in the
European countries. It is published in cooperation with the European Association of Tax Law
Professors (EATLP) and is the first volume in the newly launched EATLP International Tax
Series

EC and International Tax Law Series: Volume I - *Multilingual texts and interpretation of tax
treaties and EC tax law*, Amsterdam, International Bureau of Fiscal Documentation, 2005.

Multilingual Texts and Interpretation of Tax Treaties and EC Tax Law identifies linguistic
issues arising in bilateral income tax conventions, and presents an in-depth analysis of tax
treaty policies on multilingualism and the administrative practice and case law on the issues
raised by the translation of treaties. This book is the first title in the EC and International Tax
Law Series, an initiative of Guglielmo Maisto (Series Editor), and aims to promote the
dissemination of studies on EC and international tax law that go beyond domestic domains

(2004) 30 (4) *International Tax Journal*

- Rothman, Robert P & Hryck, David M "Pre-sale check-the-box election avoids Subpart F income on sale of stock"
- Mishik, Michael G "Tax-free incorporation of a foreign business enterprise: considerations under Section 367 of the Internal Revenue Code (or, "Monty Python and the outbound transfer")"
- Feinschreiber, Robert & Kent, Margaret "Obtaining DISC benefits from engineering and architectural services"
- Lauricella, Leonard J "Foreign withholding tax and the 15 percent rate on dividends"

International VAT Monitor No. 3 (2005)

- "Implementation of the New Rules for Gas and Electricity" - Isabelle Desmeyere and Patrick Wille
- "VAT Concessions for Small Businesses and Primary Community Law" - Joep Swinkels
- "Financial Consequences of the Chinese VAT Reform" - Ehtisham Ahmad, Ben Lockwood and Raju Singh
- "Zero Rating Intra-Community Transactions" - Joep Swinkels

(2005) 16 (4) *Journal of International Taxation*

- Cummings Jnr, Jasper L "American Jobs Creation Act: new section 199 domestic production deduction"
- Elliott, William P "A guide to captive insurance companies (Part 1)"
- **Maples, Andrew J & Sawyer, Adrian J** "Film investment in New Zealand"
- Schofield, Mark "The new European company"
- Vallat, Frederic & Paul-Boncour, Philippe "French finance bills: lower corp tax rate, new cap gains exemption and CFC rules"
- Dietrich, Monika "New notification procedure for w/h taxes on cross-border dividends"

Laule, Gerhard "Limits on international tax structuring" (2004) 27 *Comparative and International Law Journal of Southern Africa* 364-76

Littlewood, Michael "Tax competition: harmful to whom?" (2004) 26 *Michigan Journal of International Law* 411-87

Markham, Michelle "The advantages and disadvantages of using an advance pricing agreement: lessons for the UK from the US and Australian experience" (2005) 33 *Intertax* (The International Tax Review) 214-229

(2005) 58 (1) *National Tax Journal*

- Powers, Elizabeth T & Neumark, David "The supplemental security income program and incentives to claim social security retirement early"
- Gustman, Alan L & Steinmeler, Thomas L "Retirement effects of proposals by the President's Commission to strengthen social security"
- Martinez-Vaurjez, Jorge & Rider, Mark "Multiple modes of tax evasion: theory and evidence"
- Zee, Howell H "A new approach to taxing financial intermediation services under a value-added tax"
- Chernick, Howard "On the determinants of subnational tax progressivity in the US"
- Forum on state corporate income taxes
- Cornia, Gary; Edmiston, Kelly D; Sjoquist, David L and Wallace, Sally "The disappearing state corporate income tax"
- Fox, William; Luna, LeAnn and Murrery, Matthew N "How should a subnational corporate income tax on multistate businesses be structured?"

OECD *Consumption tax trends: VAT/GST and excise rates, trends and administration issues*, Paris, OECD, 2005

Rickman, Jonathan "Government to tax fleeing firms" (2003) 37 *Tax Notes International* 1157. Proposed tax rules for migrating companies <http://www.taxpolicy.ird.govt.nz>

Vidler-Smith, Catherine & **Prebble, John** "The emergence of neutral citation" (2004) 4 *Oxford University Commonwealth Law Journal* 121-28

Walsh, Suzanne "Taxation of cross-border interest flows: the promises and failures of the European Union approach" (2005) 37 *George Washington International Law Review* 251-91

11 Quotable quotes

"A funny thing about tax is that you can study it in your accounting qualification and learn about it in a certain way. At the end of the day, you produce income tax returns and do a few other things.

"When you study taxation in a law course, you learn about notions of what is income and what are deductions, but you really have no idea what to do about putting in a tax return. So, in lots of ways, going into the legal side of taxation was just seeing another complexion of the rules and regulations that touch on tax"

... "A lot of people in that situation will go into accounting because it is easier to get work as an accounting graduate than as a law graduate. This is mainly because the government has created a lot of extra compliance work in the past four or five years because of the new tax system."

Beer, Stan "Best of both worlds," *Sydney Morning Herald My Career*, Weekend Edition 7-8 May 2005, p 2

"The basis of progressive taxation rests on notions of "fairness". To disguise the unorthodox definition of fairness, economists use the terms horizontal and vertical equity. Horizontal equity means that equals should be taxed equally, while vertical equity implies that unequals should be taxed unequally.

As unequals, high-income earners are taxed unequally, brutally and progressively. I have calculated, using Australian Taxation Office data, that the top 25 per cent of income earners paid 63.8 per cent of net income tax in 2003. The 3.5 per cent of taxpayers earning above \$100,000 pay 25.5 per cent of net income tax. Beazley made a big deal about taxpayers earning between \$100,000 and \$125,000. That group make up one half of 1 per cent of taxpayers (including parliamentarians and university professors). Our tax system is extremely unequal, yet somehow "fair".

Davidson, Sinclair "Perverse logic in tax-cut 'fairness'" *Australian Financial Review*, 25 May 2005, p 71

QUESTION IN WRITING: GOODS AND SERVICES TAX

On 10 March 2005, the Parliamentary Secretary to the Leader of the Opposition, Mr John Murphy, asked the Commonwealth Treasurer, Mr Peter Costello, questions in writing regarding goods and services tax (GST).

Mr Murphy asked Mr Costello:

- If he was aware of the Premier of New South Wales (NSW), Mr Bob Carr's, claim that NSW would be able to cut taxes if the Commonwealth Government was equitable in its distribution of GST revenue (see 'The Sydney Morning Herald', 9 March 2005, 'Give us GST share and we'll cut tax', dtn 9 March 2005 item 10);

- If he could confirm that that Commonwealth Government collects \$13 billion in GST from the people of NSW per year and provides NSW \$10 billion of GST revenue per year; and if not, why; and

- Would he return to NSW all the GST paid annually by the people of NSW - if so, when and if not, why.

On Monday 30 May 2005, Mr Costello answered that he was aware of Mr Carr's claim.

Mr Costello said that the Australian Taxation (ATO) advised that there is no reliable and accurate measure of the actual amount of GST revenue collected from the people of each State. This is primarily because businesses which operate nationally may collect GST in a number of States, but only pay the GST to the ATO from a head office located in a particular State. It also recognises that residents from one State can pay GST in another State.

Mr Costello added that the 2005-06 Budget estimates that NSW will receive \$9,937.5 million in GST revenue in 2004-05 and receive a benefit from tax reform of more than \$257 million.

With regard to the return to NSW of all the GST paid annually by the people of NSW, he advised that the Intergovernmental Agreement on the Reform of Commonwealth-State Financial Relations, which all States agreed to in 1999, provides that all GST revenue will be distributed among the States and Territories in accordance with horizontal fiscal equalisation principles, based on the relativities recommended by the Commonwealth Grants Commission (CGC). At the meeting of the Ministerial Council for Commonwealth-State Financial Relations on 23 March 2005, the NSW Treasurer did not seek any change or variation to the CGC's recommended relativities (see dtn 24 March 2005 item 1).

[House of Representatives Hansard, Monday 30 May 2005, proof copy, p99] Source: KPMG *Daily Tax News*, 31 May 2005

"It's not every day a jury gets to hear the taxation commissioner questioned in public. In the NSW Supreme Court yesterday, Michael Joseph Carmody was cross-examined for the second time in the Petroulias fraud case.

But the public gallery was empty for Mr Carmody's hour in the witness box, which started with how he met former tax officer Nick Petroulias, now facing a fraud charge for allegedly obtaining favourable tax rulings for a tax scheme in which he was involved.

Mr Carmody said Mr Petroulias walked up to him in November 1997 after a speech about "getting on the front foot" to tackle aggressive tax planning.

He was "very enthusiastic about our approach" and said, "if I was serious", "he was the man".

After a "series of conversations with Nick", Mr Carmody gave him a higher profile role, which meant he worked "directly with me identifying emerging schemes".

That role did not extend to issuing tax rulings but was "about gathering intelligence . . . other areas would issue rulings".

Buffini, Fiona "Petroulias talked his way to job with Carmody," *Australian Financial Review*, 2 June 2005, p4

"According to the NSW Law Society, the least popular specialist accreditation is tax, with only six accredited specialists in the state. Accredited specialists say the assessment requirements are tough."

Delaney, Brigid "My career – Legal affairs – Hit the books," *Sydney Morning Herald*, 30 May 2005, p 36

"The president of the NSW Law Society, John McIntyre, says: "Solicitors in this state have for some time been required to disclose tax convictions to the Law Society and to show cause why they remain fit and proper to continue in practice. This level of disclosure and accountability on solicitors with regard to tax matters goes far beyond the requirements that apply in most other states. In 2003-04, compulsory disclosures made by solicitors in NSW indicated that the number prosecuted for late lodgement of tax returns was less than 30 out of 20,000 solicitors in this state."

The statement came after the Australian Taxation Office revealed last week there were 9390 outstanding income tax returns from barristers and solicitors between 1997 and 2003."

Delaney, Brigid "My career – Legal affairs - News & moves," *Sydney Morning Herald*, 30 May 2005, p 36

ATTA News July 2005

<http://www.atax.unsw.edu.au/atta/newsletter.htm>

Editor: Colin Fong, Faculty of Law, The University of New South Wales

c.fong@unsw.edu.au

ATTA website <http://www.atax.unsw.edu.au/atta>

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1 ATTA Conference 2006

Melbourne Law School, University of Melbourne is pleased to host the 18th **Australasian Tax Teachers Association Conference 2006**
"Old Taxes in a New World"

Dates: Monday 30 January to Wednesday 2 February 2006

Conference webpage: <http://www.law.unimelb.edu.au/taxgroup/attaConference2006.html>

The 2006 ATTA Conference conference is to be held just after the **AUSTRALIAN OPEN TENNIS, 16 - 29 January 2006**. If you are interested in attending the Australian Open, please visit <http://www.australianopen.com.au> . Information about accommodation and other Victorian tourism information is on the Conference webpage and will be enhanced over the next few months.

Call for Papers

We welcome your Abstracts for written papers on the above theme or on another topic. It is expected that paper abstracts will be due by September 2005 and completed written papers by December 2005. A detailed Call for Papers will be placed on the conference webpage in the near future. Following the success of the sessions on tax teaching and tax doctoral research at the 2005 Conference, we plan to schedule sessions on those topics at the 2006 conference. We welcome papers on teaching and research methodologies as well.

Please send Abstracts to Lillian Hong on xyhong@unimelb.edu.au Please contact Lillian, or Miranda Stewart on m.stewart@unimelb.edu.au , if you have any queries.

2 Arrivals, departures and honours

Sir Harry Gibbs, former Chief Justice of Australia and Chair of the Australian Tax Research Foundation, died on 25 June 2005. Some tributes appeared as: Stone, J “Harry Gibbs – a wealth of wisdom,” *The Australian* 1 July 2005, p 28; Priest, M & Scott, S “Harry the Healer’s strange bedfellows,” *Australian Financial Review* 1 July 2005, p 58 and Ackland, R “The healer was not beyond a bit of wounding,” *Sydney Morning Herald*, 30 June 2005, p 13.

Kevin Holmes, formerly a Principal Research Associate with the International Bureau of Fiscal Documentation in Amsterdam, has been appointed a Professor in the School of Accounting & Commercial Law at Victoria University of Wellington, where he will teach taxation and financial accounting. His research focus is tax policy in developing countries and the relationship between international accounting standards and the determination of taxable income. Kevin took up his new appointment on 1 July.

Maarten Rothengatter is involved with Southern Cross University’s School of Social Sciences and teaches courses in Sociology and Political Science (coming from a ‘critical orientation’ and whenever the opportunity arises may alert students to the various implications that tax measures have upon social life!). Maarten is still doing his PhD and on “stand-by” for casual work in Criminology/Sociology, at the University of Queensland.

Sheikh Solaiman will be teaching taxation law at the University of Wollongong in Spring 2005.

Atax is pleased that Fiona Martin will be joining them in Session 2 2005 as a Senior Lecturer. Fiona's family is moving back to Sydney and she will be teaching in a number of areas in the Atax curriculum as well as researching taxation issues affecting traditional land owners in Australia and Canada.

Fred Schenck is full time with Webb Martin as a tax trainer and an Adjunct Tax Lecturer at the University of Melbourne.

John Raneri, of Atax, passed away on the 20 July after struggling with cancer in recent years. He leaves behind a wife and young family.

3 LexisNexis enters the Australian tax market

LexisNexis have decided to enter the Australian tax market. After three years of extensive market and product research, LexisNexis has committed a large investment into what we believe will be a successful entry strategy. A new division, headed by Pip Hughes (former MD of CCH Australia), has been established to champion this strategy and the project will be managed by Maggie Burke, Product Development Manager (also formerly with CCH). We are looking for potential authors and contributors who would like to work with us on this new and exciting venture. Please email Maggie at maggie.burke@lexisnexus.com.au or call on (02) 9422 8844 if you are interested. We can then meet up to discuss the new products in further detail.

Maggie Burke
Product Development Manager - Corporate Division
LexisNexis
Tower 2, 475-495 Victoria Avenue
Chatswood, NSW 2067
Tel 02 9422 8844 / 0404 154 114
email to maggie.burke@lexisnexus.com.au

4 New Zealand: Wine equalization tax rebate

“On Wednesday 22 June 2005, the New Zealand Minister for Revenue, Dr Michael Cullen, issued a media release announcing that legislation tabled in the New Zealand Parliament on Tuesday 21 June 2005, will allow New Zealand's wine producers who export to Australia to have access to Australia's wine equalisation tax rebate.

Dr Cullen said that the change is part of a joint trans-Tasman legislative effort that will involve both Australia and New Zealand in the administration of the rebate to New Zealand wine producers who export to Australia. He also said that Australia will assess, pay and generally administer the rebate, while New Zealand will be involved in the registration and application processes.

The changes to the wine equalisation tax rebate were introduced by means of a Supplementary Order Paper, which adds them to the Taxation (Depreciation, Payment Dates Alignment, FBT, and Miscellaneous Provisions) Bill currently before the New Zealand Parliament. Australia has introduced the relevant legislation into the House of Representatives on Thursday 23 June 2005, as part of the Tax Laws Amendment (2005 Measures No. 4) Bill 2005.

The media release and the Supplementary Order Paper are available on the NZ Inland Revenue Department Web site (<http://www.ird.govt.nz>)”

Source: KPMG *Daily Tax News*, 23 June 2005

Further to the above was this story from AAP

NZ wine tax payments introduced

June 23, 2005 - 11:04AM

“Laws that will mean Australian taxpayers will pay New Zealand wine producers a small subsidy have been introduced into parliament.

Assistant Treasurer Mal Brough introduced a series of tax law amendments, covering the child care rebate, deductible gift recipients and a schedule that will help the Australian Bureau of Statistics access more information from the tax office.

But it also includes a change to the wine equalisation tax (WET) system that follows pressure from New Zealand.

In 2004, the government - following pressure from Australian wine growers - introduced a rebate for most growers to help offset the impact of WET.

That tax was introduced in 2000 as part of the GST package. Without WET, taxes on wine would have fallen substantially.

Following constant pressure from growers, the government introduced the rebate. But at the time, the Treasury Department failed to consult with the Department of Foreign Affairs and Trade about what the rebate might mean to Australia's various trade deals.

Under the Australia-New Zealand free trade agreement, produce from either country has to be treated the same in the other nation.

New Zealand growers argued that a rebate to Australian wine producers, but which was not available to Kiwi producers, breached the trade deal.

Kiwi producers will now be able to claim the WET rebate. It is expected to cost Australian taxpayers \$7 million in 2005-06, \$8 million the following year and the same in 2007-08.

Mr Brough also introduced a schedule setting out the childcare tax rebate.

"The rebate will cover childcare expenses for taxpayers who use approved care and meet the childcare benefit work test or one of the equivalent childcare benefit limits," he said.

The rebate will be payable up to a maximum of \$4,000 per child.

Mr Brough said taxpayers will also be able to transfer any unused portion of the rebate to their spouse".

5 Taxation quotes or funny one liners

Recently, the editor was asked if he knew of a place electronically where one could find tax quotes or funny one liners. After doing a Google search, I came up with the following.

<http://www.taxanalysts.com/www/website.nsf/Web/TaxQuotes?OpenDocument>

<http://www.irs.gov/newsroom/article/0,,id=110483,00.html>

<http://www.worldofquotes.com/topic/Tax/1/>

<http://www.fortliberty.org/quotes/quotes-taxes.shtml>

<http://www.brainyquote.com/quotes/keywords/tax.html>

<http://www.taxgaga.com/pages/c-taxhaha/dir-quotes.html>

<http://www.quotegarden.com/taxes.html>

<http://www.vernonjacobs.com/tax-quotations.htm>

I did an Advanced search on Google, by keying in: tax quotations, then further down in the box which says either of these words, I keyed in: tax taxation.

6 Tax, Accounting, Economics and Law Related Meetings

Local

Atax Continuing Education classes in taxation are suitable for those wishing to update their skills without assessment tasks or exams. The 5-day intensive courses, evening classes **and flexible distance** courses offered in continuing education mode provide tax teachers with the opportunity to focus on their professional development. The intensive short courses are held over 5 days at Atax's Cliffbrook Campus in Coogee, Sydney.

Evening classes start during the week of July 25 and are held during Session 2 (between 6-8pm) at AGSM, 1 O'Connell Street, Sydney. Flexible distance courses (starting in Session 2) are delivered by Comprehensive Study Materials, Audio Conferences and Regional Classes (1 full day of classes that are held in capital cities across the country).

Please secure your place in these courses before the start of the teaching session .

Intensive classes (Atax, 45 Beach St, Coogee, Sydney):

Specific Tax Jurisdictions: North America (18-23 August)

This course examines in detail the domestic tax laws of the US. Particular attention is paid to domestic taxation laws in the US from the perspective of international investors and their advisors. These tax laws are compared to international norms.

Double Tax Agreements (25-30 August)

This intensive short course provides a comprehensive and in-depth study of DTAs including DTA coverage, dual residency issues, and taxation of passive income flows, taxation of business income and capital gains, and mechanisms to alleviate double tax.

**no classes are scheduled on Sundays*

Evening Classes (July – November)

- Taxation of Employee Remuneration (Monday nights)
- Taxation and Investment Regulation in China (Monday nights at UNSW's Kensington Campus)
- Principles of GST Law (Tuesday nights)
- Taxation of Trusts (Wednesday nights)
- Principles of Australian International Taxation (Thursday nights)

Flexible Distance Courses (July – November)

- Tax Policy
- Taxation of Trusts
- Current Problems in Tax Decision Making
- Taxation of Corporate Finance
- Selected Problems in Stamp Duty
- Taxation of Industry and Technology
- Complex Corporate Structures
- Principles of Australian International Taxation
- Taxation of Structured Finance
- Principles of GST Law
- Taxation of Employee Remuneration
- Tax and Investment Regulation in China

For more information about Atax's Session 2 continuing education opportunities, please visit www.atax.unsw.edu.au/conteds205.htm or phone Atax Student Services on **02 9385 9333** or email anna.b@unsw.edu.au

Atax Research Seminar Schedule: Session 2, 2005. Please note the forthcoming seminars in your diary. With the exception of Dr Ordower's seminar, they will be held at the CATS room, Atax, Cliffbrook campus, 45 Beach St, Coogee. Seminars begin at 1.30pm with a light lunch served from 12.30pm. The UNSW Law School has kindly agreed to host Dr Ordower's seminar – more details on this to follow.

It is not necessary to RSVP at this stage, but it would be appreciated if you contact me to ensure you are included on the seminar email list. You will then receive an invitation closer to the event. Please circulate this schedule to your colleagues.

Friday 12 August

"The Choice of Fixed Accounting Ratios in Thin Capitalisation Rules: Some Guidance from Commercial Debt Contracts". Dr Shee Boon Law, OECD, Paris.

Friday 26 August

Abe Greenbaum lecture: "Tax Treaties Between Developing and Developed Countries" Ms Kim Brooks, Assistant Professor, Faculty of Law, University of British Columbia

Friday 9 September

"Recovery of overpaid tax" Ms Monica Chowdry, Lecturer in Law at King's College, University of London

Friday 21 October

"Constitutional law protection of horizontal and vertical equity in taxation (US and Germany)"

Dr Henry Ordower, Professor of Law, Saint Louis University School of Law

Friday 11 November

"E-filing SA tax returns and IT adoption strategies" Dr Ann Hansford, Senior Lecturer, Bristol Business School, The University of the West of England

Telephone: +61 2 9385 9362; Fax: +61 2 9385 9380; m.mckerchar@unsw.edu.au

Taxation Institute of Australia

<http://www.taxinstitute.com.au/cda/cpd/events/1,1335,,00.html> lists many of the TIA conferences, conventions, seminars, breakfast clubs. For further enquiries, contact Sarah Hadfield by telephone on (02) 8223 0031 or by email by clicking <mailto:sarahhadfield@taxinstitute.com.au>

Taxation Law related units of study available on a single unit "attendance only" basis through the **Faculty of Law, University of Sydney** for Semester 2, 2005.

Units available are:

Comparative Corporate Taxation - July 27-29 & Aug 1, 2 (9-3.30) (Intensive Mode)

Corporate Taxation - August 8-12 (9-3.30) Intensive Mode

Stamp Duties - 13 Tuesday evenings commencing 26 July

Taxation of Business & Investment Income - 13 Thursday evenings commencing 28 July

Taxation of Corporate Groups - 13 Tuesday evenings commencing 26 July Taxation of Partnerships and Trusts - October 5-7 and 10, 11 (Intensive Mode)

Taxation of Remuneration - Sept 7-9, 12-13 (9-3.30) (Intensive Mode) Tax of CFCs, FIFs and Transferor Trusts - Sept 21-23, 26 & 27 (9-3.30) (Intensive Mode) Tax Incentives - July 11-15 (9-3.30) (Intensive Mode) Tax Law in Asia and the Pacific - October 19-21 & 24, 25 (9-3.30) (Intensive Mode) Tax Treaties - 13 Wednesday evenings commencing 27 July The

Impact of Tax on Business Structures & Operations - 13 Monday evenings commencing 25 July
US International Taxation - August 15-19, 22-24 (9-12.30) (Intensive Mode)

(Students undertaking units of study on a CLE Attendance Only Mode do not undertake assignments or examinations)

Cost per unit of study is \$1,890 (GST free)

To obtain a full copy of the brochure relating to Single Unit Enrolment in Semester 2, 2005, please download the following document from the Law School's website:

http://www.law.usyd.edu.au/cle/2005/2005CLEPGB_sem2.pdf

(Taxation Law Units Timetable Dates are listed on page 5 of that document and unit descriptions are listed on pages 32-38)

If you have any queries concerning single unit enrolment or are unable to download the brochure, please contact Ms Val Carey, Continuing Legal Education, Sydney Law School (Telephone No. 9351 0238, email: valc@law.usyd.edu.au.)

Full details of the Law School's postgraduate programs may be found at <http://www.law.usyd.edu.au/>, or alternatively you can telephone No. 9351 0351 for an information pack.

Eighteenth Annual Australasian Tax Teachers Association Conference 2006, 30 January-2 February 2006, University of Melbourne Law School. Conference webpage: <http://www.law.unimelb.edu.au/taxgroup/attaConference2006.html> Contact Miranda Stewart, m.stewart@unimelb.edu.au A location map of the Law School is available: <http://www.law.unimelb.edu.au/LawSchoolStreetPlan.jpg>

ASBBS Conference Join fellow Australasian business and behavioural scientists for the 2005 Annual Meeting of the Australasian Society of Business and Behavioural Sciences to be held in Pacific International Hotel, Cairns, Australia during August 5-7, 2005.

Conference Theme - *Academia and industry - Communication and dialogue*

Scholarship: The conference committee invites papers from all areas of Business and Behavioural Sciences. We are interested in papers that reflect applications of business and behavioural science research and scholarship to real-world business problems. Submit completed papers to the appropriate track chair with a copy to elias.shehadie@jcu.edu.au. The deadline for submission of papers was **February 28, 2005. Papers will be doubleblind reviewed.**

Papers may be submitted as follows:

Adee Athiyaman, **Conference Chair**, adee.athiyaman@jcu.edu.au Greg Teal, Program Chair, New Zealand, greg.teal@uws.edu.au **Legal Studies:** All Areas Colin Anderson andersoc@usq.edu.au

Thematic Paper and Keynote Speaker Competition: Separate proposals are invited on the conference theme "Academe and industry: Communication and dialogue".

Submit your complete paper to the Conference Chair by the deadline of February 28, 2005. The author of the best paper will be selected as the Keynote Speaker for the Annual Banquet of ABBSA with a special recognition. Further details may be obtained from the conference chair or at <http://ecommm-trial.jcu.edu.au/~cber/conferences.html>

Information can be found at <http://www.jcu.edu.au/flbca/public/business/cber/index.shtml>

Last date for early bird registration was 1 July 2005. For enquiries please contact the conference director Adee Athiyaman, Associate Professor - Marketing and Director, Centre for Business & Economic Research, p: +61 7 4781 5690, fax: +61 7 4781 6533

"Dealing with tax avoidance," Lunch Seminar, 25 August 2005, Light lunch 12:30pm – 1:00pm Seminar 1:00pm – 2:00pm Minter Ellison Room (Level 13), University of Sydney Faculty of Law, 173 Phillip St, Sydney. Professor Yitzhak Hadari is a senior law professor at Tel Aviv University who specializes in tax and commercial law. He has published widely including in leading US journals and is currently pursuing comparative research on tax avoidance. If you are not a full or part-time member of staff please give advance notice of your intention to attend a seminar to Becky Lai (contact details below). This is for catering purposes. For further details please contact the co-ordinator, Peter Butt on (02) 9351 0248 or peterb@law.usyd.edu.au or Becky Lai on (02) 9351 0279 or becky@law.usyd.edu.au

Interpreting the GST Law *Five years into the life of Australia's GST and the first genuine GST assessment cases are now reaching the courts. Preceding judicial consideration of GST assessments, there have been a rash of decisions interpreting the law in the context of contract, tort and administrative law cases, on top of tax administration interpretation of the legislation through many dozens of public rulings, determinations and published ATO IDs.*

The Taxation Law and Policy Research Institute at Monash University, in conjunction with principal sponsorship by ATP and further sponsorship by IFA and Atax is holding an international seminar on interpretation of the GST

Friday, 5 August and the morning of Saturday, 6 August at the Atax premises, UNSW Cliffbrook Campus, 45 Beach Street, Coogee. Seminar enrolment fee includes lunch on Friday and a Friday evening seminar dinner at the Crowne Plaza, Coogee Beach. The seminar features papers by Australia's leading experts on interpretation of the GST and also features international experts on GST interpretation.

Speakers: Tom Reid, formerly of the Office of Parliamentary Counsel, currently consultant to Department of Treasury

Ken Fehily, PriceWaterhouseCoopers

Michael D'Ascenzo, Australian Taxation Office

Neil Brooks, Osgoode Hall Law School

Graham Hill, Federal Court of Australia

Jacqui McManus and Michael Walpole (joint paper), Atax

Ben Terra, Professor, Erasmus University, Rotterdam and Executive Chairman, Academic Activities,

International Bureau of Fiscal Documentation

To ensure the seminar remains an opportunity for close discussion and participation, enrolment will be limited and filled on a first-come, first-serve basis.

Fee: \$423.50 inclusive of GST, lunch and conference. **ATTA Members:** Members are entitled to a 30% discount on the enrolment fee. **\$296.45** (cheque payable to "Monash University"). <http://www.atax.unsw.edu.au/news/brochurestandard.pdf>

Ross Parsons Annual Lecture in Commercial, Corporate & Taxation Law, Thursday, 29 September 2005, Banco Court, Queens Square, Sydney, Lecture 5.30 pm (free) Speaker: Professor Charles Rickett, "Liability for gains made in breach of contract." Please RSVP to Louise Pierce, louisep@law.usyd.edu.au or call 02-9351 0327

Nineteenth Annual Australasian Tax Teachers Association Conference 2007, January 2007, University of Queensland Law School. Contact Kerrie Sadiq, k.sadiq@law.uq.edu.au

Overseas

American Accounting Association Calls for paper website <http://aaahq.org/calls/default.cfm>

Canadian Tax Foundation <http://www.ctf.ca/profDev/schedule1.asp> has a 2005 events schedule.

Fifty-Seventh Tax Conference, 25-27 September, Vancouver Hyatt Regency

Commonwealth Law 2005, 11 – 15 September 2005, QEII Conference Centre, London, UK
www.commonwealthlaw2005.com

Institute for Fiscal Studies Conferences and seminars
<http://www1.ifs.org.uk/conferences/index.shtml>

International Bureau of Fiscal Documentation Various courses in Amsterdam, the Netherlands. For details, see <http://www.ibfd.org> The IBFD International Tax Academy (ITA) runs an extensive international course program. Generally all courses are held in Amsterdam. Should you require any further information or wish to register please refer to their web site www.ibfd.org or contact the International Tax Academy at +31-20-554 0160 or by e-mail ita@ibfd.org

Summer Course: Principles of International and Comparative Taxation. For newcomers in the world of cross-border taxation the ITA Summer Course is the best introduction you can get. Or it is a great course to refresh your memory! This course deals with the basic concepts and principles of international tax law and what the main current issues of international tax law are. You will acquire a structured understanding of the concepts and principles of international tax law. Amsterdam, 22 August - 02 September 2005

For 2005 courses go to http://www.ibfd.org/news/course_calendar.htm

The ITA also offers tailor-made in-house courses on a worldwide basis for corporate clients, tax administrations and other organizations. Should you have any queries, please contact Arcotia Hatsidimitris, Head of the International Tax Academy by telephone +31-20-554 0180, or by a.hatsidimitris@ibfd.org

International Tax Planning Association Forthcoming meetings
<http://www.itpa.org/meetings.html>

International Atlantic Economic Society (IAES) conference. You can visit IAES's web site (www.iaes.org) for more information. Prof dr M. Peter van der Hoek Academy of Economic Studies, Bucharest, Romania and Erasmus University, Rotterdam, Netherlands. Mailing address: Erasmus University (L 7-20) P.O. Box 1738 NL-3000 DR Rotterdam Netherlands Phone/Fax: +31-10-4081622 E-mail: vanderHoek@frg.eur.nl 60th International Atlantic Economic Conference will be held in New York, 6-9 October 2005; then Berlin 15-19 March 2006; Philadelphia 5-8 October 2006

European Association of Tax Law Professors Meetings and conferences
<http://www.eatlp.org> Budapest 2006; Helsinki 2007

Tax Research Network (TRN) Annual Conference, “*Tax in a changing world*,” Edinburgh University, Edinburgh, Scotland, 8-9 September 2005.
http://users.wbs.ac.uk/group/trn/home/whats_new Abstracts, or full papers, if available, should be sent in electronic format by e-mail for consideration in the first instance to the conference organizer Sandra Eden (s.eden@ed.ac.uk) The deadline for submission of abstracts was 31 March 2005. Presenters will be informed as soon as possible after that whether their papers have been accepted. If not provided initially, full papers will be required by 31 July 2005 to allow time for conference packs to be compiled.

Sixth Annual Global Conference on Environmental Tax Issues, Leuven, Belgium from 22-24 September 2005. The URL to the conference's site is:

<http://www.law.kuleuven.ac.be/imer/nieuws.html>

Organisation : Professor Kurt Deketelaere and Professor Geert Van Calster, Institute of Environmental and Energy Law, University of Leuven, Flanders, Belgium & Professor Janet Milne, Environmental Tax Policy Institute, Vermont Law School, Vermont, USA

Conference Venue : Faculty Club, University of Leuven, Leuven

<http://www.facultyclub.be/site/home.php?p=infrastructuur&newlang=uk>

Conference Theme: The central theme of the 6th ETC will be : “*The Promotion of Renewable Energy Sources through Tax or Other Market-Based Measures – Challenges and Obstacles*”.

This central theme will be developed during the first conference day, by different invited keynote speakers and panels. Traditionally, the second conference day will tackle a broad variety of environment and energy taxation issues, from a multidisciplinary perspective. Abstracts for these presentations and panels are hereby invited.

Further information: Kurt Deketelaere : kurt.deketelaere@law.kuleuven.ac.be Geert Van Calster : geert.vancalster@law.kuleuven.ac.be Janet Milne : jmilne@vermontlaw.edu

More info on: City of Leuven : <http://www.leuven.be/showpage.asp?iPageID=2721>

University of Leuven : <http://www.kuleuven.ac.be/english/>

Institute for Environmental and Energy Law : <http://www.law.kuleuven.ac.be/imer/>

Baker & McKenzie 21st Annual Asia-Pacific Tax Conference Hong Kong, 17-18 November 2005. For more information, contact Ms Marianne Shaw, Baker & McKenzie, Hong Kong. Tel: +852-2846 1078; Fax: +852-2842 0530 marianne.shaw@bakernet.com

Other useful tax and law related conference websites include the **IBFD Course calendar**

http://www.ibfd.org/news/course_calendar.htm **UNSW Faculty of Law Conference**

Calendar http://www.law.unsw.edu.au/news_and_events/events/events.asp **New South Wales Bar Association**

http://www.nswbar.asn.au/Professional/Noticeboard/ComingUp/contents_coming.htm **Law**

Council of Australia <http://www.lawcouncil.asn.au/events.html> **Law Courts Library**

<http://www.lawlink.nsw.gov.au/conference> **LexisNexis Professional Development Calendar**

of events <http://www.lexisnexis.com.au/aus/conferences/calendar/default.asp> See also the

inTax Seminars Directory, published in *inTax Magazine*. **Practising Law Institute**

<http://www.pli.edu/>

New York County Lawyers Association <http://www.nycla.org> **American Bar Association**

<http://w3.abanet.org/home.cfm> **New York Bar Association** <http://www.nysba.org/> **Hieros**

Gamos Worldwide Law Events Calendar

http://www.hierosgamos.org/hg/db_meetings.asp?action=search

<http://www.hg.org/calendar.html>

For social sciences and humanities conferences, meetings etc, see Mind: The Meetings Index

<http://www.interdok.com/mind> See also the magazine *Australian Conference & Exhibition*

Diary, Vamosi Information Publication.

7 Recent publications

Bold indicates ATTA members. Readers are encouraged to notify the Editor of recently written publications for notification, in these pages. Please note some of the overseas publications listed may not yet be available locally.

Local

Apps, Patricia "The high taxation of working families," (2004) 5 (1) *Australian Review of Public Affairs* 1-24 <http://www.econ.usyd.edu.au/drawingboard/journal/0412/apps.pdf>

(2005) 5 (4) *Australian GST Journal*

- Bennett, Michelle "GST time limits – under cover or over the net"
- Stacey, Paul "Critical comment: All washed up and where to go?"
- Stacey, Paul "Case update"

(2005) 20 (1) *Australian Tax Forum*

- **Freudenberg, Brett** "Are asset revaluation reserve distributions 'ordinary income' for discretionary beneficiaries?"
- **Sridaran, Maheswaran** "Taxation of capital gains and horizontal equity: a review of the Australian perception"
- Hanlon, Dean & **Nethercott, Les** "The increasing divergence between accounting practice and taxation law: the case of in-substance debt defeasance"
- Jordan, Desiderio Romero & Sanz Sanz, Jose Felix ""An international comparison of marginal effective tax rates on labour use"

(2005) 34 (2) *Australian Tax Review*

- **Evans, Chris** "Editorial: Some steps in the right direction?"
- **Freudenberg, Brett** and McDermott, Peter M "The forgotten CGT events: Are asset revaluation reserve distributions by trustees of discretionary trusts capital gains?"
- **Glover, John** "Taxing liquidation distributions: An assessment of Australian deemed dividend and capital gains regimes and how they interrelate"
- Michie, Jane "Finance leases and consolidation"

Carabetta, Giuseppe & **Coleman, Cynthia** "Employees no longer: on the federal government's proposals for contractors" *Australian Review of Public Affairs*, 27 June 2005 <http://www.econ.usyd.edu.au/drawingboard/digest/0506/carabetta.html>

(2005) 20 *CCH Tax Week*

- **Blissenden, Michael** "Extracting the most out of the Stone decision"

(2005) 21 *CCH Tax Week*

- **Burton, Mark** "Meaning of 'permanent establishment' in McDermott industries"

(2005) 22 *CCH Tax Week*

- Bean, Gerry "Treatment of rewards from consumer loyalty programs"

(2005) 23 *CCH Tax Week*

- Higgins, Ross "Deemed assessments for loss companies?"

The KPMG Report *GST - 5 years on* is available on the KPMG Web site <http://www.kpmg.com.au>

(2005) 11 (2) *New Zealand Journal of Taxation Law and Policy*

"Some Recent Issues Concerning the Need and Opportunities for Tax Research to Benefit Developing and Transitional Countries" - **Kevin Holmes**

"Tax Avoidance – A Trans-Tasman Comparative Study" - **Tom Delany**

"Is the New Zealand Qualifying Company Regime Achieving its Original Objectives?" - **Brett Freudenberg**

"Venture Capital Tax Reform in Australia and New Zealand" - **Miranda Stewart**

“At the Extremes of a “Good Tax Policy Process”: A Case Study Contrasting the Role Accorded to Consultation in Tax Policy Development in Australia and New Zealand” - **Michael Dirkis** and **Brett Bondfield**

(2005) 8 (5) *The Tax Specialist*

- Clemens, Tony “Australian taxation aspects of major funding transactions – Part 1”
- Birchall, Chris “The taxation of royalties and equipment leasing income under Australia’s tax treaties with the UK and US”
- Shaflender, Leonid and Hadassin, Mark “International tax reform – evolution or revolution?”
- Jaworski, Gerry “Lost in a loss world”
- **Fisher, Rodney** “Dividend streaming: swimming against the flow?”

(2005) 39 (11) *Taxation in Australia*

- de Wijn, John “Issues and Agendas”
- Rowland, Noel “CEO’s report”
- Taxwrite Services “Technical News”
- Taxwrite Services “Tax tips: Complexity & interpretation – some reflections”
- Mann, Geoff and McMahon, Janina “GST: real property, real issues: Part V Going concerns and operational issues”
- Rigney, Harry “Client tax checklist: year end 2005”:
- “Tax rates dates and tables”
- Ketsakidis, Chris “Choice of fund”
- O’Donohue, Robert “Choice of superannuation: To choose or not to choose – that is the question”
- Ciardulli, John “A matter of trusts”
- Fullagar, Luke “Tax cases: FCT v Ramsden [2005] FCAFC 39”
- Murugasu, Rohan “Tax cases: ACP Publishing Pty Ltd v FCT [2004] FCA 874”
- Parker, Michael and O’Byrne, Andrew “Q&A CGT – some issues arising in practice”

(2005) 26 *Weekly Tax Bulletin*

- Day, John K “Planning strategies concerning termination payments”

(2005) 27 *Weekly Tax Bulletin*

- Schwarz, Brad and Tziokas, Natasha “Proposed new loss recoupment rules – significant issues to consider”
- Bean, Gerry and Martin, Simon “*Coleambally*, mutuals and non-profit organisations”

Overseas

Barkoczy, Stephen “Australia’s amended off-market share buyback rules” (2005) 38 *Tax Notes International* 589-90

Barker, William B “Expanding the study of comparative tax law to promote democratic policy: the example of the move to capital gains taxation in post-apartheid South Africa” (2005) 109 *Penn State Law Review* 703-28

Bulletin for International Fiscal Documentation No. 7 (2005)

- Rethinking the Design of Australia's CFC Rules in the Global Economy - **Lee Burns**
- Tax Risk Management - Marius van Blerck
- Canadian Residents Leaving Canada - Recent Jurisprudence - Arnold Sherman
- Fostering the Development of Renewable Energy through Green Taxes and Other Instruments - **Hope Ashiabor**

Crimm, Nina J “Democratization, global grant-making, and the Internal Revenue Code lobbying restrictions” (2005) 79 *Tulane Law Review* 587-668

Derivatives & Financial Instruments No. 3 (2005)

- Argentina Tax Treatment of Trusts - Carlos Aquila, Sergio Caveggia and A. Gustavo Consoli
- Australia Controlled Foreign Companies and the EU Parent-Subsidiary Directive - Anton Joseph
- Belgium Financial Buy-Outs: Structuring the Managers' Participations - Hugues Lamon
- Malta Tax and Accounting Treatment of Financial Derivatives - David A Ferry and Fabio E. Axisa
- Comparative survey - Tax Treatment of Index Participation Units Netherlands - Guido Derckx and Lodewijk Berger
- Germany Regulations on the Endowment Capital of Permanent Establishments of International Banks - Hans-Jürgen A. Feyerabend and Brigitta Kieninger

European Taxation No. 7 (2005)

- Harmful Tax Competition Revisited: Why not a Purely Legal Perspective under EC Law? - Luca Cerioni
- Cross-Border Loss Relief in the European Union following the Advocate General's Opinion in the Marks & Spencer Case - Gerard T.K. Meussen
- Penalties and Sanctions for Taxation Offences in the United Kingdom: Implications for Taxpayer Non-Compliance - **Ken Devos**
- Preliminary Ruling Requested from the ECJ on the Compatibility of French Taxation on Outbound Dividends with the Freedom of Establishment - Séverine Baranger
- An Outline of Some of the Key Corporate Tax Incentives Currently Available in Hungary - Bálint Szucs

Fisher, Rodney & Walpole, Michael *Global challenges in tax administration*, Birmingham, Fiscal Publications, 2005. This book is of selected papers from the 2004 Tax Administration Conference. Authors will be sent a copy in due course. Copies may also be purchased, and further information obtained at: <http://www.fiscalpublications.com>

Infanti, Anthony C “A tax crit identity crisis? Or tax expenditure analysis, deconstruction, and the rethinking of a collective identity” (2005) 26 *Whittier Law Review* 707-821. Disregard the earlier article on pages 487 onwards.

(2005) 16 (5) *Journal of International Taxation*

- Elgood, Tony; Paroissien, Ian and Quimby, Larry “Managing global risk for multinationals”
- Sheppard, Hale E & Harty, Scott A “The evolving treatment of qualified foreign dividends”
- Zive, Janette; Bristol, Ian; Fernandes, Steve and Payne, James “New protocol to US-Barbados income tax treaty may mean restructuring for some foreign multinationals”
- Bjorkenson, Erik & Axelsson, Christian “Tax planning in Sweden with limited partnership and limited liability fund structures”
- Palacios, Jose & Cueva, Alvaro De La “Spain 2004: lull before the storm?”

Kahn, Jeffrey “Beyond the little Dutch boy: an argument for structural change in tax deduction classification” (2005) 80 *Washington Law Review* 1-68

Kobetsky, Michael “Attribution of profits to branches of international banks: The OECD Discussion drafts” (2005) 20 *Banking & Finance Law Review* 319-60

Krever, Richard “Court decision reflects Australia’s peculiar notion of ‘income’ (2005) 38 *Tax Notes International* 477-78. Note on the High Court’s decision in Stone’s case.

Krever, Richard "Report finds capital gains concession is revenue loser" (2005) 38 *Tax Notes International* 301

Krever, Richard "South Africa's capital gains tax regime - simplifying the multicultural legal maze" (2005) 38 *Tax Notes International* 315

McCaffery, Edward J "A new understanding of tax" (2005) 103 *Michigan Law Review* 807-938

Morabito, Vince "Defendant class actions and the right to opt out: lessons for Canada from the United States" (2004) 14 *Duke Journal of Comparative & International Law* 197-48

Morabito, Vince "The Federal Court of Australia's power to terminate properly instituted class actions" (2004) 42 *Osgoode Hall Law Journal* 473-514

Pinto, Dale "The current state of play of Australia's Review of International Tax Arrangements" (2005) 38 *Tax Notes International* 509-13

Sheppard, Hale E "Only time will tell: The growing importance of the Statute of Limitations in an era of sophisticated international tax structuring" (2005) 30 *Brooklyn Journal of International Law* 453-84

Stewart, Grant; Cox, Tim & Lawn, Craig "Australia's new loss recoupment rules" (2005) 38 *Tax Notes International* 427-28

8 Quotable quotes

"Accountants may have a reputation as being conservative, but in reality they have proved themselves to be aggressive accumulators of highly paid commercial responsibilities".
Source: Clarke, Kevin "Strength through diversity," *Australian Financial Review*, 29 June 2005, p 63

"Law firms are considering incorporation partly because of Australian Taxation Office plans to crack down on their use of trust structures to shift partnership profits to family members".
Source: Priest, Marcus "Lawyers Inc to beat taxman," *Australian Financial Review*, 29 June 2005, pp 1; 4

"The GST has not eliminated the black economy but it has increased revenue raised from consumption (including from those who have avoided income tax) and, according to the Australian Taxation Office, both the tax and the anti-evasion measures that accompanied it have increased tax collections generally".
Source: Mitchell, Alan "So far it's a nice little earner," *Australian Financial Review*, 29 June 2005, p 6

"Well the theme of this year's conference is strength and we at the Australian Government level think about that a lot. How do we make our industries strong, our economies strong? How do we make our schools strong? How do we make our public strong? And where does the strength of a nation come from? I want to say it comes from the heart and the commitment and the faith of its people, that is where the strength of a nation resides.

As you go back to your communities, to your churches, to your neighbourhoods, to your workplaces and as you live in your community with fellow Christians, going about your daily business, I hope that you find the strength of God in your lives because this is the strength of our society and this will be the strength of our nation”.

Source: Costello, Peter Treasurer, Address to Hillsong’s Annual Conference, Sydney Superdome, Sydney, Monday, 4 July 2005

<http://www.treasurer.gov.au/tsr/content/speeches/2005/008.asp>

ATTA News August 2005

<http://www.atax.unsw.edu.au/atta/newsletter.htm>

Editor: Colin Fong, Faculty of Law, The University of New South Wales

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ATTA website <http://www.atax.unsw.edu.au/atta>

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12 Attachment re Call for papers: 7th International Conference on Tax Administration (2006)	

1 Vice Presidential column

Hello everyone!

The ATO has just released its 2005-06 Compliance Program. It is available for you to download at: <http://www.ato.gov.au/corporate/content.asp?doc=/content/61826.htm>. It makes quite interesting reading for all of you during those cold winter months down there in Australia and New Zealand!

In the 2005-06 Compliance Program, the ATO reviews its priorities and key activities for each of its key market segments, and discusses those generic issues which cover many segments (e.g. international tax issues, aggressive tax planning, tax evasion and serious fraud). Priorities and key activities for particular segments include:

- **Individuals:** a priority in this area is a pilot program to advise taxpayers who the ATO identify as low risk that there tax assessment for the year is finalized. New and expanded priorities for this year are identified which include: rental income and deduction claims,

data matching to identify property and securities sales and ensuring that both employers and employees comprehend the choice of superannuation fund measures.

- **Micro-business:** in addition to retaining its focus on such things as record keeping reviews (and stepping-up its revisit programs) and debt collection activities, the ATO also plans to do 9,200 audits in high risk cash economy industries, check more than 62,300 GST refunds, review 900 non-commercial loss claims and conduct 240 reviews around the disposal of property and rental income and expense claims.
- **Small to medium enterprises (SMEs):** the ATO plans to improve its income tax compliance focus on businesses in this particular segment with turnover of between \$50-\$100m. It also plans to monitor compliance with recent legislation including income tax consolidation and demergers. Another ATO priority in this area is to improve compliance with international tax obligations such as global profit shifting, non-resident withholding tax and the use of tax havens.
- **Large business:** besides linking tax risk management with corporate governance, emphasis will be placed by the ATO on identifying risks from some of the recent tax reforms and bedding-down the tax impacts arising from the introduction of the International Financial Reporting Standards. The continuing monitoring and identification of risks associated with tax consolidation and a number of other important areas will persist. One more ATO focus is on identifying the risks from the debt/equity reforms and international transactions.
- **Non-profits organizations:** major ATO priorities in this area include monitoring the involvement of scheme promoters with non-profit organizations and reviewing other non-profit organizations such as religious and interest groups, universities and others which undertake commercial activities.
- **Tax agents and intermediaries:** particular areas of focus here include the promotion of digital certificates and the online access manager to increase security and control for Tax Agent Portal users, promoting electronic services such as lodging activity statements and accessing reports online and the ATO differentiating its treatment of agents based on an agent's behaviour, including the quality and correctness of returns.

Best Regards!

Grant Richardson

2 ATTA Conference 2006

Melbourne Law School, University of Melbourne is pleased to host the 18th

Australasian Tax Teachers Association Conference 2006

"Old Taxes in a New World"

Dates: Monday 30 January to Wednesday 1 February 2006

Conference webpage: <http://www.law.unimelb.edu.au/taxgroup/attaConference2006.html>

The 2006 ATTA Conference conference is to be held just after the **AUSTRALIAN OPEN TENNIS, 16 - 29 January 2006**. If you are interested in attending the Australian Open, please visit <http://www.australianopen.com.au> . Information about accommodation and other Victorian tourism information is on the Conference webpage and will be enhanced over the next few months.

Call for Papers

The theme of the 2006 ATTA Conference is "Old Taxes in a New World". The organisers welcome papers on the following questions on the theme, or on related questions: Is an old tax a good tax? Are our old taxes being reformed to take account of new economic and social

developments and if so, how? How is the income tax coping with economic globalisation? Are court decisions changing our old taxes? Is the new world of tax so different from the old world? Is tax avoidance destroying old taxes? Is comprehensive tax reform needed (again)? Are new taxes the way of the future? What is the impact of new tax collection techniques? Is simplification of old taxes impossible or has New Zealand shown us how to do it? In Australia, will the *Income Tax Assessment Act 1936* always be with us?

In addition to papers on the theme, all papers related to taxation will be considered. We particularly welcome papers by new academics on any tax topic. The conference will include sessions on tax teaching and research methodologies and we invite contributions on those topics.

Researchers interested in presenting a paper should submit a brief abstract to Lillian Hong at xyhong@unimelb.edu.au by **Wednesday 28 September 2005**. Acceptance of papers will be notified to authors by the end of October.

Full written conference papers must be submitted by Monday 9 January 2006. Please email your paper to Lillian Hong at xyhong@unimelb.edu.au or submit it in both print and electronic form.

Papers will be eligible for submission to the *Journal of the Australasian Tax Teachers Association*, Volume 4 2006. JATTA is a refereed electronic journal and papers submitted will be subject to double blind refereeing before acceptance by the journal. For more information about JATTA, please see the webpage at <http://www.atax.unsw.edu.au/atta/index.htm>.

Information about conference registration will be available on the conference webpage in the near future. The 2006 ATTA Conference is being held immediately after the Australian Open Tennis 2006. Melbourne Law School is located conveniently next to the city and our recommended accommodation choices are an easy tram ride or walk to the Law School and to the city. Delegates will be able to take advantage of the many cultural amenities of Melbourne including the Melbourne Museum, National Gallery of Victoria and Melbourne Zoo.

Inquiries concerning the academic programme should be directed to Miranda Stewart (m.stewart@unimelb.edu.au). Inquiries concerning conference organisation and administration should be directed to Lillian Hong xyhong@unimelb.edu.au (Tel: + 61 3 8344 4298 Fax: + 61 3 8344 9971), Melbourne Law School, University of Melbourne, VIC 3010 Australia.

KEY DATES:

28 September 2005 Final date for submission of abstract of paper
October 2005 Authors notified of acceptance of their papers
Friday 2 December 2005 Final date for Registration at 'early-bird' rate
Monday 9 January 2006 Final date for submission of written conference paper
Monday 30 January – Conference
Wednesday 1 February 2006

3 Arrivals, departures and honours

Geoff Dobbs retired from CCH, in August this year. He was with CCH for 21 years. He says he will miss the friendships and contacts in the academic community that have developed over those years and he will certainly miss the ATTA conferences. They have been a great way to get to know people better and have also been a valuable source of new ideas. We hope, at least to see Geoff and his wife June, at the ATTA Conference dinner, in Melbourne, next year. If you want to send Geoff a greeting, you can email him at gdoobbs@optusnet.com.au

Maheswaran Sridaran (Sri), who works for Krochmalik & Hurwitz Pty Limited, a firm of chartered accountants in Sydney, will (from the second semester of 2005) be teaching (part-

time) final year undergraduate students at Macquarie University two tax subjects: GST, and FBT.

Global challenges in tax administration edited by Rodney Fisher and Michael Walpole was launched by Sir Anthony Mason on 18 August at the Ernst & Young offices, Sydney. Visit www.atax.unsw.edu.au/news/events.htm to:

- Order copies of this prestigious publication
- Find out more about next year's International Conference on Tax Administration
- Access the call for papers form

4 Vale John Raneri 1957-2005

Two of the following eulogies, were spoken at the memorial service for John Raneri, St Joseph's Catholic Church, Enfield, 27 July 2005.

FAREWELL TO MY FALLEN FRIEND
JOHN CHARLES RANERI
14 July 1957 – 20 July 2005

It was in 1990 that I was sitting in my office at the city law firm Mallesons Stephen Jaques overlooking the harbour when I was buzzed by my secretary – “there's a fellow on the phone for you – the name's Raneri, John Raneri and he says he knows you.” Well, I didn't let on that I had absolutely no idea who he was, so John and I talked on the phone for 15 minutes about conferences we'd both attended and how he was now looking for a new professional challenge and would Mallesons be interested. So we arranged a meeting for the following week and when he arrived all my worst fears were realised – I thought his face might trigger my apparently failing memory but I was sure I'd never met him and still he acted like we knew each other well. Funny thing is - so did I!

Needless to say, with such a formidable Curriculum Vitae, we did employ John and we became the best of friends from that moment on.

Several years later, I think it was about 1995, we were both firmly entrenched at ATAX and having our umpteenth coffee talking about pressing issues in international tax when somehow the topic came up about our meeting back in 1990. “You know” I said to him “when you rang in to Mallesons all those years ago I had absolutely no idea who you were.” “Well” said John with that combination beaming smile and raucous laugh that was his trademark, “I knew that but it was my best shot at getting an interview and I knew you'd be too polite to let on that you had no idea who I was”.

Well I am grateful to John that he persisted with his deception because it meant that for 15 years I had one of the finest friends anyone could ever ask for.

John's professional career began back in 1982 when he took a position in the Tax Division of Arthur Andersen. This was followed by brief stints with Walker and Raphael, Ernst and Whinney and Coleman and Greig. While working hard as a junior tax lawyer, John also managed to complete his Master of Laws (LLM) at Sydney University, graduating with High Distinctions in 3 of his 5 subjects and Distinctions in the other 2.

His LLM thesis titled “The Prevention of Double Taxation under the CFC Regime– An Examination of the Main Relief Provisions”, while mandatory reading only for the certifiably

insane (like myself and about a third of today's audience) was a major paper which recognised many complex tax issues in the operation of Australia's international tax rules. Many of the issues John raised were specifically addressed in subsequent legislation that was passed by Parliament.

John then spent 3 years with Mallesons as a senior tax lawyer before joining us at ATAX. Like myself, John had a need to combine his practical work with his passion for teaching. Perhaps this is one of the reasons we understood each other so well.

The years from 1994 up to April of 2000 were perhaps the best years of John's professional life. He was highly constructive in the development of the ATAX program contributing significantly to the international tax profile of the organisation. His writing continued and he was a frequent contributor to seminars and professional discussions on diverse tax matters. At the same time he continued to assist his late father on a day per week basis in the development of his practice.

He imposed exacting standards on himself and this was exemplified by the high quality of his technical work. Never one to shirk responsibility, he always worked to achieve excellent materials for his many students, many of whom have rung me in the last few days to tell me of the high regard in which they held him.

Together with Roger Hamilton, John and I wrote for many years, the *Guidebook to Australian International Tax* – JK Rowling need have no fear of market erosion resulting from the widespread popularity of this book but nevertheless in its time this work was to be found in the tax libraries of most firms and universities throughout Australia and even overseas. John's contributions were a key component of its on-going success.

He shared many special bonds with his colleagues at Atax. In the early frenetic years he worked closely with Yuri Grbich and Pat Gallagher and then later with Mike Walpole, Chris Evans, Steven Abadee, Colin Fong, Shirley Carlon, Maurice Cashmere, Wouter Scholtz, Jacqui McManus and Binh Tran-Nam. He greatly valued his intellectual exchanges with them all and enjoyed the comradeship they provided in his work environment. His contact with more recent Atax recruits was regrettably more low-key as his debilitating illness prevented him spending much time at Atax beyond the immediate work requirements. On his behalf I would particularly like to thank Matthew Wallace, Garry Payne, Yuri and Maurice who helped me, without a word of complaint, to pick up the international and other tax teaching components when John fell ill.

John had a special affinity with the Atax administrative staff who especially admired his courage and resilience in the face of so many setbacks. I made sure that whenever I visited him in the last few difficult months their special prayers and thoughts were passed on to him. John and Maryse were always cognisant of the compassionate and caring way in which the University dealt with John's situation extending to him the flexibility his circumstances necessitated.

Many years ago John indicated to me that he would like to see a real Passover celebration one day. So when the opportunity arose this April to host the festival for our extended family at our home my wife, Linda suggested to me that we invite the Raneri's. Happily John, Maryse, Samantha, Alicia and Dominic were able to join us and I have special memories of a wonderful night sharing religious practices and one filled with much joy, goodwill and laughter.

During the last troubled 5 years John bore his illness with unbelievable courage and dignity. Sometimes he pulled it off so well even I started to believe, albeit briefly, that meaningful

recovery was possible. My extended family found it hard to believe how ill he was having regard to the way he behaved and looked at our Passover dinner.

I tried the other day to work out how many times John and I had sat together sipping coffee, hot chocolate and more recently just water - chewing the fat about a whole variety of topics – kids, wives, schools, money, religion, films and of course death and taxes – the list really was quite endless.

I think the total was around 500, sometimes in the city, sometimes in Randwick, sometimes Clovelly and more recently during his various convalescences in Burwood and Strathfield. With John I always felt relaxed and comfortable and discussion was always, well almost always, fun unless of course we talked of death and taxes.

I will miss our times together – even the sad ones because for me being with John was always a pleasure and if I could brighten his day just one iota, the trip even to far-flung Strathfield was always worth it.

John was a man of great love, courage, dignity and faith. He adored his family of whom we spoke many times. He told me just a few weeks ago that without Maryse he could never have survived even this far. His 3 children were a constant source of joy to him and he worried about their future- without saying it I knew he meant their future in his absence.

His mother, his late father and his brother Carl were always with him - if not physically, in spirit. And he made special mention of his sister-in-law Veronica. Just a few weeks ago when I saw him for the last time at his home he said to me if you ever need help professionally, make sure you get Veronica on your side!

I last tried to speak to John on the phone on the Friday before he died. He held the phone to his ear and he only had enough energy to say 3 words. He said to me “God bless you.” Even in his darkest hour John was a believer and he used what little energy he had left to bless me. I think that tells you everything you need to know about John Raneri.

My life was greatly enriched by John’s presence in it and it is greatly diminished by his absence from it. Tonight we will all say a prayer for my fallen friend – the language will be different but the message will be much the same. My message will be one of thanks – thanks for letting me be part of the life of such a wonderful human being - even if only for 15 short years.

FAREWELL MY FRIEND – I SO HOPE WE MEET AGAIN SOME SUNNY DAY!

Bob Deutsch

My friend John

27th July 2005

It is my great privilege to be able to share with you today about my dear friend John. I have tried to capture in a few short minutes some of the things I think John would have liked me to share with you about his life.

I first met John about 15 years ago when we were both working at the same law firm. We maintained our friendship after we each left that firm, but it was really over the last 5 or 6

years that my friendship with him, and my family's friendship with Maryse, Sam, Alicia and Dom, grew much closer.

I loved John very much. As you all know, there was much to love about him. His raucous sense of humour, his intellect, his humility, his warmth of hospitality, his encouraging nature.

There were two things about John, however, that I especially loved and admired, and these things were the defining parts of John's character – they were the things that mattered most to John in life. They were his love of his family, and his love of God. So I want to share with you a little about what those things meant to John.

Family really mattered to John. He loved each of the members of the family he grew up with very much, and truly valued his relationship with both his parents Domenico and Serena and his brother Carl. It was a great sadness to him when his dad died a couple of years ago, and I know he felt awful for you Serena and for you Carl when he realised that he also would be leaving you behind. John was like that – so often more concerned for others than for himself.

John's other family – the one he formed with you Maryse - was his personal pride and joy. Sometimes John would say to me – and I don't mean to embarrass you Maryse – that he couldn't quite believe that **he** had been so blessed as to marry someone as beautiful as you. For John, that beauty extended far beyond physical beauty – it carried over into your beauty of character and spirit. He knew that in you he had married a soul mate who would walk through the trials and celebrations of life together with him. He could share his hopes and fears with you, the joys and challenges of parenting, the successes and frustrations of work, the journey of living out life here on earth with the one special person that God had planned for him since the beginning of time.

Maryse, you completed John in a way that he could never be completed without you. He loved you with all his heart, and everything that was in him. You made him profoundly happy. And I know that he was so thankful not only for your incredible strength that carried the family over recent years and months in particular, but also for the knowledge that though he was going to be with God in heaven, he was leaving Sam, Alicia and Dom in your care – the person he loved and trusted most in this world.

I also know how much John loved and appreciated your parents Ben and Bianca and your loving and caring sister Veronica who has been such a tower of strength in recent times.

When John spoke of his kids, his eyes would sparkle and his voice would change. John was so proud of you Sam, Alicia and Dom. He invested his very heart and soul into each one of you, wanting each of you to be happy and to achieve all that life has in store for you. Whether it was helping you with homework projects, playing sport or table tennis or games with you, hearing you debating or public speaking or singing karaoke or just being your dad to talk to when you had something on your mind, John was never more fulfilled in anything else he did as in the time, energy and prayer he spent being your father.

John has invested all of himself into you guys, and I know that you will never forget how much he loved each of you, specially, just for exactly who you are. John saw one of his most important privileges as your father to be guiding you in your relationships with God. He encouraged you to know how profoundly God loves you, to build your lives around the example of Jesus and all that the Bible has to teach about who we are as people, how we are to live in this world and what are the things that have ultimate importance.

So I want to say to each of you, Dom, Alicia and Sam, that whilst your beautiful, special dad has gone to be with God now, that doesn't mean that he is gone from your lives. The Jesuits,

I believe, have a saying – “Give me a boy until the time he is seven, and I will give you the man.” Well, John has invested into each of your lives for many more years than that.

You carry deep within you all that John has poured into you over your lives so far. Remember and strive to live out all that John wanted you to be. More important by far to John was not so much what you do, but who you are. I don't offer this as a burden, but as a great encouragement, because together with Maryse, John has left you with such a rich reservoir of love, wisdom, life experience, happy memories and spiritual depth to draw upon whenever you have need of it.

The other great love of John's life was God. John's faith was vibrant and alive. John knew what it meant to be loved by God. In long nights spent in lonely hospital wards, John drew strength from this. He knew that nothing could ever separate him from that love, demonstrated most vividly in the death of God's very son on the cross on his behalf. John knew that in believing in Jesus, he could be forgiven for his sins, and that his destiny with God for all eternity was secure.

This was a promise that he relied upon constantly; knowing that whilst his physical body was slowly fading away here on earth, there was a certainty about his future with God that could not be shaken by anything that this world might throw at him. John's time dying – the weeks and months before his death – were not filled with fear about his future; he was at peace about this, because he knew what a wonderful and joyous future with God lay ahead of him.

Any of you who saw him over the months he spent as he prepared to leave this world know that this is true.

For anyone here today who does not have that security of knowing God, and knowing where your eternal future lies, I know that John would want me to encourage you also to embrace God, to embrace Jesus and the forgiveness that he offers, and to ask him to reveal himself to you, so that you too may know the peace, purpose and meaning in life that John experienced while his fire burned so brightly here on earth.

In a life in which he gave so much to so many people here in so many different ways, I know that the greatest thing John would wish to give you would be a desire to experience for yourself the forgiveness, love, peace and joy of knowing God - just as John himself did whilst here on earth, and as he is doing all the more so, now that he is with God in heaven.

Bruce Burgess

5 New Zealand's election campaign being fought on taxation

Personal income taxation is shaping up as the major battle in New Zealand's current election campaign. For the election edition of North and South (a leading national magazine) Virginia Larson put a question on income taxation to the Minister of Finance, the Opposition (National Party) Spokesman on Finance, Roger Kerr (executive director of the New Zealand Business Roundtable), and Patrick Nolan, who was completing a PhD at the Victoria University of Wellington School of Government. This question and Patrick Nolan's response follow.

Taxing Times in New Zealand

Dr Cullen (the Minister of Finance) says he's not going to give tax cuts to 'the rich'. Does an income of NZ\$60,000 make you rich? Cullen also compares our top tax rate of 39c in the

dollar with Australia's top rates of 42c and 49c. But he doesn't explain that Australia also has a much broader middle income tax bracket, where those earning from about \$23,000 to \$67,000 (in NZ\$ adjusted for purchasing power parity) pay 30c in the dollar. And for low to middle income families, the Australian Family Tax Benefits are far more generous than ours. In 2004 a New Zealand family with four children under eight on one income of \$55,000 would have paid income tax of \$13,020 and received a child tax credit of \$1,018. In Australia that same family would have paid \$12,428 income tax and received family tax credits worth between \$16,000 and \$18,000 (in NZ\$ adjusted for purchasing power parity). The Labour Government's Working for Families package will eventually deliver some real financial relief to low income families. But when do hardworking, middle income New Zealand families get something back for their efforts?

Response: Patrick Nolan

Families have been paying more in income taxes since 2000. Wage increases mean that over time people slip into higher income tax brackets unless income tax thresholds also increase. When introducing a higher top income tax rate in 2000 the Government argued that only five percent of taxpayers would face this rate. It is now estimated that ten percent of taxpayers (20 percent of full-time wage and salary earners) face the top tax rate. Although largely hidden this increase in taxation has a real impact on the ability of families to save for a deposit for a first home or make mortgage repayments, pay for their children's education expenses, or keep a parent at home as a full-time caregiver.

By 2007 the Government's flagship tax and welfare policy (Working for Families) will redistribute \$1.1 billion to families with children through a heavily promoted and complex array of tax credits, accommodation assistance, and childcare subsidies. This policy places emphasis on reducing child poverty as a high rate of child poverty is damaging to a country's long-term economic and social health.

Countries like Australia, Canada, the United States, and the United Kingdom also provide tax relief to higher income families with children as recognition of the additional costs facing all families with children. In New Zealand little assistance from Working for Families will go to higher income families with children and these families will continue to face an increasing tax burden. By 2007 a single-income family on \$60,000 with two young children will receive around \$600 from Working for Families but will pay around \$1,000 more in income taxes (in real terms) than in 2000. The Government plans to increase income tax thresholds after 2008, by which time more taxpayers will have slipped into higher tax brackets.

National's answer to this issue has been to propose more immediate income tax reductions. There are question marks over the fiscal cost and inflationary impact of National's income tax policy. Yet by delaying income tax relief until 2008 the Government may have failed to propose a genuine alternative to the National policy. This could cost the Government the Treasury benches.

Originally published in *North and South*, 15 August 2005 and reproduced with permission.

6 Revenue Law Journal

The Revenue Law Journal will now publish articles accepted for publication electronically prior to collation in hard copy on its website. The page numbering and referencing will remain the same in final form to facilitate citation.

Duncan Bentley

7 Vacancies

**Lectureships/Senior Lectureships
Accountancy Finance and Information Systems
University of Canterbury
Christchurch, New Zealand**

Vacancy number: A086-05S

Established in 1873, the University of Canterbury is one of New Zealand's leading research-led universities. As part of a major investment in research capability, the College of Business and Economics is in the process of hiring four new Professors in the Department of Accountancy, Finance and Information Systems. To complement this strengthening of academic leadership within the Department, we are now seeking a number of continuing/tenured academics at Lecturer/Senior Lecturer level:

- * **Lecturer/Senior Lecturer in Accounting (2)**
Closing date: 14 October 2005
- * **Lecturer in Taxation**
Closing date: 14 October 2005
- * **Lecturer in Information Systems**
Closing date: 16 September 2005

Applicants should have a demonstrable commitment to research and teaching excellence. A competitive total remuneration package, including study leave and research support, will be negotiated with successful candidates and the position offers an excellent quality of life in Christchurch.

A position description and related person specifications for each post, together with further details about the Department, College and University, may be downloaded from our website: <http://www.canterbury.ac.nz/hr/vacancies>

The reference number is A086-05S

For an informal discussion about the vacancies, please contact the Head of Department, Dr Yvonne Shanahan (tel: +64 (0)3 364 2619 or yvonne.shanahan@canterbury.ac.nz).

Applications, quoting the reference number A086-05S, should be submitted on-line. E-mail queries to sheryl.findlay@canterbury.ac.nz

For further information and to apply online visit: <http://vacancies.canterbury.ac.nz>

POSITION:	Lecturer/Senior Lecturer in Business Law (up to 3 positions)
DEPARTMENT:	School of Business
TYPE:	Academic
APPOINTMENT:	Continuing
AVAILABILITY:	Internal & External
REF NO:	B32/006211

The School of Business is seeking to make up to three appointments at Lecturer or Senior Lecturer level to

further develop its research and teaching capability in the discipline of Business Law.

The Business Law group has been established since the 1950's and has expertise in commercial law, consumer law, intellectual property law, corporations law, financial services law and taxation law. It is seeking to build on its research profile in these general areas of public and private business regulation and to develop its capacity in international business laws.

Staff within the discipline of Business Law teach in both undergraduate and postgraduate programs. There is a Business Law major within the Bachelor of Commerce, Master of Commerce and Master of Business. Research degrees at Masters and Doctoral level are also offered. The professional accounting bodies require individuals seeking accreditation to have completed studies in commercial law, corporation law and taxation law. These are the core undergraduate teaching areas. There is a diverse range of other undergraduate and postgraduate subjects.

Essential criteria for Lecturer positions: A Bachelor's degree or Master's degree in law; evidence of high quality teaching; demonstrated ability to achieve research outcomes with refereed publications; an active research program with significant potential for future publication; expertise in one or more of the major areas of business law which might include legal systems, contracts, corporations law, taxation law, commercial and consumer laws, banking and finance laws, financial services law and international business laws; and evidence of successful teamwork and a collegial approach.

Desirable criteria for Lecturer positions: Significant progress towards a research degree preferably PhD; experience in industry and/or the profession.

Essential criteria for Senior Lecturer positions: A Bachelor's degree or Master's degree in law; evidence of high quality teaching with substantial teaching experience, at both undergraduate and postgraduate level, and evidence of contributions to course and program development; an established research record including a significant number of publications in high quality refereed journals; an active research program with significant potential for future publication; expertise in one or more of the major areas of business law which might include legal systems, contracts, corporations law, taxation law, commercial and consumer laws, banking and finance laws, financial services law and international business laws; evidence of leadership skills and ability to foster excellence in research, teaching and policy development in the discipline; competency in administration including course and program administration; evidence of commitment and service to University, discipline and the profession; evidence of successful teamwork and a collegial approach.

Desirable criteria for Senior Lecturer positions: A PhD in law; ability to attract research funding; a successful record of honours and postgraduate supervision.

The positions are full-time continuing, subject to the completion of a satisfactory probation and/or confirmation period for new appointees. Membership of a University approved superannuation scheme is a condition of employment for new appointees.

Applicants must state which position they are applying for, including the reference number. Applicants applying for both positions must address the essential and desirable criteria for each position. Level of appointment and responsibility will be commensurate with qualifications and experience.

A salary supplement may be negotiated with successful applicants.

For further information, contact Professor Gail Pearson, Chair of the Discipline of Business Law on (02) 9036 6239 or e-mail: g.pearson@econ.usyd.edu.au or Professor Sid Gray, Head of the School of Business on (02) 9351 3552 or e-mail: s.gray@econ.usyd.edu.au

WE ARE AN EQUAL OPPORTUNITY EMPLOYER AND
WE OFFER A SMOKE FREE WORKPLACE

Remuneration Package: \$75,136 - \$89,223 p.a. (which includes a base salary Lecturer Level B \$63,491 -

\$75,395 p.a., leave loading and up to 17% employer's contribution to superannuation)
Remuneration package: \$92,041 - \$106,032 p.a. (which includes a base salary Senior Lecturer Level C \$77,776 - \$89,680 p.a., leave loading and up to 17% employer's contribution to superannuation)

Closing Date: 15/9/2005

General Application Information

An asterisk (*) in front of the position title indicates that the position is not available for external applicants. Casual staff who have been employed continuously by the University for a period of more than six months at the time of advertisement, are eligible to apply for these positions. They must provide payslips demonstrating that they have been employed during six pay-periods in six months or more as evidence, along with their application.

Intending applicants are encouraged to seek further information from the contact person before submitting a formal application.

Academic positions: Applications (five copies for levels A-D and ten copies for level E) should quote the reference no, address the selection criteria, and include a CV, a list of publications, the names, addresses, e-mail, fax and phone number of confidential referees (three for levels A-D and five for level E).

Forwarding Applications:

Mail: The HR Assistant, College of Humanities and Social Sciences, Old Teacher's College, (A22), The University of Sydney, NSW, 2006

Email: jobapps@chass.usyd.edu.au

POSITION – UNE, SCHOOL OF LAW, UNIVERSITY OF NEW ENGLAND Associate Professors/Senior Lecturers in Law

The School of Law is seeking to make up to three appointments at Associate Professor/Senior Lecturer level. Appointees will take an active role in the continuing development of innovative research and teaching programs at both undergraduate and postgraduate level. Applicants will be expected to have, or to establish, links and networks with relevant stakeholder groups, agencies, institutions and authorities and will also be expected to maintain an active research and publication profile as well as assisting in administrative matters.

Applicants must have a doctoral qualification or equivalent accreditation and standing; appropriate research and publication experience, including a scholarly publication record; a record of successful supervision of higher degree research students; sound communication skills; a demonstrated capacity to develop and teach quality curriculum across a range of law units at both ! undergraduate and postgraduate levels; and appropriate administrative experience.

Up to two appointments may be made at Associate Professor level. Level of appointment will depend on prior teaching, research experience, administrative experience and qualifications of the successful applicants.

The selection criteria for the positions are available in the application package or from the web site <http://www.une.edu.au/recruit/>. Applicants should nominate the level of the position for which they are applying and address each of the selection criteria.

Informal enquiries about these positions may be directed to Professor Stephen Colbran, Head, School of Law, telephone: (02) 6773 2910, email: stephen.colbran@une.edu.au

Closing date 26 August 2005

8 Tax, Accounting, Economics and Law Related Meetings

Local

Atax Continuing Education classes in taxation are suitable for those wishing to update their skills without assessment tasks or exams. Registrations have now closed for most of the session 2 continuing education courses, however, places are still available for the next intensive that is scheduled to start on August 25. The intensive short courses are held over 5 days at Atax's Cliffbrook Campus in Coogee, Sydney.

Double Tax Agreements (25-30 August)

This intensive short course provides a comprehensive and in-depth study of DTAs including DTA coverage, dual residency issues, and taxation of passive income flows, taxation of business income and capital gains, and mechanisms to alleviate double tax.

**no classes are scheduled on Sundays*

For more information about Atax's continuing education opportunities, please visit www.atax.unsw.edu.au/conteds205.htm or phone Atax Student Services on **02 9385 9333** or email anna.b@unsw.edu.au

Atax Research Seminar Schedule: Session 2, 2005. Please note the forthcoming seminars in your diary. With the exception of Dr Ordower's seminar, they will be held at the CATS room, Atax, Cliffbrook campus, 45 Beach St, Coogee. Seminars begin at 1.30pm with a light lunch served from 12.30pm. The UNSW Law School has kindly agreed to host Dr Ordower's seminar – more details on this to follow.

It is not necessary to RSVP at this stage, but it would be appreciated if you contact me to ensure you are included on the seminar email list. You will then receive an invitation closer to the event. Please circulate this schedule to your colleagues.

Friday 26 August

Abe Greenbaum lecture: "Tax Treaties Between Developing and Developed Countries" Ms Kim Brooks, Assistant Professor, Faculty of Law, University of British Columbia

Friday 9 September

"Recovery of overpaid tax" Ms Monica Chowdry, Lecturer in Law at King's College, University of London

Friday 21 October

"Constitutional law protection of horizontal and vertical equity in taxation (US and Germany)"

Dr Henry Ordower, Professor of Law, Saint Louis University School of Law

Friday 11 November

"E-filing SA tax returns and IT adoption strategies" Dr Ann Hansford, Senior Lecturer, Bristol Business School, The University of the West of England

Telephone: +61 2 9385 9362; Fax: +61 2 9385 9380; m.mckerchar@unsw.edu.au

Taxation Institute of Australia

<http://www.taxinstitute.com.au/cda/cpd/events/1,1335,,00.html> lists many of the TIA conferences, conventions, seminars, breakfast clubs. For further enquiries, contact Sarah

Hadfield by telephone on (02) 8223 0031 or by email by clicking <mailto:sarahhadfield@taxinstitute.com.au>

Taxation Law related units of study available on a single unit "attendance only" basis through the **Faculty of Law, University of Sydney** for Semester 2, 2005.

Units available are:

Stamp Duties - 13 Tuesday evenings commencing 26 July
Taxation of Business & Investment Income - 13 Thursday evenings commencing 28 July
Taxation of Corporate Groups - 13 Tuesday evenings commencing 26 July
Taxation of Partnerships and Trusts - October 5-7 and 10, 11 (Intensive Mode)
Taxation of Remuneration - Sept 7-9, 12-13 (9-3.30) (Intensive Mode) Tax of CFCs, FIFs and Transferor Trusts - Sept 21-23, 26 & 27 (9-3.30) (Intensive Mode) Tax Incentives - July 11-15 (9-3.30) (Intensive Mode) Tax Law in Asia and the Pacific - October 19-21 & 24, 25 (9-3.30) (Intensive Mode) Tax Treaties - 13 Wednesday evenings commencing 27 July
The Impact of Tax on Business Structures & Operations - 13 Monday evenings commencing 25 July
US International Taxation - August 15-19, 22-24 (9-12.30) (Intensive Mode)

(Students undertaking units of study on a CLE Attendance Only Mode do not undertake assignments or examinations)

Cost per unit of study is \$1,890 (GST free)

To obtain a full copy of the brochure relating to Single Unit Enrolment in Semester 2, 2005, please download the following document from the Law School's website:
http://www.law.usyd.edu.au/cle/2005/2005CLEPGB_sem2.pdf

(Taxation Law Units Timetable Dates are listed on page 5 of that document and unit descriptions are listed on pages 32-38)

If you have any queries concerning single unit enrolment or are unable to download the brochure, please contact Ms Val Carey, Continuing Legal Education, Sydney Law School (Telephone No. 9351 0238, email: valc@law.usyd.edu.au.)

Full details of the Law School's postgraduate programs may be found at <http://www.law.usyd.edu.au/>, or alternatively you can telephone No. 9351 0351 for an information pack.

"Dealing with tax avoidance," Lunch Seminar, 25 August 2005, Light lunch 12:30pm – 1:00pm Seminar 1:00pm – 2:00pm Minter Ellison Room (Level 13), University of Sydney Faculty of Law, 173 Phillip St, Sydney. Professor Yitzhak Hadari is a senior law professor at Tel Aviv University who specializes in tax and commercial law. He has published widely including in leading US journals and is currently pursuing comparative research on tax avoidance. If you are not a full or part-time member of staff please give advance notice of your intention to attend a seminar to Becky Lai (contact details below). This is for catering purposes. For further details please contact the co-ordinator, Peter Butt on (02) 9351 0248 or peterb@law.usyd.edu.au or Becky Lai on (02) 9351 0279 or becky@law.usyd.edu.au

Ross Parsons Annual Lecture in Commercial, Corporate & Taxation Law, Thursday, 29 September 2005, Banco Court, Queens Square, Sydney, Lecture 5.30 pm (free) Speaker:

Professor Charles Rickett, "Liability for gains made in breach of contract." Please RSVP to Louise Pierce, louisep@law.usyd.edu.au or call 02-9351 0327

Govnet Annual Conference 2005 *Ethics, Governance, and the Professions*. Hosted by the Centre for Applied Philosophy and Public Ethics (CAPPE) Australian National University, 28th – 30th November. The central theme of the 2005 conference is *Ethics, Governance, and the Professions*.

Offers of papers are invited on any aspect of this theme, including, but not limited to: how professional standards, governance and regulatory frameworks are faring across a range of professions (including law, medicine, journalism, accounting, engineering, social work) and how they may be better addressed, in the context of professional practice within settings including large corporations, the public sector, and non-government organisations. In what ways might traditional methods of regulation need to be tailored to these settings? Addressing this question might involve providing some analysis of the proper nature of particular professional roles and practice; of gaining some understanding of the operation and values of the large organisations within which many professionals are embedded, and; then providing some descriptive and normative analysis of the impact of latter upon the former. In particular the relationship between duty to client, duty to employer, and duty to wider public interests (justice, health, the public good) bears fresh examination. This leads to a range of issues dealing with governance of professions and governance of the institutions where professionals work, as seen in cases such as James Hardie, the Bundaberg Hospital, and the UK Joint Intelligence Committee.

Another area on which papers are invited will be Professionalism in the Global Context. There are many issues that might be covered under this area. One set of issues is raised by the changing political environment including the weakening of many states and the rise of non-state actors. Just as the rise of sovereign states affected many professions (including the law, the military and the public service) so their weakening may generate change. In examining the effect of shifts toward a global context on professionalism it would also be of interest to look at the technological/electronic environments. These contexts represent a rapidly growing, relatively new global context within which a range of professional activity is now being undertaken and with respect to which proper governance and regulatory arrangements face new and distinctive challenges.

We are also interested in receiving suggestions for workshops and symposia on related governance topics. Offers of papers and suggestions for symposia to jeanette.kennett@anu.edu.au

Govnet members are encouraged to suggest potential keynote speakers, especially if they can provide partial funding for them.

About Govnet

The Governance Research Network (GovNet) is an ARC funded network. It seeks to tackle issues of institutional governance, from small firms to global institutions - recognising both common governance issues and radically differing contexts. The extensive Network will analyse bad governance and institutional failures, from ineffectiveness and maladministration, to corruption, to state failure. Our concern is primarily to understand the ways institutions can be structured to ensure, as far as possible, that they further the values that justify their existence through innovative interdisciplinary solutions involving ethical standard setting, legal regulation and institutional reform.

Govnet has 5 streams. 1. Global, International and Transnational Governance. 2. Asia Pacific Institutional Reform. 3. Public Sector Governance. 4. Corporate Governance and Regulation.

5. Civil Society Governance: professions, religious institutions and NGO's. Further information about Govnet streams and their activities may be found at <http://www.griffith.edu.au/govnet/>

Eighteenth Annual Australasian Tax Teachers Association Conference 2006, 30 January-2 February 2006, University of Melbourne Law School. Conference webpage: <http://www.law.unimelb.edu.au/taxgroup/attaConference2006.html> Contact Miranda Stewart, m.stewart@unimelb.edu.au A location map of the Law School is available: <http://www.law.unimelb.edu.au/LawSchoolStreetPlan.jpg>

Nineteenth Annual Australasian Tax Teachers Association Conference 2007, January 2007, University of Queensland Law School. Contact Kerrie Sadiq, k.sadiq@law.uq.edu.au

Overseas

American Accounting Association Calls for paper website <http://aaahq.org/calls/default.cfm>

Canadian Tax Foundation <http://www.ctf.ca/profDev/schedule1.asp> has a 2005 events schedule. Fifty-Seventh Tax Conference, 25-27 September, Vancouver Hyatt Regency

Commonwealth Law 2005, 11 – 15 September 2005, QEII Conference Centre, London, UK www.commonwealthlaw2005.com

Institute for Fiscal Studies Conferences and seminars
<http://www1.ifs.org.uk/conferences/index.shtml>

International Bureau of Fiscal Documentation Various courses in Amsterdam, the Netherlands. For details, see <http://www.ibfd.org> The IBFD International Tax Academy (ITA) runs an extensive international course program. Generally all courses are held in Amsterdam. Should you require any further information or wish to register please refer to their web site www.ibfd.org or contact the International Tax Academy at +31-20-554 0160 or by e-mail ita@ibfd.org

Corporate Financing 08 & 09 September - Introductory

The Taxation of Interest Savings Directive and the Swiss-EU Agreement

19 & 20 September - Lugano, Switzerland

International Tax Aspects of Permanent Establishments 17 & 18 November - Intermediate

Introduction to European Value Added Tax March 13 - 16, 2006 - Introductory

European Value Added Tax 20 & 21 October - Intermediate

Introduction to European Customs and Excise Duties February 06 & 07, 2006 -

Introductory February 06 & 07, 2006 - Introductory

Tax Treaties

Avoidance of Double Taxation 05 & 06 September - Intermediate

Interpretation & Application of Tax Treaties I 10-12 October - Introductory

Interpretation & Application of Tax Treaties II 13 & 14 October - Intermediate

Arbitration and Mutual Agreement in European Treaties 10 & 11 November - Specialized topic

Tax Treaties Workshop May 15 & 16, 2006 - Advanced

Principles of Transfer Pricing 07 & 08 November - Introductory

Transfer Pricing of Intangibles 14 & 15 November - Specialized topic

International Tax English for Practitioners May 08 & 09, 2006

For 2005 courses go to http://www.ibfd.org/news/course_calendar.htm

The ITA also offers tailor-made in-house courses on a worldwide basis for corporate clients, tax administrations and other organizations. Should you have any queries, please contact Arcotia Hatsidimitris, Head of the International Tax Academy by telephone +31-20-554 0180, or by a.hatsidimitris@ibfd.org

International Tax Planning Association Forthcoming meetings

<http://www.itpa.org/meetings.html>

International Atlantic Economic Society (IAES) conference. You can visit IAES's web site (www.iaes.org) for more information. Prof dr M. Peter van der Hoek Academy of Economic Studies, Bucharest, Romania and Erasmus University, Rotterdam, Netherlands. Mailing address: Erasmus University (L 7-20) P.O. Box 1738 NL-3000 DR Rotterdam Netherlands Phone/Fax: +31-10-4081622 E-mail: vanderHoek@frg.eur.nl 60th International Atlantic Economic Conference will be held in New York, 6-9 October 2005; then Berlin 15-19 March 2006; Philadelphia 5-8 October 2006

European Association of Tax Law Professors Meetings and conferences

<http://www.eatlp.org> Budapest 2006; Helsinki 2007

Tax Research Network (TRN) Annual Conference, “*Tax in a changing world*,” Edinburgh University, Edinburgh, Scotland, 8-9 September 2005.

http://users.wbs.ac.uk/group/trn/home/whats_new Abstracts, or full papers, if available, should be sent in electronic format by e-mail for consideration in the first instance to the conference organizer Sandra Eden (s.eden@ed.ac.uk) The deadline for submission of abstracts was 31 March 2005. Presenters will be informed as soon as possible after that whether their papers have been accepted. If not provided initially, full papers will be required by 31 July 2005 to allow time for conference packs to be compiled.

Sixth Annual Global Conference on Environmental Tax Issues, Leuven, Belgium from 22-24 September 2005. The URL to the conference's site is:

<http://www.law.kuleuven.ac.be/imer/nieuws.html>

Organisation : Professor Kurt Deketelaere and Professor Geert Van Calster, Institute of Environmental and Energy Law, University of Leuven, Flanders, Belgium & Professor Janet Milne, Environmental Tax Policy Institute, Vermont Law School, Vermont, USA

Conference Venue : Faculty Club, University of Leuven, Leuven

<http://www.facultyclub.be/site/home.php?p=infrastructuur&newlang=uk>

Conference Theme: The central theme of the 6th ETC will be: “*The Promotion of Renewable Energy Sources through Tax or Other Market-Based Measures – Challenges and Obstacles*”.

This central theme will be developed during the first conference day, by different invited keynote speakers and panels. Traditionally, the second conference day will tackle a broad variety of environment and energy taxation issues, from a multidisciplinary perspective. Abstracts for these presentations and panels are hereby invited.

Further information: Kurt Deketelaere: kurt.deketelaere@law.kuleuven.ac.be Geert Van Calster: geert.vancalster@law.kuleuven.ac.be Janet Milne: jmilne@vermontlaw.edu

More info on: City of Leuven: <http://www.leuven.be/showpage.asp?iPageID=2721>

University of Leuven: <http://www.kuleuven.ac.be/english/> Institute for Environmental and Energy Law: <http://www.law.kuleuven.ac.be/imer/>

Baker & McKenzie 21st Annual Asia-Pacific Tax Conference Hong Kong, 17-18 November 2005. For more information, contact Ms Marianne Shaw, Baker & McKenzie, Hong Kong. Tel: +852-2846 1078; Fax: +852-2842 0530 marianne.shaw@bakernet.com

Other useful tax and law related conference websites include the **IBFD Course calendar** http://www.ibfd.org/news/course_calendar.htm **UNSW Faculty of Law Conference Calendar** http://www.law.unsw.edu.au/news_and_events/events/events.asp **New South Wales Bar Association** http://www.nswbar.asn.au/Professional/Noticeboard/ComingUp/contents_coming.htm **Law Council of Australia** <http://www.lawcouncil.asn.au/events.html> **Law Courts Library** <http://www.lawlink.nsw.gov.au/conference> **LexisNexis Professional Development Calendar of events** <http://www.lexisnexis.com.au/aus/conferences/calendar/default.asp> See also the *inTax* Seminars Directory, published in *inTax Magazine*. **Practising Law Institute** <http://www.pli.edu/> **New York County Lawyers Association** <http://www.nycla.org> **American Bar Association** <http://w3.abanet.org/home.cfm> **New York Bar Association** <http://www.nysba.org/> **Hieros Gamos Worldwide Law Events Calendar** http://www.hierosgamos.org/hg/db_meetings.asp?action=search <http://www.hg.org/calendar.html>

For social sciences and humanities conferences, meetings etc, see Mind: The Meetings Index <http://www.interdok.com/mind> See also the magazine *Australian Conference & Exhibition Diary*, Vamosi Information Publication.

9 Recent publications

Bold indicates ATTA members. Readers are encouraged to notify the Editor of recently written publications for notification, in these pages. Please note some of the overseas publications listed may not yet be available locally.

Local

Alsop, J “Statutes: context, meaning and pre-enactment history,” (Winter 2005) *Bar News* 19-24

(2005) 5 (5) *Australian GST Journal*

- Datt, Kalmen “The conflict between deposits and security deposits”
- Bennett, Michelle “Critical comment: Catching the Commissioner’s notice”
- Clark, Braedon “Securitisation and service fees: the Canadian Tax Court leads the way”

(2005) 5 (6) *Australian GST Journal*

- Datt, Kalmen “Division 99 and contracts for the sale of land”
- Cridland, Mathew “Critical comment: Ongoing GST problems with the standard NSW sale of land contract”
- Clayton Utz “Case update”

(2005) 17 (1) *Australian Superannuation Law Bulletin*

- Wall, Marita “Who is a step-child?”
- Stanhope, Bill “A quiet winter?”
- Charaneka, Scott “Interdependency relationships: an update”
- Shirlow, David “The draft interdependency regulations - some plusses & minuses”
- Vrisakis, Michael “Superannuation and insurance – a happy marriage or a wholly unholy union?”
- Stanhope, Bill “Book review: Charaneka, Scott and Spanner, Wayne Guide to superannuation choice”
- Riordan, Gary “Super cases: *Dibb v Commissioner of Taxation* [2005]AATA 378 Senior Member McCabe 29 April 2005”

(2005) 20 (2) *Australian Tax Forum*

- James, Simon; Murphy, Kristina and Reinhart, Monika "Taxpayer beliefs and views: two new surveys"
- **Taylor, C John** "Alternative treatments for foreign source income in Australia's dividend imputation system"
- **Warren, Neil** "It's creeping and costing Australians"
- **Evans, Chris** "CGT – mature adult or unruly adolescent?"
- **Stokes, Robert** "Taxing family homes: an autopsy of the premium property tax in New South Wales"

Bevan, Christopher "Income tax system of Australia: the case for a new general anti-avoidance rule" (2005) 79 *Australian Law Journal* 364- 400

Callaway, F "Judges and statutes," (Winter 2005) *Bar News* 25-28

Carmody, Michael "500 targeted in tax evasion crackdown," *Inside Business*, ABC TV, 24/07/2005, Alan Kohler <http://www.abc.net.au/insidebusiness/content/2005/s1421028.htm>

Cassidy, Julie "Exploring the benefits and pitfalls of using mutual wills" (2005) 10 *Deakin Law Review* 121-40

(2005) 24 *CCH Tax Week*

- Batalha, Luis "Never fear, choice is here"

(2005) 25 *CCH Tax Week*

- Orange, Andrew "Coleambally: no dam build in High Court"

(2005) 27 *CCH Tax Week*

- Cunningham, Lance "CGT planning – getting the basics right"

(2005) 28 *CCH Tax Week*

- Batalha, Luis "Changes to GST on real property"

Corcoran, S & Bottomley, S (ed) *Interpreting statutes*, Leichhardt, NSW, Federation Press, 2005

Desiatnik, RJ *Legal professional privilege in Australia*, 2nd ed, Chatswood, NSW, LexisNexis Australia, 2005

Hamill, David *Taxing Australian federalism*, Brisbane, The Brisbane Institute, 2005

http://www.brisinst.org.au/resources/hamill_david_federalism.html

Morris, Fran & Brown, Steven *Talking about constitutions: questions to ask when drafting or reviewing a constitution*, Sydney, City Printers Pty Ltd, 2005

(2004) 14 *Revenue Law Journal*

- **Bentley, Duncan** "Editorial: Tax law drafting: the principled method"
- Gerber, Paul "Turning base metal into gold"
- Ritchie, Thomas "Family partnerships and Part IVA ITAA 1936"
- Halkyard, Thomas "Common law and tax avoidance: back to the future?"
- **Devos, Ken** "Penalties and sanctions for taxation offences in Anglo Saxon countries; implications for tax payer compliance and tax policy"
- **Hart, Geoffrey** "The impact of property law and contractual principles in taxation law"

- Alexiou, C and Morrison D “The cross-border electronic supply EU-VAT rules: lessons for Australian GST”
- **Markham, Michelle** “Complying with Australian and PATA transfer pricing rules – a Sisyphean task”
- Clark, Braedon “The meaning of income: the implications of Stone v FCT”
- **Gumley, Wayne** “Investment markets and sustainable agriculture; a case for ecological tax reform”

Sridaran, Maheswaran “The costs of taxation” (2005) Issue 26 *CCH Tax Week* 429-33

Stewart, Miranda “Taxes and justice in context” (2005) 30 *Australian Journal of Legal Philosophy* 133-42

Stokes, Robert “Is seniors living (2004) keeping SEPP 5 alive? (2005) 10 *Local Government Law Journal* 194-210

(2005) 9 (1) *The Tax Specialist*

- **Fisher, Rodney** “Editorial message”
- Clemens, Tony “Australian taxation aspects of major funding transactions”
- Timmers, Miquel “ATO sets KPIs for CFOs”
- Tregoning, Ian “Goodwill: another view”
- Bevan, Chris “GST on long-term non-reviewable contracts – unresolved transitional problems”
- **Walpole, Michael** “Have you shut the windows? Time limits applicable to finality of assessments”

(2005) 40 (1) *Taxation in Australia*

- de Wijn, John “Issues and Agendas”
- Rowland, Noel “CEO’s report”
- Taxwrite services “Technical news”
- Taxwrite services “CGT marriage breakdown rollover relief”
- Ketsakidis, Chris “Budget changes to super”
- Clark, Braedon “Commissioner of Taxation v Stone [2005 HCA 21] (26 April 2005)”
- **Hill, Graham** “The incremental expansion of Part IVA”
- Bashour, Katherine “A matter of trusts”
- Maharaj, Anshu and **Vann, Richard** “Tax case: *Commissioner of Taxation v Linter Textiles Australia Ltd (in Liquidation)* [2005] HCA 20 (26 April 2005)”
- Tse, Jerome and Parker, Michael “Q&A: What to do when the ATO and AFP come knocking”
- Member profile: **Cynthia Coleman**

(2005) 40 (2) *Taxation in Australia*

- de Wijn, John “Issues & agendas”
- **Dirkis, Michael** “Senior Tax Counsel’s Report”
- Taxwrite Services “Technical news”
- Taxwrite Services “Tax tips: Tax planning post 30 June”
- Murray, Peter “Service trusts”
- Butler, Daniel “SMFSF deeds varied via web. The Risks!”
- Rogers, Nicole Wilson “Phillips arrangements under siege: Will part IVA strike again?”
- Russell, David “Obituary: Sir Harry Gibbs”
- Vivian, Raelene “Review of self assessment: What it means for you and your clients”
- Mighalls, Davina “The AAT v the Federal Court – which is the appropriate forum?”
- Smedley, Daniel “A matter of trusts: Family trust elections – remain vigilant”
- Roxas, Katherine “Tax case: *Commissioner of Taxation v BCD Technologies Pty Ltd* [2005] FCA 708”

- Bates, Rachel & Hughson, Leanne "Q&A: stamp duty on Sub-scales"

(2005) *Taxation Institute of Australia South Australian Convention Papers 2005*

- de Wijn, John and Tyler, Jeff "GST: some real issues"
- **Gallagher, Patrick** "Underlying problems in property development"
- **Gallagher, Patrick** "Digging into property development"
- Heath, Stephen "Market value: a vital tax concept"
- **Hill, Justice Graham** "The incremental expansion of Part IVA"
- Ingram, Paul "CGT small business concessions"
- Lebbon, Tim "Market value: a vital tax concept"
- Lewis, Terry "Company and trust loans approaching 30 June 2005 – issues to consider"
- Mackenzie, Suzanne "Super pensions for SMSFs: a tax revolution in the 21st century"
- Rhodes, Cameron "The value of effective tax investments for retirement income"
- Schurgott, Ken "Structuring your practice"
- Snook, Ian "Choices in selling a business"
- Stevens, Grantley "When is a taxpayer and employee or contractor?"
- Tragakis, Con "Your client wants to expand overseas – what do you do now?"
- Winter, Garry "Licensing in agribusiness – the hidden traps"

Taxation Law and Policy Research Institute, Department of Business Law and Taxation,
Monash University *Interpreting the GST Law: seminar, 2005*

(2005) 28 *Weekly Tax Bulletin*

- Wolfers, Lachlan; Curkowicz, Anetta and Wilson, Kirk "Contingent and unascertained amounts: CGT and GST issues remarkable similar"

(2005) 29 *Weekly Tax Bulletin*

- Bernhardt, Sarah and Holstein, Suzanne "Takeover/restructure roll-over relief for employee shares and options generally welcome"

(2005) 30 *Weekly Tax Bulletin*

- Butler, Joel "Penalties under the NSW FHO Act – meaning of dishonesty"

(2005) 31 *Weekly Tax Bulletin*

- Bersten, Michael and McInerney, Daniel "Priority private binding rulings – whether to apply for one or not?"
- Balazs, John "Further guidance on disclaiming interests in a trust – the Ramsden case"

(2005) 32 *Weekly Tax Bulletin*

- Abbey, Paul "Proposed loss recoupment legislation: points of note for affected companies"
- Fitton, Gary "The games: the extension of time to make a s 139E election"

Wittfoth, A; Chung, P; Greenleaf, G & Mowbray, A "What was the law at that point in time?"
(2005) 43 (6) *Law Society Journal* 71-74.

Young, Robert "Everyday libertarianism, consequentialism and income tax" (2005) 30
Australian Journal of Legal Philosophy 143-46

Overseas

Aitken, Roopa & Morgan, Chris "Societas Europaea: is tax an incentive or a barrier?" (2004)
15 *European Business Law Review* 1343-49

Asia Pacific Tax Bulletin No. 4 (2005)

- “Casenote from Australia: Anti-Avoidance Provisions” - Anton Joseph
- “India - Income Characterization of Software Payments -- A Contemporary Tax Perspective - Mukesh H. Butani and Aseem Chawla
pp. 298-308
- “VAT Introduction: The Indian Experiment” - JVM Sarma
- “Casenote from Japan: The Taxation of Stock Options” - Ken Takahashi
- “Singapore - Business Trust: A New Legal Business Structure” - Shanker Iyer and Richard Ellard
- “Uzbekistan - An Overview of the Tax Regime” - Roustam Vakhitov and Lola Nasirova

Boyd, Susan B & Young, Claire FL “Feminism, law, and public policy: family feuds and taxing times” (2004) 42 *Osgoode Hall Law Journal* 545-82

[2005] (3) *British Tax Review*

- Kerridge, Roger “The rule in *Sharkey v Wernher* - Time for a reappraisal?”
- **Ting, Antony** “Policy and membership requirements for consolidation: A comparison between Australia, New Zealand and the US”

Bulletin for International Fiscal Documentation No. 8/9 (2005)

- Welcome to Buenos Aires and IFA's 59th Congress - Jerome B. Libin
- Subjects and Seminars of the 2005 Congress
- Overview of Argentina's Tax System - Prof. Dr Angel Schindel
- Corporate Income Taxation in Argentina - Enrique L. Scalone
- Argentina's Income Tax on Individuals, Undivided Estates and Non-Resident Taxpayers - Dr Adolfo Atchabahian
- Aspects of VAT and Other Consumption Taxes Affecting Investments into Argentina Prof. Hugo E. Kaplan
- Taxes on Wealth in Argentina - Prof. Dr Juan Carlos Vicchi
- Customs Duties in Argentina - Dr Gustavo Zunino
- Local Taxation in Argentina - Prof. Fernando Daniel García
- Group of Companies - Taxation in Argentina - José María García Cozzi
- International Double Taxation: General Reflections on Jurisdictional Principles, Model Tax Conventions and Argentina's Experience - Prof. Antonio Hugo Figueroa
- Transfer Pricing in Argentina - Cecilia Goldemberg
- Taxation of Foreign Direct Investment in Argentina - Alejandro E. Messineo
- Punishment under Criminal Tax Law in Argentina - Prof. Dr Vicente Oscar Díaz
- The Defence of Taxpayers' Rights in the Courts of Argentina - Alberto Tarsitano

European Taxation No. 8 (2005)

- European Union – “Inheritance and Gift Tax and EC Fundamental Freedoms - German Federal Tax Court Rules on Different Valuation Methods for Foreign and Domestic Real Estate” - Eva Burgstaller and Katharina Haslinger
- “Swedish Supreme Administrative Court Rejects Reference to ECJ Regarding Application of EC Parent-Subsidiary Directive” - Cécile Brokelind

EC UPDATE

CFE NEWS

CFE Forum 28 APRIL 2005: Summary Report and Speeches

WHAT'S GOING ON IN ...

- “Surprising French Supreme Administrative Court Decision on the Interpretation of a Non-Discrimination Clause” - Henry Lazarski
- “Italian Ruling on Attribution of Profits to Permanent Establishments” - Raffaele Russo

- “Luxembourg Adapts 1929 Holding Companies Regime to Comply with EU Code of Conduct” - Raf Bogaerts
- Netherlands - “Deductibility of Costs in Connection with a participation in the Capital of a Subsidiary” - Jeroen Smits

Feria, Rita de la *Handbook of EU VAT legislation*, The Hague, Kluwer Law International, 2004-

International VAT Monitor No. 4 (2005)

- Editorial – “The Non-Economic Argument - Attempts To Tackle Carousel Fraud in the United Kingdom”
- “Combating VAT Avoidance” - Joep Swinkels
- “Why the ECJ Should Not Follow Advocate General Maduro's Opinion in Halifax” - Pascal Brennan
- “Place of Supply of Acquired Goods - Transport by a “Third Party”” - Patrick Wille
- “Co-Ownership of Property in Australia and Goods and Services Tax” - Anton Joseph
- “VAT and Non-Taxable Subsidies” - Ignacio Arias and Antonio Barba
- VAT around the world
- What’s happening in brief
- Case notes
- Selected recent cases in brief

Jackson, Leah Witcher “Won the legal battle, but at what tax cost to your client: Tax consequences of contingency fee arrangements leading up to and after *Commissioner v Banks* (2005) 57 *Baylor Law Review* 47-132

(2005) 16 (3) *Journal of International Taxation*

- Brinker, Thomas M & Sherman, W Richard “Relief from international double taxation: the basics”
- Spencer, David E “Tax information exchange and bank secrecy (Part 2)”
- Feinschreiber, Robert & Kent, Margaret “E-commerce and foreign retail distribution: overlooked tax benefits”
- Jung, Youngjin “How far should the WTO reach into income tax policies?”

Lasok, KPE “Indirect taxation” (2005) 16 *European Business Law Review* 519-32

Lederman, Leandra & Mazza, Stephen W “Johnston: Perfectly legal: the covert campaign to rig our tax system to benefit the super rich – and cheat everybody else” (2005) 103 *Michigan Law Review* 1423-45

Markham, Michelle *The transfer pricing of intangibles*, The Hague, Kluwer Law International, 2005, ISBN 90-411-2368-7

Steyn, Lord “Dynamic interpretation amidst an orgy of statutes – The Brian Dickson Memorial Lecture” (2003/2004) 35 *Ottawa Law Review* 163-78

Ting, Antony “Policy and membership requirements for consolidation: A comparison between Australia, New Zealand and the US” *British Tax Review* (2005) 311-334

10 Quotable quotes

“Australian poker champion Joe Hachem may have blown half of his \$10 million poker prize on a slip of the tongue.

The Melbourne man, who blitzed more than 5000 players to take out the World Series of Poker Championships in Las Vegas last month, arrived back in Australia today.

But wayward statements by Mr Hachem could enable the taxman to take almost \$5 million of his winnings, says Taxation Institute of Australia director, Michael Dirkis.

Mr Dirkis said if the Tax Office could prove Mr Hachem won his money as a professional gambler, as opposed to a hobby gambler, then he would have to pay a 47 per cent tax rate on his winnings.

That would mean kissing goodbye to about \$4.7 million.

However, in order to deem the poker champion a professional, the Tax Office would first have to show Mr Hachem used skill and systematic methods in winning his \$10 million, Mr Dirkis said”.

Source: Gibson, Jano “Taxman set to trump poker champ,” *Sydney Morning Herald*, 2 August 2005, p

“A disturbing trend is emerging in the attitude displayed by the Australian Taxation Office. The powers that be in the ATO have developed a new weapon to combat public scrutiny and the ultimate power of parliament and the courts – the retrospective interpretation of tax laws – legislative and judicial.

.....

If the ATO believes the tax laws need to be amended or the Phillips case should be overturned, it should advise the government of the day. Otherwise, the ATO should administer the laws as it finds them.”

Source: Panopoulos, Sophie “ATO must stick to the law or ask for changes” *Australian Financial Review* 11 August 2005, p 63

ATTA News September 2005

<http://www.atax.unsw.edu.au/atta/newsletter.htm>

Editor: Colin Fong, Faculty of Law, The University of New South Wales

c.fong@unsw.edu.au

ATTA website <http://www.atax.unsw.edu.au/atta>

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1 Presidential column

I would like to dedicate the Presidential column to Graham Hill.

I first met Graham Hill at a Taxation Institute of Australia Conference in South Australia in early 1991 where I was struck by how highly Graham was revered by the attending tax practitioners. Upon introducing myself to Graham and starting a conversation on Part IVA, I soon appreciated the depth of his knowledge. Graham's intellect was simply amazing.

It was not until I became an academic and attended my first ATTA conference in 1999 (in Canberra) that I was to meet Graham again and I was lucky enough to sit near him at the conference dinner. Not only did Graham provide a fabulous insight into tax law over dinner, he was great company, he was so down to earth and possessed such a great sense of humour. From then on I always looked forward to the ATTA conferences and the chance to hear Graham's speeches and to talk to him during the conference. Graham was always actively involved in the conference papers, stimulating discussion and providing lots of useful feedback to the presenters.

Importantly, he was always interested in what I was doing, my progress at Flinders University and in my higher degree research. And that meant a lot to me.

In organising last years ATTA conference at Flinders University it became clear how important Graham has been to ATTA. He was our "main man". His presence helped ensure a good member turn out for our ATTA conferences, thus enabling our continued success and this leaves us in a strong position today.

Graham was so generous with his time. For me, he provided a review for my text book and made the time to read every page. His contribution to the Federal Court, ATTA, the Taxation Institute and I suspect many other groups showed his enormous dedication to the legal profession.

We were very lucky to have Graham as patron of ATTA, he was not only the spiritual leader of the Australian tax teaching profession, but the one of the nicest persons that you would ever hope to meet.

Graham graduated from Sydney University in 1962, obtaining a first class honours degree in law and won the University Medal. Additionally, he gained a Master of Laws from Harvard.

Graham practised in taxation, administrative and commercial law and in 1984 was appointed a Queen's Counsel. He was appointed as a Judge of the Federal Court on 1 February 1989 and has since provided many of the leading tax judgments. Graham also lectured at Sydney University for many years in stamp duties and GST. Luckily for ATTA, he was our Patron and attended and presented plenary papers at all of our conferences.

As a tax educator he had no peer, and was exceptionally generous with his time in helping others to understand the law. He published articles for numerous legal journals and conference papers. Also, he wrote textbooks in the areas of stamp and death duties. As a presenter, he attained a God like status at academic and professional conferences. Justice Graham Hill will be greatly missed.

Paul Kenny

2 ATTA Conference 2006

Melbourne Law School, University of Melbourne is pleased to host the 18th **Australasian Tax Teachers Association Conference 2006**
"Old Taxes in a New World"

Dates: Monday 30 January to Wednesday 1 February 2006

Conference webpage: <http://www.law.unimelb.edu.au/taxgroup/attaConference2006.html>

The 2006 ATTA Conference conference is to be held just after the **AUSTRALIAN OPEN TENNIS, 16 - 29 January 2006**. If you are interested in attending the Australian Open, please visit <http://www.australianopen.com.au> . Information about accommodation and other Victorian tourism information is on the Conference webpage and will be enhanced over the next few months.

Call for Papers

We would like to remind you to submit **paper ABSTRACTS** by **28 September 2005** for the 18th ATTA Conference, to be held at Melbourne Law School, 30 January - 1 February 2006. Paper abstracts should be submitted to Lillian Hong at xyhong@unimelb.edu.au. Acceptance of papers will be notified to authors by the end of October.

The theme of the 2006 ATTA Conference is "Old Taxes in a New World". The organisers welcome papers on the following questions on the theme, or on related questions: Is an old tax a good tax? Are our old taxes being reformed to take account of new economic and social developments and if so, how? How is the income tax coping with economic globalisation? Are court decisions changing our old taxes? Is the new world of tax so different from the old world? Is tax avoidance destroying old taxes? Is comprehensive tax reform needed (again)? Are new taxes the way of the future? What is the impact of new tax collection techniques? Is simplification of old taxes impossible or has New Zealand shown us how to do it? In Australia, will the *Income Tax Assessment Act 1936* always be with us?

In addition to papers on the theme, all papers related to taxation will be considered. We particularly welcome papers by new academics on any tax topic. The conference will include sessions on tax teaching and research methodologies and we invite contributions on those topics.

Should you have any inquiries concerning the Conference, please do not hesitate to contact Lillian Hong (xyhong@unimelb.edu.au, Tel: 03 8344 4298) or Miranda Stewart (m.stewart@unimelb.edu.au).

Papers will be eligible for submission to the *Journal of the Australasian Tax Teachers Association*, Volume 4 2006. JATTA is a refereed electronic journal and papers submitted will be subject to double blind refereeing before acceptance by the journal. For more information about JATTA, please see the webpage at <http://www.atax.unsw.edu.au/atta/index.htm>

Information about conference registration will be available on the conference webpage in the near future. The 2006 ATTA Conference is being held immediately after the Australian Open Tennis 2006. Melbourne Law School is located conveniently next to the city and our recommended accommodation choices are an easy tram ride or walk to the Law School and to the city. Delegates will be able to take advantage of the many cultural amenities of Melbourne including the Melbourne Museum, National Gallery of Victoria and Melbourne Zoo.

Inquiries concerning the academic programme should be directed to Miranda Stewart (m.stewart@unimelb.edu.au). Inquiries concerning conference organisation and administration should be directed to Lillian Hong xyhong@unimelb.edu.au (Tel: + 61 3 8344 4298 Fax: + 61 3 8344 9971), Melbourne Law School, University of Melbourne, VIC 3010 Australia.

KEY DATES:

28 September 2005 Final date for submission of abstract of paper
October 2005 Authors notified of acceptance of their papers
Friday 2 December 2005 Final date for Registration at 'early-bird' rate
Monday 9 January 2006 Final date for submission of written conference paper
Monday 30 January – Wednesday 1 February 2006 Conference

3 Arrivals, departures and honours

Congratulations to Hope Ashiabor on his promotion to an Associate Professor, Macquarie University, as of the beginning of August. He is currently on a six month secondment to the OECD, Paris and promises to write about his French experiences for *ATTA News* by the end of this year.

David Corby has been involved in academia for a long time - most of it teaching finance at Charles Sturt University (CSU). Many years ago David worked for what is now PriceWaterhouseCoopers and more recently with a small accounting practice. He was involved in setting up and teaching the Financial Planning subject at CSU. David moved to the Gold Coast about four years ago and is now involved teaching, on a sessional basis, at various Unis up there. This semester, one of his subjects / courses is the u/g Introduction to Financial Planning Course at Griffith. Next year, Southern Cross University is hoping to start a MCom (Fin Planning) at their Tweed Campus and he has been approached re teaching in it. In his "spare" time David acts as a volunteer with ATO's TaxHelp program.

The San Jose State University Tax Policy Institute International Scholar for 2005-6 was awarded to Kim Brooks of University of British Columbia (Canada) and Binh Tran-Nam of Atax, University of New South Wales. Congratulations to Kim and Binh.

Congratulations to Ken Devos, on his promotion as senior lecturer, Monash University.

Justice Graham Hill, a judge of the Federal Court of Australia, passed away on the 24 August 2005. Tributes and stories appeared in:

Buffini, Fiona 'Tax titan was no heir but had all the graces' *Australian Financial Review* 26 August 2005, p 29

KPMG *Daily Tax News*, 29 August 2005, Justice Graham Hill, item 7

'Tribute to Justice Graham Hill', Attorney-General, Philip Ruddock, MP, Media Release 156/2005, 25 August 2005

http://www.ag.gov.au/agd/WWW/MinisterRuddockHome.nsf/Page/Media_Releases_2005_T hird_Quarter_25_August_2005_-_Tribute_to_Justice_Graham_Hill_-_1562005

Hayes, Terry 'Death of the Hon Graham Hill' (2005) Issue 36 *Weekly Tax Bulletin* [1474]

'Justice Hill passes away' (2005) Issue 33 *CCH Tax Week* [¶716]

Carson, Vanda 'Decisions come from dead judge' *The Australian* 16 September 2005, p 24.

I understand there will be a number of tributes, to be published in various Australian tax journals. See the following tributes.

4 Vale Justice Graham Hill 1938-2005

The following address was delivered by The Honourable Michael Black AC Chief Justice of the Federal Court of Australia, at a Memorial Service for The Honourable Justice Graham Hill, at St James' Church, King Street, Sydney on 1 September 2005.

With the untimely passing of Justice Graham Hill last week, on Wednesday 24 August, the Australian judiciary lost one of its outstanding legal minds. We in the Federal Court lost a superb judge and fine colleague whose contribution to the work of the Court judicially and extra-judicially was quite exceptional.

In paying tribute to Graham, it is a daunting task to convey, in brief remarks, an adequate idea of the richness and diversity of his work and his service to the community: as a lawyer, a scholar, a teacher, a leader, a mentor and a member of our Court. I can do no more than give an outline of the *public* side of a remarkable life – a life to be celebrated.

Donald Graham Hill was born in Sydney on the 1st November 1938. He received his secondary education at Fort Street Boys' High School where, in brilliant company, he was an outstanding student. He then studied Arts and Law at Sydney University, beginning an association that continued for the rest of his life. Again he showed himself to be an outstanding student. He also became closely involved in the life of the University.

In April 1962 he graduated in Law with first class Honours. In a remarkably strong final year, he topped the Honours list and was awarded the University Medal in Law.

Later that year he went to the United States, to Harvard University where he studied for the degree of Master of Laws, supported by a Fulbright Scholarship, a Ford International Fellowship and a graduate scholarship from the University of Sydney. At Harvard he studied tax law under Dean Erwin Griswold, regarded by many as the foremost tax professor in the United States at that time and subsequently Solicitor General. One of his fellow students at Harvard, later to become a judicial colleague on the Federal Court recounts how, on his way there, Graham "jumped ship" (as he put it) in Panama and gradually worked his way up through Central America to arrive in Boston in time for the September 1962 term. His love of travel began at that time.

From Boston he travelled to London and the London School of Economics where he was a postgraduate scholar.

On his return to Sydney he joined the firm of Parish Patience & McIntyre, becoming a partner in 1965. In 1970 he became a partner of Dawson Waldron where he built an enviable reputation as a tax lawyer. He left the firm in 1976 to practise at the NSW Bar where he had the good fortune to read with Richard Conti. At the Bar, he quickly gained a formidable

reputation – and soon a national reputation - in the fields of tax, public law and commercial law. He was appointed Queen’s Counsel in 1984, after only eight years at the Bar. He wrote many learned papers and wrote the standard text on Stamp Duties.

This hardly does justice to a very distinguished career as a solicitor and then as a barrister, but I need to pass on to his time as a judge of the Federal Court of Australia, to which he was appointed in February 1989.

As a judge of the Federal Court, Graham Hill showed once again his exceptional talents as a legal scholar. He quickly showed his new talent as an outstanding judge. He wrote many fine judgments in the field of taxation and in related areas, but his judicial work covered, with equal distinction, the whole range of the Court’s trial and appellate work. His work in all fields was, and is, widely respected and frequently quoted. He has left us with an impressive body of jurisprudence.

Whilst a judge of the Court he maintained his connection with Sydney University. He taught there continuously in a part-time capacity as the Challis Lecturer in Taxation from 1967 until the day before he died – a period of nearly 30 years. He was the longest serving teacher in the Faculty. He was also a mentor to many academics and younger practitioners in the field of taxation.

In May 2002 the University of Sydney honoured Graham by awarding him the Degree of Doctor of Laws (*Honoris Causa*) for his outstanding all round contribution to the University and the law. It was observed by the Chancellor that he had a research and publication record of which a full-time academic could be proud. His valuable contribution as patron of the Australasian Tax Teachers’ Association was also acknowledged.

There was a charming and appropriate reminder of his work with the Australasian Tax Teachers’ Association in the obituary published last week in the *Australian Financial Review*. The author quoted Ms Coleman, who invited him to be the patron as saying:

“He came to every conference, he gave a fabulous technical talk, and he always said “put me up in the cheapest accommodation so I can meet the most people – he made himself available to everybody”.

I quote this because it reveals one side of the essential Graham.

Graham’s contributions to the academic world extended beyond Sydney University. He was also a great supporter of the teaching of law at Flinders University, where he had spent time as a judicial fellow. I received this morning a request from the Dean to convey the condolences of all to Justice Hill’s family and his judicial colleagues. There was an added note from the staff and students. Graham was also the Chair of the Law Faculty Advisory Committee of the University of Wollongong.

I return now to his work as a judge of our Court, which I need hardly add, was undiminished by his contributions in other fields. He was a remarkably hard worker and exceptionally fast and efficient in his writing.

Two areas require special mention. The first is judicial education.

Judicial education was one of Graham Hill’s great interests and it was an area in which he made a massive contribution to the Federal Court and to the judiciary generally, here and overseas.

For many years, Justice Hill was an energetic Convenor of the Federal Court’s Education Committee. That Committee has produced outstanding programs for the entire Court twice yearly, in conjunction with our annual judges’ meetings and equally outstanding seminars in

conjunction with the Law Council of Australia every year immediately following the March meeting. Graham was personally involved in a leadership role in all these activities. The seminars held with the Law Council, and indeed some of our own internal workshops, were attended by some of the most eminent people in their fields, here, in the United States and in the United Kingdom. More recently, the role of Graham's Committee expanded to encompass two other activities. The first was the training of our own registry and chambers staff and the second was the work presently undertaken by the Court in other regional countries in the areas of judicial and administrative training. Justice Hill worked in both of these areas.

His activities were not confined to Australia. He was involved with the Commonwealth Judicial Education Institute and more recently was appointed to the Board of the newly formed International Organisation for Judicial Training. He accepted my nomination as alternate representative, later to become primary representative, of the Federal and Family Courts on the Council of the National Judicial College of Australia.

His international work was recognised this week by the head of the Commonwealth Judicial Education Institute who wrote saying that Justice Hill was an outstanding man and that his passing would be a great loss, not only to his family but to the international community where, she said, "His intellect, accomplishments, learning of compassion for others, were well known and valued".

Similar sentiments were expressed in a message of condolence from judges of the Central Tax Court of Thailand. They expressed their profound sorrow and grief, and recognised his contributions to Thailand. His work in the field of the development of tax law extended to the People's Republic of China where, as part of a program funded by the Australian Government, he outlined the significance of the rights of appealing taxation rulings and assessments to independent courts, and – his great passion – the rule of law.

I have focussed upon his work in the field of education for which the Court has had most contact and I should also recognise his work with the Taxation Institute and the education of tax lawyers.

I keep coming back to tax. That, of course, was his primary field, but as I hope will become apparent, his work extended throughout the whole field of law and legal and judicial education.

Another area in which Graham Hill made a huge contribution to the Court was technology.

Graham Hill was a member of the Federal Court's Information Technology Committee for some 16 years, and for 14 years – until last month – he was its Convenor. This is not the occasion to detail the achievements of that Committee but it should be said that the Court, and through it the legal community and litigants, have had the benefit of nearly all the advances in information technology as it affects courts as and when they have taken place. Since those years were times of momentous and rapid technological change – as indeed is still the case – and since our progress in this area has avoided the pitfalls, cost blowouts and general disasters too commonly associated with these projects, we have much to be grateful for. More than that, since the Federal Court is entirely self-administered and since its administration rests on collegial foundations, Graham Hill's leadership in this risky area was indispensable. Difficult decisions needed to be made that required his leadership and his knowledge of a very technical field, but they were the right decisions. The Court, and through it the public, was exceptionally well served by Graham's work in this field.

It is said of Graham Hill that he had a passion for justice, and so he did. This appears from his writings, especially his extra-judicial writings. In his judicial writings, it is plain that his

passion for justice did not lead him to be unfaithful to his judicial oath to do justice according to law. Plainly, though, he felt deeply about the rights of the individual and he felt deeply about the role of the judge as ensuring that the law was obeyed in cases affecting a citizen.

Graham Hill had a nice sense of humour. It was not of the boisterous type and one would hardly imagine that it could be. But it appeared from time to time in a way that many of us found charming. He did have his idiosyncrasies, as I suppose do we all. It is true that if one commented to Graham that it was a fine day, the chances were that this would be qualified by reference to other matters such as humidity or even the possibility of rain. His somewhat distinctive approach to these matters did nothing to diminish our affections for him.

In the occasional address Justice Hill delivered in the Great Hall of the University of Sydney upon the conferral of his Honorary Doctorate he made several observations which are revealing of the fine person that he was.

I would like to quote two of them, using his own words for the first.

He said:

“Some years ago at a function where Judges mingle with students I remember a student asking me whether I had had, when I was at law school, the ambition to be a Judge. I thought the question was rather amusing, probably because at the time I was a student the possibility would have seemed unattainable. But I am proud that this is where I have ended up. I have always enjoyed my life in the law, whether as a solicitor, a junior barrister, Queen’s Counsel, Judge or as a lecturer, even if part time, at the Law School. Indeed, I have been very fortunate. As a postgraduate student in London I visited the Soviet Union and met Russian students in the then Leningrad. They refused to believe that a student from Australia whose parents had not been rich and who had died long before I had graduated could have gone to University and studied not only in my own country, but also in America and England. It conflicted with the Communist propaganda that they had been fed. I am really grateful for the many opportunities I have had.”

He then made some powerful observations about the rule of law, but it is his conclusion that I wish to use to conclude my own tribute to him – a tribute made on behalf of his judicial colleagues in the Federal Court. He referred to a very close friend, then long dead, who was always helping those who were less fortunate. The reward of this friend, he said, was to see that those who were helped would later help others. He said: “My friend was a very happy person, for it was true.” He exhorted the students to help the future generations of students and said that that would surely bring them rewards.

As well as being an exceptionally fine judge, scholar and teacher, Graham was indeed a helper and an inspiration to many.

We shall all miss him very much indeed but we are all richer for his work. To his family and friends, the judges of the Federal Court offer their deepest sympathy. For those of us in the Court – and the staff of the Court as well – his many contributions will be enduring.

This is very sad news - Justice Hill contributed so much to others and to the tax profession. I came in contact with him through early ATTA, ATAX, Taxation Administration conferences and as a 'one semester' student in his stamp duty lectures at Sydney University. I remember him as a keen participant, interesting dinner speaker and stimulating lecturer. I will be only one of the many who will miss him.

Berenice Talintyre, 28 August 2005

I'm shocked and very much saddened to learn about the passing away of Graeme. He was like family whenever I met him at ATTA Conferences. I re-call the last time I saw him when we were in Wellington at the beginning of this year and we went for that cruise where we played all those games.

I have never met a judge as approachable as him.

He'll be sorely missed. Thanks for letting me know.

Hope Ashiabor, 25 August 2005

Before being formally introduced to Graham Hill, I recall seeing him shopping at the Sydney Fish Markets. Don't ask me what seafood he was buying, as it was in the fruit and vegetable store. In the early 80's, he once appeared in a law library and the staff enquired about his identity and he replied: "I am Hill of stamp duties."

When I gave a paper at ATTA, I chastised tax academics for not citing the *Federal Court Reports*, the authorised reports of the Federal Court of Australia. Graham suggested when counsel appeared before him, it did not matter if they cited the *Australian Tax Cases* or *Australian Tax Reports* even if the FCR's were available, despite the Federal Court Practice guidelines.

At one ATTA Conference I asked Graham if he would write the foreword to a book I was planning on tax research. He revealed he would think about it after seeing the manuscript. Unfortunately that project has not seen the light of day. If anyone deserved the ATTA Medal for tax teaching, I always thought Graham deserved it, yet I suspect he had reservations about the concept itself.

I was always pleased at Graham's informality, his going out for a smoke, travelling with ATTA members after conferences, his down to earth mentality. My daughter, Rosemary attends Croydon Public School, which is the suburb where Graham spent his time whilst at university.

Colin Fong

Graham Hill was the best of friends to each of us and to all of us - indeed for so many years it is hard to believe that it has ended. He was a great judge in the best of tradition with a willingness to depart from that tradition where he knew value would be added. He was the best of teachers and helped create the 'tax profession'. As a supporter of tax teachers he was without parallel - his willingness to join in and to help was simply unsurpassed. Many, like me, benefited from his personal assistance and reassurance. Decades as a tax teacher inevitably saw him active in the earliest of the Tax Teachers' conferences - and of course Patron of the association for many years now. So many times Graham gave of his time and knowledge - so freely and generously. Not only was he a mainstay (probably the 'underwriter' to their success) at a myriad of conferences (tax teachers, TIA, various universities) he was

also deeply involved in the establishment ATAX - giving up entire weekends on this latter activity. He was active at Sydney Uni, Flinders Uni and perhaps less well known is the fact, that as a boy from Croydon, he recently has also been active as Patron of the University of Western Sydney Law Students' Society.

He was and is (just read a judgment or paper and you will see what I mean) the best of friends - just as we would all wish to be if we could. It is an honour to be one of the many that Graham thought of as a friend. Like all his friends, I will miss him dearly.

Associate Professor Patrick Gallagher, UWS

He had one of the sharpest intellects I had the pleasure of encountering, but with a grace, humility and tolerance one does not always find in the law. This was one of the traits which struck me from the time I first "sat at his feet" in the 1980s with David Bloom, Tony Slater and others in his Sydney Uni LLM course on "Gift, Estate, Death and Stamp Duties" - or something like that.

He had a gentle way of leading people through the steps in his reasoning on an issue in a way that was challenging but not confronting - though not all his LLM students felt that way.

He would always listen patiently to alternative perspectives and interpretations, and was never dismissive or demeaning to those he thought were on the wrong track - though he certainly made it clear when he thought someone was missing the point (and believed, I think, that the current High Court frequently got tax matters wrong!).

I was always impressed by the amount of time Graham willingly and cheerfully gave to tax education. From the 1980s, when his earnings as a solicitor and then barrister meant that he was certainly not doing it for the money, he regularly gave classes on the taxation of trusts and other topics to students in various LLB, postgrad and fee-for-service tax courses that I ran at various universities. He had a wonderful way of simplifying complex concepts in a way that students could easily grasp, and providing an overview of the topic which enabled them to see the linkages and relationships within and beyond the topic.

I asked him once, in the course of yet again thanking him, why he devoted so much of his valuable and highly sought-after time to provide in effect "free" education. He replied that he felt a need to return something to the system which had given him so much.

Would that there were more with that view!

He was a good friend - in the good but also particularly in the bad times, which is the true test of friendship, and his family and friends, the law, and society at large, is much the lesser for his passing. I will miss him.

Robin Woellner, 11 September 2005

A most fond memory of Justice Graham Hill was at this year's ATTA Conference Dinner sitting with him at dinner, chatting about tax cases, sport, teaching, etc. Graham was so knowledgeable, personable, with a keen sense of humour and wit.

Adrian Sawyer, 12 September 2005

There are not many of their Honours who will turn up even to a conference of tax teachers unselfconsciously wearing jeans and a leather jacket, and engage in conversation on almost any tax topic. He had a frankness and a candour that made him engaging company though he always observed (more or less) the restrictions imposed by his judicial role. He was also one of those lawyers who reached the upper ranks of the profession entirely on merit, without family or social connections. Ironically he spent much of his career dealing with the problems of the rich, though he occasionally appeared for the odd "little guy"; see *Sharma v FCT* 84 ATC 4260.

Graham's expertise as a tax lawyer was a two edged sword on the Federal Court. Though he had the confidence of his colleagues on that Court, the High Court seemed not so impressed, or at least wanted to impose its own view (eg *Hart v FCT* 2004 ATC 4599). I know this bothered Graham, but he stuck to his guns (*Macquarie Finance Ltd v FCT* 2004 ATC 4866). He was very logical, very practical and very thorough. Occasionally I felt he could have been more succinct, but you were never left wondering what he had decided. In the best Dixonian tradition he did not overtly decide cases on policy grounds but some of his decisions were clearly intended to have a policy effect. In *Davis v FCT* 89 ATC 4373 for instance he virtually destroyed alienations of income as a tax planning device. Behind the conservative façade he was a creative judicial thinker. He will be sorely missed, especially from ATTA conferences. His influence will linger long through all those students he taught at Sydney Law School in the last 35 years.

Philip Burgess, 12 September 2005

5 *Journal of the Australasian Tax Teachers Association (JATTA)*

The *Journal of the Australasian Tax Teachers Association (JATTA)* is now live!

I am pleased to advise members of ATTA that JATTA is now a reality.

You can access the first edition at the following address:

<http://www.atax.unsw.edu.au/atta/jatta/index.htm>

I think you will agree that the journal looks very impressive. Also, at the above web page, you will notice that we have also received our own ISSN number (ISSN: 1832-911X).

I would like to record my thanks to all other Editorial Board members for all their hard work, as well as to the ATTA Executive and also to Atax for kindly hosting the online journal.

We are looking forward to building upon the good work already done by shortly uploading the papers from the Wollongong and NZ conferences and then moving forward with the Melbourne conference.

Dale Pinto

6 Call for Atax Research Fellowship Applicants 2006

In 2006 Atax will offer two Research Fellowships to visiting academics or practitioners keen to further their research in the field of taxation and related disciplines. Each Fellowship is valued at up to \$A7,500.

Research Fellows normally spend four weeks working at Atax on a mutually agreed area of research. During their stay, Fellows are involved in the following activities:

- producing at least one research paper on a topic of taxation interest. This paper will be published as part of the Atax Discussion Paper Series and may also be published elsewhere;
- conducting an Atax staff seminar for interested tax academics;
- collaborating with Atax staff in writing a paper on any aspect of taxation or its related disciplines and suitable for eventual publication in a refereed journal; and
- participating in Atax collegial activities during the period of the Fellowship.

Atax will provide office space and computer equipment at its campus in Sydney, Australia. Fellows will be responsible for organising their own travel and accommodation arrangements. The preferred timing for successful applicants to undertake the Fellowship is August 2006, but other times of the year may also be possible.

Selection

Selection is based on the applicant's field of interest, research proposal and on their ability to contribute to the Atax research profile.

Application

Applications are invited from academics and others working in taxation and related disciplines from around the world. To apply, applicants must send a letter of application, indicating the area they wish to research under the Fellowship, a current curriculum vitae and their preferred timing to undertake the Fellowship.

Applications should be sent to:

Associate Professor Binh Tran-Nam, Research Fellowship Convenor
Atax, Faculty of Law
UNSW SYDNEY NSW 2052
AUSTRALIA
Email: b.tran-nam@unsw.edu.au

Applications to undertake the Research Fellowship in 2006 must be received by 30 November 2005. Successful applicants will be notified by 31 December 2005 and undertake the Fellowship in 2006.

7 Launch of 2004 UNSW Atax Conference Publication *Global challenges in tax administration*

1. This launch seems not to have attracted as much attention as the recent launch of the shuttle at Cape Canaveral. Fortunately, however, the launch has not been delayed, there are no missing or damaged tiles and even if the Commissioner's thinking is dominated by problems of recovery, these problems relate to recovery of tax and not to recovery of this book.

Tax administration

2. There is no denying that our present tax régime - and I am speaking of the federal régime with its emphasis on income and capital gains tax and GST - has been subjected to widespread criticism, on many and substantial grounds. The present tax régime is less than an integrated whole; it has grown like topsy and suffers from a series of *ad hoc* inputs which have resulted from a variety of particular initiatives and *ad hoc* compromises. These characteristics of the system are a serious point of criticism because the tax régime should be seen to operate fairly; the perception that it operates fairly is essential to a culture of compliance. There is obviously a strong case for a review of the system, as Professor Grbich's paper in this book strongly asserts. But that is not the point I want to make on this occasion. The point I want to make is that the existence of the criticism is damaging to the system, to its administration and to the all-important goal of compliance.

3. Just as the court system recognises that the maintenance of public confidence in the court system is essential, so it seems to me that public confidence in the administration of taxation is of fundamental importance. Central to the existence of public confidence in any system is that it be administered consistently, rationally and in a principled fashion. If so administered, the system should deliver predictable, if not certain, outcomes and generally meet the expectations of stakeholders.

4. In an ideal and perfect world, laws would be so sharply expressed that their application to every possible situation would generate a certain and unquestioned outcome. In the real world that is not possible because it is beyond the ingenuity of legislators in advance to imagine every conceivable situation and to fashion a rule that would generate such an outcome for each situation. So, in many instances, rules must be formulated in general terms, leaving it to the courts to apply them to particular situations as they arise for determination. It is inescapable that a tax régime will find it necessary to formulate many provisions in general terms, involving some degree of leeway in their application and repose discretions in the revenue authorities.

5. In the case of discretions, it is vital that they be exercised in a principled way. The legislature can contribute here by identifying relevant criteria and, where appropriate, by indicating the weight which should be given to relevant factors. Although arbitrary discretions are regarded as inconsistent with the rule of law, if discretions are consistently exercised in a principled way, this objection disappears and the outcomes delivered, in general, should be predictable.

6. I say, in general, because in some cases - take *Hepples Case*¹ (on capital gains) and *Hart's Case*² (on Pt IVA) - the statutory provisions in their application to particular facts admit of different approaches so that even the judges have divergent views as to how the provisions should be applied to the facts. These cases are exceptions to the general rule. But their existence reminds us, first, that care and skill must be given to the formulation of both general and discretionary provisions and, secondly, that, even with skill and care, debatable borderline situations cannot be eliminated.

7. In Australia, we are faced with a particular problem in that, so far, it is thought that our courts do not interpret creatively statutes expressed in general rather than in detailed terms. Our courts have either discarded or marginalised concepts such as legitimate expectations, proportionality, abuse of power and good administration, which are features in United Kingdom and European law. The difficulties that exist in Australia can be appreciated by comparing the papers in this book by Ms Eden and Professor Grbich, though Professor Grbich seems to make no allowance for the fact that precedent plays a much more important

¹ *Hepples v Federal Commissioner of Taxation* (1992) 173 CLR 492.

² *Federal Commissioner of Taxation v Hart* (2004) 217 CLR 216.

part in our law than it does in European law. The importance of the difficulties should not be overlooked. Our judges adhere to Sir Owen Dixon's narrow conception of judicial power and there are the questions whether Parliament is able and willing to tell judges specifically how they should interpret a particular statute expressed in very general terms³ and whether the judges would respond to such legislative direction. This is all the more important at a time when there is a renewed emphasis on principles-based drafting in enacting tax legislation. Such an emphasis will only be effective if judges interpret legislation expressed in terms of general principles in the way that overseas judges succeed in doing.

8. Principled tax administration calls for impartial and independent administration. In the Australian system, the Commissioner of Taxation is independent and accountable. There is vested in the Commissioner, and no-one else, the general administration of the tax laws, including the power to assess and collect tax. There is a community expectation that the Commissioner and his officers will act independently and fairly in administering the tax laws and in exercising their various statutory powers; in other words, that these powers will be exercised in accordance with law, without fear or favour and free from political influence. Equally important is that the Commissioner's independence should be respected by others, including government. And that means that the Commissioner should not be seen to be acting at the behest of others or subject to the influence of others, including politicians. These propositions are well recognised but it is worth repeating them because public confidence in the system depends upon their acceptance.

Anti-avoidance provisions

9. The Commissioner of Taxation, Mr Michael Carmody, in his paper, makes it clear that the presence of robust and effective general anti-avoidance provisions are critical to the integrity of Australia's revenue systems. Since that paper was written, the High Court has delivered its decision in *Hart's Case*. Whether the decision offers the certain guidance that the Commissioner and others were hoping for remains to be seen. It seems to be thought by informed observers that the judgments offer more encouragement to the Commissioner and his forces than to the sophisticated tax minimisers. Whether they are right remains to be seen. But I doubt that *Hart* has done much to lessen the conflicts and the tensions that exist in this area of the law.

The Tax Laws Amendment (2005 Measures No. 6) Bill 2005

10. A new development is likely to add to these tensions. This development is the Tax Laws Amendment (2005 Measures No. 6) Bill. The Bill is designed to introduce a range of measures - civil penalties, statutory injunctions and voluntary undertakings - aimed at deterring the promotion of schemes that exploit the tax system and the tax laws by avoidance or evasion. To the extent that the legislation is directed against the promoters of such schemes, there can be no objection to the legislation on policy grounds. There is no reason why taxpayers should continue to be victims under these schemes, while the promoter is under no liability. But there are problems with the definition of a "promoter".

11. According to the definition, an individual is a promoter of a tax exploitation scheme if
- (a) the individual promotes the scheme by implementing it, advancing it or encouraging its growth or interest in it; and
 - (b) the individual receives (directly or indirectly) consideration in respect of the scheme; and
 - (c) having regard to all relevant matters, it is reasonable to conclude that the individual has a substantial and integral role in promoting the scheme.

³ Cf. S. 15AA of the *Acts Interpretation Act 1903* (Cth).

One aspect of this definition which is a matter of concern is that a promoter is defined in terms of a person who implements or advances a tax exploitation scheme. There is no statutory definition of an "implementer" or "implements".

12. My concern is primarily with the position of tax and legal practitioners and, to a lesser extent, with financiers and financial planners. The exposure draft of the Bill contains a provision (s. 290-60(2)) which states that an individual is not a promoter of a scheme "merely because the individual provides advice about the consequences of entering into a scheme (as opposed to encouraging or helping entities to enter into the scheme)".

The Explanatory Materials state that this is because the mere provision of such advice is not generally considered to be, in itself, implementing a tax exploitation scheme. Similarly, it is said, a tax or legal practitioner would not be a promoter if they design a tax effective arrangement that is later found to be a tax exploitation scheme. The Explanatory Materials go on to say

"tax or legal practitioners who provide objective, independent advice to a client at the client's request will not be considered a promoter".

13. Although the emphasis in the Bill and in the Explanatory Materials on "the mere provision of advice," coupled with s. 290-60(2), suggests that the practitioner who does something else, for example, drafting documents which happen to be elements in the scheme, may be a person who implements or advances the scheme and thus a promoter, s. 290-60(1) para. (c) and other references in the Explanatory Materials to an implementer seem to indicate that this may not be the case. There, the implementer is described as having an instrumental role in the operation of the scheme,

"[one who is] responsible for making the supervisory or managerial decisions that put a scheme into operation or significantly influence the running of the scheme".

But this description and other statements in the Explanatory Materials are not carried through into the statutory provisions. Why then do they appear in the Explanatory Materials instead of the statute and what purpose are they supposed to be serving? In what way will they influence the interpretation of the statutory provisions? Careful attention should be given to the House of Lords decision in *Wilson v First County Trust (No. 2)*⁴ where it was pointed out (a) that the cardinal constitutional principle is that the will of Parliament is expressed in the language used by it in its enactments and (b) the limited role that extrinsic materials, including Ministerial statements, play in legislative interpretation. They - and, for that matter, Explanatory Materials - are simply background material which may evidence context and purpose but they cannot control the meaning of the text.⁵

14. What of the adviser who gives tax advice, drafts documents that are essential elements of the scheme, advises how the scheme should be operated (for tax reasons) and therefore has an influence on how the scheme is conducted? Likewise, what of the financial planner who gives financial advice? And, in a case where the scheme is marketed, add to these activities the fact that the adviser's advice features in the marketing of the scheme. Do these activities, or any of them, make the adviser an individual who implements or advances the scheme or encourages its growth or interest in it? It may be that a court will conclude that such a result could not have been intended. But should not the matter be put beyond doubt and clarified one way or the other? The legislation, it should be noted, is not confined in its application to schemes which are marketed. Some comments about the legislation mistakenly seem to suggest that it is so limited.

⁴ [2004] 1 AC 816.

⁵ Ibid at para. 58. Section 15 AB of the *Acts Interpretation Act 1903* (Cth) does not undercut these fundamental propositions. See *Ex part Beane re Bolton* (1987) 162 CLR 514.

15. There are also problems associated with the provisions seeking to define a tax exploitation scheme and with the statement of what is consideration or indirectly received. One element of the definition of a tax exploitation scheme is that the scheme benefit which the scheme's purpose is to deliver "is not available at law". When is a scheme benefit not available at law? When it is so decided on appeal on an objection against an assessment - that is how the question would be usually answered. How is the issue to be determined by the Federal Court on an application for an injunction before an assessment has issued? Is this question to be determined outside the régime of assessment, objection and appeal for which the Assessment Act provides? If so, and it would seem to be so, the proceedings will have some unusual features and give rise to new issues. For example, in such proceedings for an interlocutory injunction under the legislation the onus will be on the Commissioner, not the taxpayer.

16. Proceedings for an interlocutory injunction before assessment may, however, be rarely instituted. Proceedings for civil penalties are much more likely to be resorted to. It is remarkable how popular the proceedings for a civil penalty have become as a substitute for criminal proceedings. This is due to the difficulties associated with securing criminal convictions. That said, this may well be an area where civil proceedings for penalties are singularly appropriate.

17. In raising these questions about the proposed legislation, I repeat I that am not opposed to the legislation in principle. There is no persuasive reason why legislation should not be enacted imposing civil penalties on promoters of tax evasion and ineffective tax avoidance schemes, even, in appropriate cases, enabling injunctions to be granted against marketing them. There may be a question as to how effective such legislation will be. But any legislation which seeks to secure these objects should be clearly drafted and should not leave practitioners, financiers and financial planners in any doubt as to their legal position. Principles-based drafting is not immune to a requirement of clarity. Indeed, principles-based drafting calls for legislation which is clearly thought through and clearly expressed, especially when it imposes severe financial penalties for non-conforming conduct.

18. There is another and compelling reason for adopting this approach. Clearly drafted legislation leads to less litigation. There is no doubt that uncertainty in the law, notably statute law, leads to expensive litigation.

Public rulings

19. The rulings system continues to give rise to difficulties. Just why this should be so is by no means clear. One complaint is that the ATO amends public rulings. This, it seems to me, is an inherent element in the system. After all, a judicial decision may result in a change in the law with adverse consequences for taxpayers, particularly for those who may have acted on the faith of the law as it was formerly understood. It is inevitable that, if the Commissioner's understanding of the law is changed by judicial decision, he must alter any prior public ruling so that it conforms with the law. A similar but certainly not an identical situation arises when the Commissioner concludes for reasons which he regards as persuasive, though not dictated by a judicial decision, that an earlier public ruling is erroneous. Again it is not to be expected that the Commissioner should persist with a ruling that he believes to be erroneous. It has been suggested that consideration should be given to holding the Commissioner to a ruling in the case of a taxpayer who has acted in reliance upon it before it is amended. But taxpayers must take the risk that the courts may change the law by judicial decision. The risk that the Commissioner will change his mind is even greater. It would be different if a public ruling is to be seen as legislative in character. Then it would operate prospectively.

Conclusion

20. I strongly commend the book. It contains many interesting, informative and provocative articles. With that commendation, I declare the book duly launched, though I note, rather sadly, that the organisers have not armed me with a bottle of Dom Perignon to celebrate the event. No doubt that is because the organisers are not tax avoiders and Dom Perignon is beyond their means.

Sir Anthony Mason
18 August 2005
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8 Cliff-hanger election in New Zealand: Possible implications for tax policy

Saturday night's general election in New Zealand did not deliver a clear winner. Based on election night results the Labour Party would receive 50 seats (40.74% of the vote), the National Party 49 (39.63%), New Zealand First 7 (5.84%), Greens 6 (5.07%), Maori Party 4 (1.98%), United Future 3 (2.72%), ACT 2 (1.52%), and Jim Anderton's Progressive Party 1 (1.21%). As the Maori party won a number of electorate seats higher than their proportion of the nation-wide party vote there is an overhang in Parliament with 122 MPs in the normally 120 MP Parliament. All other parties' numbers of MPs are based on the proportion of the nation-wide party vote received. There could be some change to these results following the counting of the 218,000 special votes (of a total 2.053 million votes cast). Given previous experience with special votes these are likely to favour Greens and Labour.

The National party's proposals for personal income tax reductions played a role in their increase in electoral support (up from 21% in 2002). (See www.national.org.nz for details of these proposals.) In the 2005 Budget the Labour-led government limited income tax relief to indexation of the personal income tax thresholds from 1 April 2008 and to reform of the Family Assistance Tax Credits (as part of the Working for Families reforms). During the election campaign Labour proposed an extension to reform of Family Assistance. (See <http://www.nzherald.co.nz/search/story.cfm?storyid=%1E%FB%F8%C5%28%B6%B8G> for a discussion of these reforms.) Labour Prime Minister Helen Clark recently indicated support for personal income tax reductions and all major political parties with the exception of Labour have a policy of reducing the rate of company taxation. Both the Greens and United Future favour income tax free thresholds. United Future also has a policy of income splitting.

Until a coalition is formed it is only possible to speculate on the implications of this election for tax policy. During the election campaign New Zealand First ruled out entering coalition with either Labour or National. Both New Zealand First and United Future have positions of allowing the party with the largest vote the first right to try and form a government. Assuming these positions do not change the likely coalition options are:

- Labour-Jim Anderton minority coalition (51) with some combination of New Zealand First, Greens, United Future, Maori as supporting parties (providing support on votes of confidence and supply but not entering coalition);
- Labour-Jim Anderton-United Future minority coalition (54) with some combination of New Zealand First, Greens, and Maori as supporting parties; and
- Labour-Jim Anderton-Greens minority coalition (57) with some combination of New Zealand First, United Future, Maori as supporting parties.

Given the closeness of the election result it is possible that any Labour-led government will consider extensions to the Working for Families reforms, a reduction in the company tax rate, and personal tax reductions before 2008.

Patrick Nolan

9 20 year anniversary of the Reform of the Australian Tax System

“On Friday 16 September 2005, KPMG issued a media release commenting on the twenty-year anniversary of the announcement, by the former Treasurer, the Hon. Paul Keating, of the Reform of the Australian Taxation System.

The Reform of the Australian Taxation System, or RATS as it became known, included:

- The introduction of a general Capital Gains Tax (CGT);
- The introduction of Fringe Benefits Tax (FBT) including the taxation of non-cash benefits at the employer level;
- The introduction of a foreign tax credit system for foreign source income of Australian residents;
- The reduction of the highest marginal tax rate from 60 to 49 per cent; and
- The removal of double taxation on company dividends (the introduction of imputation).

In the media release the National Managing Partner of KPMG's Tax Practice, Ross Doherty, comments that RATS has "paid dividends to families 20 years on; however, companies have not fared as well".

Mr Doherty said that RATS "has achieved many of its aims in attempting to make the tax system more equitable and efficient. Average families pay around 3 percent less of their income in tax today than they did in 1985. For many with investments, the reduction of the highest marginal rate from 60 percent to 49 percent and the introduction of dividend imputation helped reduce their average rate by something in the order of 10 percent, despite a new capital gains tax. However, as the reasons for the reforms 20 years ago are now resonating in the current debate around individual and company tax reform, there is a need for a new round of reforms today".

Mr Doherty also commented on the impact that RATS has had on companies, highlighting that "company tax revenue has been increasing over the last 20 years" and that despite the reduction in the corporate tax rate from 46 percent to 30 percent between 1985 and 2005, the tax burden as a percentage of gross domestic product (GDP) and proportion of revenue from corporate tax, has almost doubled from 9.4 percent of total taxation revenue, or 2.7 percent of GDP in 1985, to 16.4 percent of total tax revenue, or 5.2 percent of GDP by 2004.

To mark the anniversary, KPMG has prepared a Brief entitled '20 Years of RATS - 20 year anniversary of the Reform of the Australian Taxation System'. The Brief includes the following sections:

- Are we better off? - This section provides three scenarios to illustrate the impact of RATS over the past 20 years. The three scenarios examine the taxes paid prior to the RATS changes, two years after several of the changes were introduced and 20 years on in 2005;
- The RATS Scorecard - This section examines the impacts of RATS from an economic perspective, a personal perspective and a company perspective, as well as discussing the aims of RATS and if these aims have been achieved; and

- Capital Gains Tax goes platinum - This section covers a discussion on the introduction of CGT, the reach and complexity of CGT and the challenges that may arise in the future with respect to CGT.

The media release is available on the KPMG in Australia Web Site (<http://www.kpmg.com.au>)”.

Reprinted from KPMG *Daily Tax News* 19 September 2005

10 Tax teaching and learning made easy - New electronic 2005 & 2006 Tax Summary & Income Tax Legislation Service

Tax teachers now have a valuable teaching resource at their fingertips with the launch of the new 2005 & 2006 Tax Summary and Income Taxation Legislation Service. These publications are now available in easy to use, fully searchable electronic versions, with a powerful facility to add annotations.

Peter McDonald, author of the 2005 & 2006 Tax Summary and CEO of Taxpayers Australia, believes the ‘plain English guide to tax’ - which covers changes to all federal and state based tax laws - represents a number of benefits for teachers and students alike.

“Understanding the complexities of tax changes resulting from the latest Federal Budget will become even easier for tax teachers as they guide their students through the maze of legislation, compliance and complicated tax structures.

“Students demand good information and they want immediate access to it when learning the intricacies of tax. When writing the publication it’s impossible to include all information in the Table of Contents or the Index. So, being able to search the publication by words and numbers is an extremely powerful tool,” explained McDonald.

The built-in browser allows students and teachers to view content in seconds, giving them access to changes in tax deduction and GST rulings with the new drag-on search feature. A dynamic Tree Table of Contents, synchronised with the body of the publication, gives students the advantage of knowing exactly where they are as they scroll through the Tax Summary.

The new electronic Tax Summary with its powerful Note transcription feature will also give students and teachers the means to ensure their information remains relevant. Historical annotations are automatically transcribed, providing quick reference when new and revised material appears in future updates.

“The beauty of the improved electronic version lies in its annotation feature. Students and teachers can make notations on various tax structures, for example, throughout the publication and these will automatically transfer to future updates in following years. Transcribing pencil marks from the margin (or Post-It notes) in the printed version each year will now be a thing of the past. Not only is it time consuming, but it can lead to errors,” added McDonald.

Powering both the 2005 & 2006 Tax Summary and the Income Tax Legislation Service is the electronic publishing technology, *eComPress*, developed by Award winning Australian software developer, Eurofield Information Solutions (EIS).

According to Alfred Papallo, Managing Director EIS, *eComPress* technology transforms reference publications and teaching resources into ‘living’ guides that are easy to navigate, provide search results in an instant and allow students to add their own intellectual property.

“These are the benefits students are looking for when working with complex reference material - powerful off-line research and annotation.

“Tools like the electronic 2005 & 2006 Tax Summary and the Income Tax Legislation Service will also help the transition from classroom to workplace. Students will be able to effectively build their own tax libraries on an ongoing basis, and then apply this knowledge base on to their clients once they begin practising their profession. It’s an invaluable tool for teachers as they prepare their students for employment and equip them with strong fundamental tax skills they can carry forward into their professional careers,” Papallo concluded.

The 2005 & 2006 Tax Summary and the Income Tax Legislation Service are available through Eurofield Information Solutions. For more information please call (02) 9411 3711 or visit www.eis.com.au

About Eurofield Information Solutions

Founded in 1992, Eurofield Information Solutions (EIS) is an Australian technology company headquartered in Sydney, Australia. Operating in enterprise, government, consumer and education markets around the world, EIS provides secure electronic publishing and distribution solutions.

Its expertise lies in its award winning electronic publishing technology eComPress. EIS boasts an Australian Technology Showcase award along with a prestigious Consensus Award for outstanding software that is innovative and delivers real performance benefits.

EIS is an Australian Government Endorsed Supplier and has an impressive local customer charter that includes: The Office of State Revenue, Department of Health & Ageing, National Centre for Classification in Health (NCCH), the Institute of Arbitrators & Mediators Australia (IAMA) and Engineers Australia. It also enjoys success in international markets with customers such as the World Health Organization (WHO), the International Federation of Accountants (IFAC), the International Accounting Standards Board (IASB), the International Monetary Fund (IMF) and the Organisation for Economic Co-Operation and Development (OECD).

For more media information or photography:

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11 Vacancies

**Lectureships/Senior Lectureships
Accountancy Finance and Information Systems
University of Canterbury
Christchurch, New Zealand**

Vacancy number: A086-05S

Established in 1873, the University of Canterbury is one of New Zealand's leading research-led universities. As part of a major investment in research capability, the College of Business and Economics is in the process of hiring four new Professors in the Department of Accountancy, Finance and Information Systems. To complement this strengthening of academic leadership within the Department, we are now seeking a number of continuing/tenured academics at Lecturer/Senior Lecturer level:

* **Lecturer/Senior Lecturer in Accounting (2)**

Closing date: 14 October 2005

* **Lecturer in Taxation**

Closing date: 14 October 2005

Applicants should have a demonstrable commitment to research and teaching excellence. A competitive total remuneration package, including study leave and research support, will be negotiated with successful candidates and the position offers an excellent quality of life in Christchurch.

A position description and related person specifications for each post, together with further details about the Department, College and University, may be downloaded from our website: <http://www.canterbury.ac.nz/hr/vacancies>
The reference number is A086-05S

For an informal discussion about the vacancies, please contact the Head of Department, Dr Yvonne Shanahan (tel: +64 (0)3 364 2619 or yvonne.shanahan@canterbury.ac.nz).

Applications, quoting the reference number A086-05S, should be submitted on-line. E-mail queries to sheryl.findlay@canterbury.ac.nz

For further information and to apply online visit: <http://vacancies.canterbury.ac.nz>

12 Tax, Accounting, Economics and Law Related Meetings

Local

Atax Continuing Education classes in taxation are suitable for those wishing to update their skills without assessment tasks or exams. Registrations have now closed for most of the session 2 continuing education courses, however, places are still available for the next intensive that is scheduled to start on August 25. The intensive short courses are held over 5 days at Atax's Cliffbrook Campus in Coogee, Sydney.

Double Tax Agreements (25-30 August)

This intensive short course provides a comprehensive and in-depth study of DTAs including DTA coverage, dual residency issues, and taxation of passive income flows, taxation of business income and capital gains, and mechanisms to alleviate double tax.

**no classes are scheduled on Sundays*

For more information about Atax's continuing education opportunities, please visit www.atax.unsw.edu.au/conteds205.htm or phone Atax Student Services on **02 9385 9333** or email anna.b@unsw.edu.au

Atax Research Seminar Schedule: Session 2, 2005. Please note the forthcoming seminars in your diary. With the exception of Dr Ordower's seminar, they will be held at the CATS room, Atax, Cliffbrook campus, 45 Beach St, Coogee. Seminars begin at 1.30pm with a light lunch served from 12.30pm. The UNSW Law School has kindly agreed to host Dr Ordower's seminar – more details on this to follow.

It is not necessary to RSVP at this stage, but it would be appreciated if you contact me to ensure you are included on the seminar email list. You will then receive an invitation closer to the event. Please circulate this schedule to your colleagues.

Friday 21 October "Constitutional law protection of horizontal and vertical equity in taxation (US and Germany)"- Dr Henry Ordower, Professor of Law, Saint Louis University School of Law

Friday 11 November "E-filing SA tax returns and IT adoption strategies" - Dr Ann Hansford, Senior Lecturer, Bristol Business School, The University of the West of England
Telephone: +61 2 9385 9362; Fax: +61 2 9385 9380; m.mckerchar@unsw.edu.au

ATAX Courses on offer session one 2006

There are over 40 tax courses available from ATAX in session one 2006. All of these courses (listed at <http://www.atax.unsw.edu.au>) are available in flexible distance mode.

Many are also offered face to face as listed below.

Evening classes (Sydney CBD) Venue: AGSM, 1 O'Connell Street, Sydney

Date: Session 1 runs from 27 Feb until 13 April (14 weeks)

ATAX0403 Taxation of Corporations	Thursday 6-8pm
ATAX0411 Taxation of Capital Gains	Wednesday 6-8pm
ATAX0422 GST Design and Structure	Monday 6-8pm
ATAX0427 Tax Strategies in Financial Planning	Monday 6-8pm
ATAX0455 Taxation of Property Transactions	Tuesday 6-8pm

5-day Intensives (Coogee) Venue: Session 1 courses held at Cliffbrook Campus, 45 Beach Street, Coogee

1. ATAX0401 Tax Policy 30 Mar - 4 Apr 2006
2. ATAX0436 Spec Tax Jurisdictions: 6-11 Asia Apr 2006

Telephone Atax Student Services on + 61 2 9385 9333 or email atax@unsw.edu.au for more information.

Taxation Institute of Australia

<http://www.taxinstitute.com.au/cda/cpd/events/1,1335,,00.html> lists many of the TIA conferences, conventions, seminars, breakfast clubs. For further enquiries, contact Sarah Hadfield by telephone on (02) 8223 0031 or by email by clicking <mailto:sarahhadfield@taxinstitute.com.au>

Taxation Law related units of study available on a single unit "attendance only" basis through the **Faculty of Law, University of Sydney** for Semester 2, 2005.

Units available are:

Stamp Duties - 13 Tuesday evenings commencing 26 July

Taxation of Business & Investment Income - 13 Thursday evenings commencing 28 July

Taxation of Corporate Groups - 13 Tuesday evenings commencing 26 July Taxation of

Partnerships and Trusts - October 5-7 and 10, 11 (Intensive)

Mode)

Taxation of Remuneration - Sept 7-9, 12-13 (9-3.30) (Intensive Mode) Tax of CFCs, FIFs and Transferor Trusts - Sept 21-23, 26 & 27 (9-3.30) (Intensive Mode) Tax Incentives - July 11-15 (9-3.30) (Intensive Mode) Tax Law in Asia and the Pacific - October 19-21 & 24, 25 (9-3.30) (Intensive Mode) Tax Treaties - 13 Wednesday evenings commencing 27 July The Impact of Tax on Business Structures & Operations - 13 Monday evenings commencing 25 July US International Taxation - August 15-19, 22-24 (9-12.30) (Intensive Mode)

(Students undertaking units of study on a CLE Attendance Only Mode do not undertake assignments or examinations)

Cost per unit of study is \$1,890 (GST free)

To obtain a full copy of the brochure relating to Single Unit Enrolment in Semester 2, 2005, please download the following document from the Law School's website:

http://www.law.usyd.edu.au/cle/2005/2005CLEPGB_sem2.pdf

(Taxation Law Units Timetable Dates are listed on page 5 of that document and unit descriptions are listed on pages 32-38)

If you have any queries concerning single unit enrolment or are unable to download the brochure, please contact Ms Val Carey, Continuing Legal Education, Sydney Law School (Telephone No. 9351 0238, email: valc@law.usyd.edu.au.)

Full details of the Law School's postgraduate programs may be found at <http://www.law.usyd.edu.au/>, or alternatively you can telephone No. 9351 0351 for an information pack.

Public Inquiries and Royal Commissions: Issues and Trends conference, ACT Branch of the Institute of Public Administration Australia, 22 September 2005, Rydges Lakeside Hotel, Canberra <http://www.act.ipaa.org.au/docs/Flyer%20A3%20for%20fax.pdf> all inquiries to IPAA (ACT) at general@act.ipaa.org.au, or phone (02) 6251 6060

Ross Parsons Annual Lecture in Commercial, Corporate & Taxation Law, Thursday, 29 September 2005, Banco Court, Queens Square, Sydney, Lecture 5.30-6:30pm (free) Speaker: Professor Charles Rickett, "Liability for gains made in breach of contract." Please RSVP to Louise Pierce, louisep@law.usyd.edu.au or call 02-9351 0327

Govnet Annual Conference 2005 *Ethics, Governance, and the Professions*. Hosted by the Centre for Applied Philosophy and Public Ethics (CAPPE) Australian National University, 28th – 30th November. The central theme of the 2005 conference is *Ethics, Governance, and the Professions*.

Offers of papers are invited on any aspect of this theme, including, but not limited to: how professional standards, governance and regulatory frameworks are faring across a range of professions (including law, medicine, journalism, accounting, engineering, social work) and how they may be better addressed, in the context of professional practice within settings including large corporations, the public sector, and non-government organisations. In what ways might traditional methods of regulation need to be tailored to these settings? Addressing this question might involve providing some analysis of the proper nature of particular professional roles and practice; of gaining some understanding of the operation and values of the large organisations within which many professionals are embedded, and; then providing some descriptive and normative analysis of the impact of latter upon the former. In particular

the relationship between duty to client, duty to employer, and duty to wider public interests (justice, health, the public good) bears fresh examination. This leads to a range of issues dealing with governance of professions and governance of the institutions where professionals work, as seen in cases such as James Hardie, the Bundaberg Hospital, and the UK Joint Intelligence Committee.

Another area on which papers are invited will be Professionalism in the Global Context. There are many issues that might be covered under this area. One set of issues is raised by the changing political environment including the weakening of many states and the rise of non-state actors. Just as the rise of sovereign states affected many professions (including the law, the military and the public service) so their weakening may generate change. In examining the effect of shifts toward a global context on professionalism it would also be of interest to look at the technological/electronic environments. These contexts represent a rapidly growing, relatively new global context within which a range of professional activity is now being undertaken and with respect to which proper governance and regulatory arrangements face new and distinctive challenges.

We are also interested in receiving suggestions for workshops and symposia on related governance topics. Offers of papers and suggestions for symposia to jeanette.kennett@anu.edu.au

Govnet members are encouraged to suggest potential keynote speakers, especially if they can provide partial funding for them. Govnet has 5 streams. 1. Global, International and Transnational Governance. 2. Asia Pacific Institutional Reform. 3. Public Sector Governance. 4. Corporate Governance and Regulation. 5. Civil Society Governance: professions, religious institutions and NGO's. Further information about Govnet streams and their activities may be found at <http://www.griffith.edu.au/govnet/>

Eighteenth Annual Australasian Tax Teachers Association Conference 2006, 30 January- 1 February 2006, University of Melbourne Law School. Conference webpage: <http://www.law.unimelb.edu.au/taxgroup/attaConference2006.html> Contact Miranda Stewart, m.stewart@unimelb.edu.au A location map of the Law School is available: <http://www.law.unimelb.edu.au/LawSchoolStreetPlan.jpg>

7th International Conference on Tax Administration, Crowne Plaza Resort, Coogee Beach, NSW, 20-21 April 2006. Submissions for next year's conference papers are now being accepted. For further enquiries, contact Anna Bartholomaeus, Atax, UNSW on (02) 9385 9320 or anna.b@unsw.edu.au

Nineteenth Annual Australasian Tax Teachers Association Conference 2007, January 2007, University of Queensland Law School. Contact Kerrie Sadiq, k.sadiq@law.uq.edu.au

Overseas

American Accounting Association Calls for paper website <http://aaahq.org/calls/default.cfm>

Canadian Tax Foundation <http://www.ctf.ca/profDev/schedule1.asp> has a 2005 events schedule. Fifty-Seventh Tax Conference, 25-27 September, Vancouver Hyatt Regency

Institute for Fiscal Studies Conferences and seminars
<http://www1.ifs.org.uk/conferences/index.shtml>

International Bureau of Fiscal Documentation Various courses in Amsterdam, the Netherlands. For details, see <http://www.ibfd.org> The IBFD International Tax Academy (ITA) runs an extensive international course program. Generally all courses are held in

Amsterdam. Should you require any further information or wish to register please refer to their web site www.ibfd.org or contact the International Tax Academy at +31-20-554 0160 or by e-mail ita@ibfd.org

International Tax Aspects of Permanent Establishments 17 & 18 November - Intermediate

Introduction to European Value Added Tax March 13 - 16, 2006 - Introductory

European Value Added Tax 20 & 21 October - Intermediate

Introduction to European Customs and Excise Duties February 06 & 07, 2006 -

Introductory February 06 & 07, 2006 - Introductory

Tax Treaties

Interpretation & Application of Tax Treaties I 10-12 October - Introductory

Interpretation & Application of Tax Treaties II 13 & 14 October - Intermediate

Arbitration and Mutual Agreement in European Treaties 10 & 11 November - Specialized topic

Tax Treaties Workshop May 15 & 16, 2006 - Advanced

Principles of Transfer Pricing 07 & 08 November - Introductory

Transfer Pricing of Intangibles 14 & 15 November - Specialized topic

International Tax English for Practitioners May 08 & 09, 2006

For 2005 courses go to http://www.ibfd.org/news/course_calendar.htm

The ITA also offers tailor-made in-house courses on a worldwide basis for corporate clients, tax administrations and other organizations. Should you have any queries, please contact Arcotia Hatsidimitris, Head of the International Tax Academy by telephone +31-20-554 0180, or by a.hatsidimitris@ibfd.org

International Tax Planning Association Forthcoming meetings

<http://www.itpa.org/meetings.html>

International Atlantic Economic Society (IAES) conference. You can visit IAES's web site (www.iaes.org) for more information. Prof Dr M. Peter van der Hoek Academy of Economic Studies, Bucharest, Romania and Erasmus University, Rotterdam, Netherlands. Mailing address: Erasmus University (L 7-20) P.O. Box 1738 NL-3000 DR Rotterdam Netherlands Phone/Fax: +31-10-4081622 E-mail: vanderHoek@frg.eur.nl 60th International Atlantic Economic Conference will be held in New York, 6-9 October 2005; then Berlin 15-19 March 2006; Philadelphia 5-8 October 2006

European Association of Tax Law Professors Meetings and conferences

<http://www.eatlp.org> Budapest 2006; Helsinki 2007

Sixth Annual Global Conference on Environmental Tax Issues, Leuven, Belgium from 22-24 September 2005. The URL to the conference's site is:

<http://www.law.kuleuven.ac.be/imer/nieuws.html>

Organisation : Professor Kurt Deketelaere and Professor Geert Van Calster, Institute of Environmental and Energy Law, University of Leuven, Flanders, Belgium & Professor Janet Milne, Environmental Tax Policy Institute, Vermont Law School, Vermont, USA

Conference Venue : Faculty Club, University of Leuven, Leuven

<http://www.facultyclub.be/site/home.php?p=infrastructuur&newlang=uk>

Conference Theme: The central theme of the 6th ETC will be: *"The Promotion of Renewable Energy Sources through Tax or Other Market-Based Measures – Challenges and Obstacles"*.

This central theme will be developed during the first conference day, by different invited keynote speakers and panels. Traditionally, the second conference day will tackle a broad

variety of environment and energy taxation issues, from a multidisciplinary perspective. Abstracts for these presentations and panels are hereby invited.

Further information: Kurt Deketelaere: kurt.deketelaere@law.kuleuven.ac.be Geert Van Calster: geert.vancalster@law.kuleuven.ac.be Janet Milne: jmilne@vermontlaw.edu

More info on: City of Leuven: <http://www.leuven.be/showpage.asp?iPageID=2721>

University of Leuven: <http://www.kuleuven.ac.be/english/> Institute for Environmental and Energy Law: <http://www.law.kuleuven.ac.be/imer/>

Baker & McKenzie 21st Annual Asia-Pacific Tax Conference Hong Kong, 17-18 November 2005. For more information, contact Ms Marianne Shaw, Baker & McKenzie, Hong Kong. Tel: +852-2846 1078; Fax: +852-2842 0530 marianne.shaw@bakernet.com

Other useful tax and law related conference websites include the **IBFD Course calendar** http://www.ibfd.org/news/course_calendar.htm **UNSW Faculty of Law Conference Calendar** http://www.law.unsw.edu.au/news_and_events/events/events.asp **New South Wales Bar Association** http://www.nswbar.asn.au/Professional/Noticeboard/ComingUp/contents_coming.htm **Law Council of Australia** <http://www.lawcouncil.asn.au/events.html> **Law Courts Library** <http://www.lawlink.nsw.gov.au/conference> **LexisNexis Professional Development Calendar of events** <http://www.lexisnexis.com.au/aus/conferences/calendar/default.asp> See also the *inTax* Seminars Directory, published in *inTax Magazine*. **Practising Law Institute** <http://www.pli.edu/>

New York County Lawyers Association <http://www.nycla.org> **American Bar Association** <http://w3.abanet.org/home.cfm> **New York Bar Association** <http://www.nysba.org/> **Hieros Gamos Worldwide Law Events Calendar**

http://www.hierosgamos.org/hg/db_meetings.asp?action=search

<http://www.hg.org/calendar.html>

For social sciences and humanities conferences, meetings etc, see Mind: The Meetings Index <http://www.interdok.com/mind> See also the magazine *Australian Conference & Exhibition Diary*, Vamosi Information Publication.

13 Recent publications

Bold indicates ATTA members. Readers are encouraged to notify the Editor of recently written publications for notification, in these pages. Please note some of the overseas publications listed may not yet be available locally.

Local

Allen Consulting Group *Reforming income tax: Broader base, lower rates, simpler system*, Report to the Department of Premier and Cabinet, Victoria, June 2005

<http://www.dpc.vic.gov.au>

Anderson, Colin & Morrison, David 'Should directors be pursued for insolvent trading where a company has entered into a deed of company arrangement?' (2005) 13 *Insolvency Law Journal* 163-72

Argument, Stephen 'The *Legislative Instruments Act 2003*' (2005) 16 *Public Law Review* 173-78

(2005) 17 (2) *Australian Superannuation Law Bulletin*

- Mackenzie, Gordon "Channelling salary through a superannuation fund: have the new rules unleashed a monster?"

- Vrisakis, Michael “Trustee directors’ duties – riding two horses at the same time?”
- Callaghan, Paul and Hodge, Nathan “Choice of fund: some practical issues – Part 1”
Federal legislation update
- Riordan, Gary “Super cases: Employers First v Tolhurst Capital Ltd [2005] FCA 616; BC200503118) Branson J 16 May 2005”

(2005) 34 (3) *Australian Tax Review*

- **Evans, Chris** 'Promoters in the firing line: collateral damage for advisors?'
- Morfuni, VA 'The civil liability of tax advisors'
- **Taylor, C John** 'Problems with franking credits flowing through partnerships and trusts: The 2004 amendments and a simpler alternative'

Bacon, Simon 'Divergent views on depreciation in the Federal Magistrates Court' (2005) 79 (9) *Law Institute Journal* 44-47

Burgess, Philip 'Hard to make the pips squeak' (2005) 43 (8) *Law Society Journal* 82. A review of John Braithwaite *Markets in Vice, Markets in Virtue* Sydney, Federation Press, 2005.

(2005) 30 *CCH Tax Week*

- Yeoh, Daren “The application of the refinancing principle to trusts”

(2005) 31 *CCH Tax Week*

- Bean, Gerry “Service trusts: 12 months to get your house in order”

(2005) 32 *CCH Tax Week*

- Webb, Tristan “Hard line taken on buildings”

(2005) 33 *CCH Tax Week*

- CCH Consultant Editor “Draft legislation tax scheme”

Davidson, Sinclair *Are there any good arguments against cutting income taxes?* Perspectives on Tax Reform Number 9, CIS Policy Monograph 69, St Leonards, NSW, The Centre for Independent Studies, 2005 <http://www.cis.org.au/publications/policymonographs/pm69.pdf>

Evans, Chris ‘Avoiding the issue: countering the termites in the Australian tax system’ (2005) *Australian Review of Public Affairs*. Another review of John Braithwaite *Markets in Vice, Markets in Virtue* Sydney, Federation Press, 2005.
<http://www.australianreview.net/digest/2005/09/evans.html>

(2005) 8 *GST News*

Consultant editor “Margin scheme dispute: purchaser’s action against the valuer”

Gruen, Nicholas ‘Tax Unburdened by proof,’ Originally published in the *Courier Mail*, 2005.
http://www.apo.org.au/webboard/results.chtml?filename_num=28717 Suggests Malcolm Turnbull’s arguments for cutting the top tax rate are surprisingly slight.

Healy, Geoff & Eastwood, Andrew 'Legal professional privilege and the investigative powers of the Australian Securities and Investments Commission' (2005) 23 *Company and Securities Law Journal* 375-90

Index to Common Law Festschriften, was launched on Wednesday, 14 September 2005 at the Law School, University of Auckland. The Index is the culmination of a three-year project funded by the Law Foundation and undertaken by a small team at the University of Auckland Law School under the direction of Professor Mike Taggart. This is the first index of

contributions to common law Festschriften and fills a serious bibliographic gap in the literature of the common law. The Index is a fully searchable database on the University of Auckland Library website and is free to access from anywhere in the world. The Index was 'live' from 15 September and may be accessed at:

http://www.library.auckland.ac.nz/databases/learn_database/public.asp?record=iclf

Leet, Martin 'The real purpose of housing' Brisbane Institute, 15 September 2005

http://www.brisinst.org.au/resources/leet_martin_housing.html

Should housing provide a tax haven or a haven for people? In the wake of renewed debate about where the real burden for tax falls in Australia, Martin Leet reviews the vexed question of housing affordability and questions the rationale of negative gearing.

Paterson, Moira *Freedom of information and privacy in Australia*, Chatswood, NSW, LexisNexis Australia, 2005

Pearce, Dennis & Argument, Stephen *Delegated legislation in Australia*, 3rd ed, Chatswood, NSW, LexisNexis Australia, 2005

Priest, Marcus 'Tax lands barristers in court' *Australian Financial Review* 16 September 2005, p 56

Stone, John 'Turnbull tax too modest' *The Australian* 9 September 2005, p 16

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- de Wijn, John "Issues and Agendas"
- Rowland, Noel "CEO's report"
- Taxwrite services "Technical news"
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- Higgins, Ross and Do, Van "Mirror trusts – have you thought of all the issues?"
- Chappell, Alison and Cridland, Matthew "GST changes for land sales"
- Lee, Yat To "GST: creation of rights as a supply"
- **De Silva, Aldrin** and Schmidtke, Andrea "UIG 1052: significant departure"
- Macdonald, Arlene "Bankruptcy and the Family Court: tearing apart the wedding cake"
- Wolfers, Lachlan "CGT does platinum with its 20 year anniversary"
- Miller, Brad "Another GST win for the Commissioner"
- Monahan, Joanna "A matter of trusts"
- Penning, Rhys "Tax case: HP Mercantile Pty Ltd v Commissioner of Taxation [2005] FCAFC 126"
- Gordon, Nicole "Member profile"

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- **Cooper, Gordon** "'Give it to me now' – withdrawing wealth on an ongoing basis"
- Dowd, Paul "The tax consequences of liquidations"
- Fittler, Tony "Big bucks – accessing CGT small business concessions"
- Noolan, Andrew "'Get set for the payoff' – How can you prepare your business for sale"
- Schurgott, Ken "Trust vestings and distributions"

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Under acknowledgements is mention of a couple of ATTA members.

Turnbull, Malcolm 'My plan to cut tax is feasible' *The Australian* 2 September 2005, p 16

(2005) 33 *Weekly Tax Bulletin*

- Gangemi, Nick "Tax Office begins review of business consolidations"

- Clarke, Matthew and Zhang, Davis “Advisers beware! Victoria land tax on multiple trusts and “special trusts”

(2005) 34 *Weekly Tax Bulletin*

- Inglis, Michael “The ATO’s compliance program 2005-2006: messages for you and your clients”
- Pizzacalla, Mark “Tax relief at a cost for SME’s”

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- Leibler, Mark “Government crackdown on tax exploitation schemes – are tax advisers at risk?”
- Inglis, Michael “ATO ‘Compliance Activities’ in 2005-06: a new paradigm required for a new age in tax compliance”

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- Speed, Robin “Who is a tax scheme promoter?”
- Inglis, Michael “Handling a Tax Office compliance enquiry, review or audit in 2005-06: Step # 1”

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- Brassil, Paul “Service trusts: mark-ups the ATO finds acceptable”
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- Transfer Pricing Implications of the Basel II Capital Accord - Sherif Assef and Dean Morris
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- United Arab Emirates- International Financial Centre Unveiled- Anton Joseph
- United States- NatWest Decision Prevents IRS Adjustments of US Branch's Interest Deductions: Impact on Capital Allocation - Peter J. Connors
- Tax Treatment and Consequences of Debt Restructuring and Workouts Canada - Jack Bernstein, Kay Leung and Henry Chong
- Netherlands - Corporate Income Tax Reform 2007 - Michiel Sunderman
- United States- Dividend Received Deduction and Jobs Creation: Labour Market Reform or Disguised Corporate Tax Break? - Anton Joseph

European Taxation No. 9/10 (2005)

Special issue: A Comparative Study of the Thin Capitalization Rules in the Member States of the European Union and Certain Other States

Introduction - Bruno Gouthière

Country reports: Austria, Belgium, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Slovak Republic, Slovenia, Spain, Sweden, United Kingdom, Norway, Russia, Switzerland, United States.

- Case Study: On Possible Double Taxation and Other Problems affecting the Free Movement of Persons and Capital within Europe resulting from Inheritance Tax, illustrated by the Example Germany/Spain

Comment on the Belgian Administrative Circular Letter regarding the Belgium-Hong Kong Tax Treaty - Werner Gysemans
Danish Transfer Pricing Regime Tightened - Nikolaj Bjørnholm and Kurt Siggaard
Reform of Investment Incentives in Israel - Mrs Tali Yaron-Eldar, Adv, and Mrs Henriette Fuchs-Grootscholten,

Lang, Michael *WTO and direct taxation*, The Hague, Boston, Kluwer Law International, 2005

Larking, Barry (ed) *IBFD International tax glossary*, 5th ed, Amsterdam, International Bureau of Fiscal Documentation, 2005

OECD 2005 Model Tax Convention, Paris, 2005. The new convention incorporates changes to:

- the tax treatment of activities related to international shipping and air transport
- cross-border income tax issues arising from employee stock-option plans
- tax issues arising from cross-border pensions
- the issue of multiple permanent establishments
- the revision of Article 26 and its commentary concerning the exchange of information
- various technical issues related to the interpretation of tax conventions.

The new convention also includes changes made by a number of OECD and non-OECD countries to their observations, reservations or positions.

(2005) 52 (6) *UCLA Law Review* Symposium Rethinking redistribution: Tax policy in an era of rising inequality

- Bird, Richard M & Zolt, Eric M 'Redistribution via taxation: the limited role of the personal income tax in developing countries
- Kornhauser, Marjorie E 'Choosing a tax rate structure in the face of disagreement'
- McCaffery, Edward J & Baron, Jonathan 'The political psychology of redistribution'
- Mehrotra, Ajay K 'Envisioning the modern American fiscal state: progressive-era economists and the intellectual foundations of the US income tax'
- Zelenak, Lawrence 'Tax or welfare? The administration of the earned income tax credit'

Weber, Dennis *Tax avoidance and the EC Treaty freedoms – a study of the limitations under European law to the prevention of tax avoidance*, The Hague, Boston, Kluwer Law International, 2005

14 Quotable quotes

“First, tax reform is always treated as a nil-sum game. What's given with one hand is taken away with the other, and often with interest. Second, government always hopelessly underestimates what it raises from new taxes.

It's time for our politicians to be accountable and trim their spending to a budget rather than budgeting according to their spending plans”.

Source: McBride, Louise, *The Australian* 22 August 2005, p 8

STEFANOVIC: Alright, Malcolm Turnbull came up with a tax plan as you know, as you are fully aware, what did you make of that plan?

TREASURER: Well, he didn't actually have a plan...

STEFANOVIC: A model.

TREASURER: ...he had 280, so you know, I am sure if you didn't like one, there were 279 that you could look at.

STEFANOVIC: He thinks it can happen though.

TREASURER: Well, which one?

STEFANOVIC: Well, lowering the top tax rate...

TREASURER: The point is when you actually have a tax plan you do actually come up with an alternative and these have to be carefully considered because you know - and I have done a bit of tax over the years - there are generally some people who do better and quite often some people who do worse. So, the thing about tax is, look, everybody has got a view. Everybody knows how to run the Australian tax system, everybody knows how to run the country, that is a democracy, that should be encouraged. But when it actually gets down to legislating these things, when you get down to the lines and you want to look at who is up and who is down, that is when the real action begins.

Interview with Karl Stefanovic, *Today*, Tuesday, 30 August 2005 7.08 am
<http://www.treasurer.gov.au/tsr/content/transcripts/2005/126.asp>

Interview with Kerry O'Brien *7.30 Report* Monday, 29 August 2005 7.30 pm

O'BRIEN: Your backbench colleague Malcolm Turnbull has also gone to great lengths on this issue of tax rates modelling 279 options for cutting the top rate and broadening the base. And he says Australia's high-income tax rates, he calls them 'high', "their high income tax rates encourage tax avoidance and income splitting, discourage hard work and cause people to leave the country." He says, "they discriminate against salary earners in favour of those operating companies."

TREASURER: Well, some of that would be right and some of it's not.

O'BRIEN: Which part isn't?

TREASURER: Well, you know, let me make this point. When you hear people talk about broadening the base, what they're actually talking about is increasing taxes in some areas. The immediate question you ask somebody who wants to broaden the base is, who's going to pay more under that proposal? And that's why, when you see these options, they've got to be very specific before you can actually assess who comes out in front and who comes out behind.

<http://www.treasurer.gov.au/tsr/content/transcripts/2005/125.asp>

"In 1936 the Income Tax Act was 126 pages long. Today it is about 10,000 pages (excluding superannuation). The act is accompanied by more than 4100 Taxation Office rulings and determinations (excluding interpretative decisions, private binding rulings, taxpayer alerts and practice statements) and about 3500 income tax cases decided since 1969 by the various courts.

.....

Before the attempted simplification program, one Federal Court judge, formerly a leading QC specialising in taxation and a lecturer at the University of Sydney, was moved to comment that one of the provisions had been "drafted with such obscurity that even those used to interpreting the utterances of the Delphic oracle might falter in seeking to elicit a sensible meaning from its terms". The courts have yet to really delve into the complexity of the 1997 act, but it rendered the above complaint even more apt."

McBride, Louise 'Let's scrap these Kafkaesque tax laws and start again' *The Australian* 12 September 2005, p 8

Editor's note: No prizes for guessing which Federal Court judge, she was referring to.

"More than 66 countries support France's campaign for a new tax on airline tickets to raise money to fight global poverty, Foreign Minister Philippe Douste-Blazy said.

France is organising a conference at the ministerial level in February to ensure the initiative is rapidly put in place, Douste-Blazy told the United Nations General Assembly.

Britain and France have been pressing other rich nations to put a new tax on air tickets to finance a big increase in development aid after French President Jacques Chirac proposed the idea earlier this year.

But the plan has run into opposition in the United States and has failed to win widespread backing in Europe.

The idea is also unpopular with airline companies, already struggling to pay for soaring fuel costs, concerned that higher-priced tickets could drive away customers.

But France has said that some countries joining the scheme might simply ask passengers to donate money for development rather than levy a compulsory tax".

Source: 'Aid tax on air tickets gets some support,' 19 September 2005, AAP

15 Call for Applications for the 2006 ATRF Research Fellowships

The Australian Tax Research Foundation is calling for applications for the award of the 2006 ATRF Research Fellowship. The maximum grant is \$10,000 (including GST). Details are included in the attached Brochure.

The ATRF is interested in encouraging all research into taxation issues which fit within its Mission Statement. This can be accessed on the Foundation's website at www.atrf.com.au as can past examples of research published by the Foundation.

Further information on the Fellowship can be obtained from the ATRF Research Director, Dr Neil Warren on (02) 9385 9350 (email n.warren@unsw.edu.au).

ATTA News October 2005

<http://www.atax.unsw.edu.au/atta/newsletter.htm>

Editor: Colin Fong, Faculty of Law, The University of New South Wales

c.fong@unsw.edu.au

ATTA website <http://www.atax.unsw.edu.au/atta>

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1 Vice-Presidential column

As I read through the many tributes to the untimely passing of Justice Graham Hill in the last *ATTA News* (and other places), I could not help but be moved, not only by the universal recognition and respect for Graham's intellect and contribution to the tax profession, but also his accessibility to all in the profession. I experienced this 'common touch' of Graham's in my first ATTA conference, which was in Canberra, where I met the likes of Michael Dirkis, Cynthia Coleman and others, and I could not help but feel welcomed by the ATTA family.

At the conference I also met Graham and though feeling apprehensive about meeting such a luminary of the profession, he immediately made me feel comfortable and was interested in what I had to say. At the end of the day's proceedings, there were a few of us who did not have transport to the conference hotel and Graham readily and openly invited us to ride in his car. My wife was with me, indeed in the front seat, and we all happily chatted with Graham - mostly in fact about non-tax things! When we got to the hotel my wife asked me who that nice man was, and I told her that he was Justice Graham Hill of the Federal Court - to which she blushed and then quickly replied 'why didn't you tell me?!!!' Such was the common touch of Justice Hill - may he rest in peace.

In the last *ATTA News*, I updated members on the progress of our new journal, *JATTA* and I am happy to report that the Editorial Board has moved forward since that time and are almost at the stage of finalising Author Guidelines and also a Style Guide and Copyright Licence Agreement. I must record a special thanks to all the Editorial Board members for reviewing these documents and especially to Miranda Stewart for drafting them. The next stage once these documents are finalised is to make a submission to DEST to seek entry on the Register of Refereed Journals. I have spoken to the DEST people recently and we hope to be able to

have all this done before the Melbourne conference. I will of course continue to keep members updated as we progress.

Finally, on the teaching front, yet another semester is drawing to a close and I am sure everyone is getting their pencils and pens ready for the marking season ahead!

Best wishes

Dale Pinto

2 ATTA Conference 2006

Melbourne Law School, University of Melbourne is pleased to host the 18th

Australasian Tax Teachers Association Conference 2006

"Old Taxes in a New World"

Dates: Monday 30 January to Wednesday 1 February 2006

Conference webpage: <http://www.law.unimelb.edu.au/taxgroup/attaConference2006.html>
Conference registration will be soon available on the conference website. Information about accommodation and other Victorian tourism information is on the Conference webpage and will be enhanced over the next few months.

The 2006 ATTA Conference is being held immediately after **AUSTRALIAN OPEN TENNIS, 16 - 29 January 2006**. If you are interested in attending the Australian Open, please visit <http://www.australianopen.com.au> . Melbourne Law School is located conveniently next to the city and our recommended accommodation choices are an easy tram ride or walk to the Law School and to the city. Delegates will be able to take advantage of the many cultural amenities of Melbourne including the Melbourne Museum, National Gallery of Victoria and Melbourne Zoo.

Inquiries concerning the academic programme should be directed to Miranda Stewart (m.stewart@unimelb.edu.au).

Inquiries concerning conference organisation and administration should be directed to Lillian Hong xyhong@unimelb.edu.au (Tel: + 61 3 8344 4298 Fax: + 61 3 8344 9971), Melbourne Law School, University of Melbourne, VIC 3010 Australia.

CALL FOR PAPERS VALE JUSTICE GRAHAM HILL EXTENSION OF TIME FOR ABSTRACTS

Following Justice Graham Hill's sad death, and in honour of the enormous contribution made by him to Australian taxation law, in particular as a Judge of the Federal Court since 1989, we have decided to open up the Call for Papers for the 2006 ATTA Conference to include submissions of technical papers on Graham's contribution to tax law. We encourage ATTA members to re-examine his many important judicial decisions on taxation and to submit a paper on any aspect of those decisions.

We are extending the time for submission of Paper Abstracts until **Friday 28 October 2005**. We continue to welcome papers on the theme of the ATTA Conference, "Old Taxes in a New World", and on other taxation topics. We particularly welcome papers by new tax teachers on any tax topic. The conference will include sessions on tax teaching and research methodologies and we invite contributions on those topics.

Thank you to those who have already submitted some very interesting Abstracts. We will be notifying you of our decision soon.

Please submit your Abstract (of 100-200 words) to Lillian Hong at xyhong@unimelb.edu.au. The deadline for full written conference papers remains **Monday 9 January 2006**. Please email your paper to Lillian Hong or submit it in both paper and electronic form.

REVISED KEY DATES

Friday 28 October 2005 Final date for submission of Abstract
Monday 7 November 2005 Authors notified of acceptance of Abstract
Friday 2 December 2005 Final date for Registration at 'early-bird' rate
Monday 9 January 2006 Final date for submission of written Paper
Monday 30 January – Wednesday 1 February 2006 Conference

Papers will be eligible for submission to the *Journal of the Australasian Tax Teachers Association*, Volume 4 2006. JATTA is a refereed electronic journal and papers submitted will be subject to double blind refereeing before acceptance by the journal. For more information about JATTA, please see the webpage at <http://www.atax.unsw.edu.au/atta/index.htm>

3 Arrivals, departures and honours

Robert Stokes from Macquarie University is one of the candidates for Liberal preselection for the NSW state seat of Pittwater, following the resignation of John Brogden as the local member.

4 More tributes to Justice Graham Hill 1938-2005

'Justice Donald Graham Hill' Greenwoods and Freehills *Weekly Tax Highlights* 19.08.05 - 26.08.05 http://www.gf.com.au/articles_423.htm

'Vale Justice Graham Hill' Atax *Weekly Bulletin* Issue 35, Session 2, 29 August 2005
<http://www.atax.unsw.edu.au/students/weekly/bulletin05/200535.pdf>

Richards, Robert 'Vale Justice Hill' (2005) 75 (9) *In the Black* 67

Bevan, Christopher 'Expert in the labyrinth of taxation law' *Sydney Morning Herald* 5 October 2005, p32

Gzell, Ian 'Justice Donald Graham Hill 1938-2005' (2005) 40 *Taxation in Australia* 179

Coleman, Cynthia 'Justice Donald Graham Hill 1938-2005' (2005) 20 (3) *Australian Tax Forum* 1

Bevan, Christopher 'Justice Graham Hill' (2005) 79 *Australian Law Journal* 654-56

5 Postgraduate qualifications not so taxing due to KPMG and the University of Melbourne deal

"On 26 September 2005, KPMG issued a media release announcing the enterprising agreement that has been established between the University of Melbourne Law School and KPMG to enable KPMG tax graduates to achieve the Masters of Tax or Masters of Law

qualification by combining University studies with completion of a practical internal KPMG tax training program.

The collaborative agreement will see KPMG tax employees integrating their internal training with University course-work and assessment to complete two of the eight subjects required for a Masters of Tax or Masters of Law. KPMG tax employees will then complete the remaining six subjects required in the usual manner, assisted by further internal training, as postgraduate students at the University of Melbourne, to obtain the Masters of Tax or Masters of Law.

Jason Chang, KPMG Tax Partner, said that the agreement was an important progressive step towards greater coordination between universities and private industry in terms of building qualifications with robust industry backing and alleviating the workload burden of tax graduates.

The agreement with the University of Melbourne is the second of its kind for KPMG. The Company also reached an agreement with the University of New South Wales's taxation school in the Faculty of Law (Atax) in early 2005.

The media release is available on the KPMG in Australia Web site (<http://www.kpmg.com.au>)”.

Source: KPMG *Daily Tax News*, 28 September 2005, item 2

6 Call for Atax Research Fellowship Applicants 2006

In 2006 Atax will offer two Research Fellowships to visiting academics or practitioners keen to further their research in the field of taxation and related disciplines. Each Fellowship is valued at up to \$A7,500.

Research Fellows normally spend four weeks working at Atax on a mutually agreed area of research. During their stay, Fellows are involved in the following activities:

- producing at least one research paper on a topic of taxation interest. This paper will be published as part of the Atax Discussion Paper Series and may also be published elsewhere;
- conducting an Atax staff seminar for interested tax academics;
- collaborating with Atax staff in writing a paper on any aspect of taxation or its related disciplines and suitable for eventual publication in a refereed journal; and
- participating in Atax collegial activities during the period of the Fellowship.

Atax will provide office space and computer equipment at its campus in Sydney, Australia. Fellows will be responsible for organising their own travel and accommodation arrangements. The preferred timing for successful applicants to undertake the Fellowship is August 2006, but other times of the year may also be possible.

Selection

Selection is based on the applicant's field of interest, research proposal and on their ability to contribute to the Atax research profile.

Application

Applications are invited from academics and others working in taxation and related disciplines from around the world. To apply, applicants must send a letter of application, indicating the area they wish to research under the Fellowship, a current curriculum vitae and their preferred timing to undertake the Fellowship.

Applications should be sent to:
Associate Professor Binh Tran-Nam, Research Fellowship Convenor
Atax, Faculty of Law
UNSW SYDNEY NSW 2052
AUSTRALIA
Email: b.tran-nam@unsw.edu.au

Applications to undertake the Research Fellowship in 2006 must be received by 30 November 2005. Successful applicants will be notified by 31 December 2005 and undertake the Fellowship in 2006.

7 Call for Applications for the 2006 ATRF Research Fellowships

The Australian Tax Research Foundation is calling for applications for the award of the 2006 ATRF Research Fellowship. The maximum grant is \$10,000 (including GST). Details were included in the attached Brochure, to the *ATTA News* September 2005.

The ATRF is interested in encouraging all research into taxation issues which fit within its Mission Statement. This can be accessed on the Foundation's website at www.atrf.com.au as can past examples of research published by the Foundation.

Further information on the Fellowship can be obtained from the ATRF Research Director, Dr Neil Warren on (02) 9385 9350 (email n.warren@unsw.edu.au).

8 New Zealand Government formed and tax programmes agreed

After four weeks of coalition negotiations, on 17 October 2005 Labour leader Helen Clark announced the make-up of the next New Zealand government.

Labour is in coalition with the Progressives (who have their sole MP and leader Jim Anderton in Cabinet). Deputy Prime Minister, Dr Michael Cullen, remains the Minister of Finance.

United Future and New Zealand First and have agreed to confidence and supply agreements. Respective leaders Peter Dunne and Winston Peters will be ministers outside Cabinet. Mr Dunne will be Minister of Revenue and Associate Minister of Health. Mr Peters will be Minister of Foreign Affairs and Racing and Associate Minister for Senior Citizens.

The Green Party is abstaining on supply and confidence but has an agreement on policy areas.

These support agreements contain a number of taxation programmes. These include conducting a review of current business taxation regimes (with a view to ensuring that the system leads to productivity improvements and increased competitiveness with Australia), undertaking a new cost-benefit analysis of proposals to introduce a carbon tax, developing a tax rebate regime for charities, developing a taxation regime for the racing industry, extending the Working for Families (particularly Family Assistance Tax Credit) reforms, and issuing a government discussion document on income splitting.

Patrick Nolan

9 Free – desk copy of eComPress Australian Income Tax Law now available to all ATTA members

Last month we announced the availability of the eComPress 2006 Tax Summary & Income Tax Legislation Service as a valuable teaching tool for tax educators.

Our members have shown strong interest in this easy to use, fully searchable electronic publication and approached EIS for desk copies. As a result, Eurofield Information Solutions (EIS), the developers of the eComPress technology that drives the publication, has decided to offer a desk copy to all ATTA members.

According to Alfred Papallo, Managing Director of EIS, the availability of the publication in an electronic format represents a number of benefits for teachers and students alike.

“More and more students are using PC’s in their lectures and tutorials. eComPress signals a revolutionary use of textbooks that represents a substantial cost saving. It also offers the portability of having key reference publications always at hand, without having to address the traditional weightiness of the hard cover books.”

EIS is a software development company that specialises in electronic publishing software. They have developed the unique ATS and Consensus Award Winning software called eComPress.

eComPress publications are extremely fast and easy-to-use, they are designed to be intuitive, and using the novel eComPress Drag-on, are instantly accessible from any Windows application on the desktop.

eComPress electronic publishing technology has been adopted by many prominent international organisations including the International Federation of Accountants (IFAC) in New York, the International Accounting Standards Board (IASB) in London, the World Health Organization (WHO), the Organisation for Economic Co-operation and Development (OECD) and the International Monetary Fund (IMF). EIS also provides the technology to major publishers including Random House, Macmillan and John Wiley.

eComPress is made up of seven key features that are essential components of a useful, efficient electronic publication, providing a complete solution for all electronic reference publications.

Indexing – all the content including words, numbers and alpha-numerics, are indexed in the compressed encoded form. The user can find anything in the publication extremely quickly with the help of the index. eComPress searching also supports logical searching with any number of single (?) or multiple character (*) wildcards.

Annotation - eComPress publications can be annotated by the user using eComPress Notes. Annotations can take the form of free text that is keyed in, pictures, files, Web addresses and e-mail addresses. Text can be dragged into Notes in the publication from a Word document, e-mail or the web.

eComPress Notes can also be shared on a network as Global Notes. Global Notes can either be collaborative and authored or edited by others on the network, or they can be published on the network and protected with network file security. eComPress Notes are automatically transcribed in context to new and revised publications when they are updated.

Authoring – eComPress publications can be readily processed directly from RTF, saved from any MS Word document and retain all the various attributes including formatting of tables and spreadsheets that are included in the database.

Compression – very efficient lossless bit compression that permanently reduces the size of publications by more than 90% of the original data size, reducing the download time and using minimal hard drive space.

Encoding – each publication is uniquely encoded at a bit level to ensure that its content cannot be changed in any electronic form, guaranteeing the integrity of the publication at all times.

Security - e-commerce publications come with a variety of different security protection. The publication is uniquely encoded so the integrity of the content is protected in perpetuity. eComPress publications also come with a built-in 32 bit CRC that provides a unique thumbprint for each publication to ensure that is never truncated, corrupted or contaminated in transit. All eComPress publications use signed executables to ensure that they are always authentic.

eCommerce - eComPress publications are all eCommerce ready which enables large reference publications to be securely sold and delivered on the web. Publications can be provided with a soft lock facility that can only be unlocked with the unique Authorisation Key that is provided following secure payment online.

“All these attributes are specifically designed to benefit tax educators and students working with complex reference material, affording them security and powerful off-line research and annotation,” said Mr Papallo.

To receive your complimentary copy of the eComPress Australian Income Tax Law, please contact Ailene Belesina at Eurofield Information Solutions by phone on (02) 9411 3711 or by email at euroinfo@eis.com.au

10 OECD rates Australia as eighth lowest taxed country

On Wednesday 12 October 2005, the Commonwealth Treasurer, Mr Peter Costello, issued a media release advising that the latest Organisation for Economic Co-operation and Development (OECD) international comparison of taxes rates Australia as the eighth lowest taxed country among its thirty industrialised country members.

In the annual publication entitled 'Revenue Statistics', the seven countries with a lower tax take included Mexico (19 percent), Japan (25.3 percent), Korea (25.3 percent), United States (25.6 percent), Switzerland (29.5 percent), Ireland (29.7 percent) and the Slovak Republic (31.1 percent).

The media release is available on the Commonwealth Treasurer Web site (<http://www.treasurer.gov.au>).

On Thursday 13 October 2005, the Federal Labor Shadow Treasurer, Mr Wayne Swan, issued a media release commenting on the results published in the OECD publication, 'Revenue Statistics'.

Source: KPMG *Daily Tax News* 13 October 2005 item 10

11 Tax, Accounting, Economics and Law Related Meetings

Local

2006 Atax postgraduate deadline for enrolment

The closing date for applications for Atax postgraduate study in Session One of 2006 is 14 November 2005.

There are many postgraduate program options available for 2006. These include: the Graduate Diploma in Taxation Studies, Graduate Diploma in Advanced Taxation, Master of Taxation, Master of International Taxation, Master of Applied Taxation and Master of Taxation (Research).

There are also over 40 tax courses (subjects) available from Atax in Session One 2006. All of these courses (listed at <http://www.atax.unsw.edu.au>) are available in flexible distance mode.

Many courses are also offered face to face in the Sydney CBD or as 5-day Intensives run at our Cliffbrook Campus in Coogee, Sydney.

You can apply online at www.apply.unsw.edu.au or through the application form in our prospectus.

If you would like to find out more information about our postgraduate degrees or you would like a copy of our prospectus, telephone Atax Student Services on (02) 9385 9333 or email atax@unsw.edu.au for more information.

Atax Research Seminar Schedule: Session 2, 2005. Please note the forthcoming seminars in your diary. With the exception of Dr Ordower's seminar, they will be held at the CATS room, Atax, Cliffbrook campus, 45 Beach St, Coogee. Seminars begin at 1.30pm with a light lunch served from 12.30pm. The UNSW Law School has kindly agreed to host Dr Ordower's seminar – more details on this to follow.

It is not necessary to RSVP at this stage, but it would be appreciated if you contact me to ensure you are included on the seminar email list. You will then receive an invitation closer to the event. Please circulate this schedule to your colleagues.

Friday 21 October "Constitutional law protection of horizontal and vertical equity in taxation (US and Germany)" - Dr Henry Ordower, Professor of Law, Saint Louis University School of Law

Friday 11 November "E-filing SA tax returns and IT adoption strategies" - Dr Ann Hansford, Senior Lecturer, Bristol Business School, The University of the West of England
Telephone: +61 2 9385 9362; Fax: +61 2 9385 9380; m.mckerchar@unsw.edu.au

Taxation Institute of Australia

<http://www.taxinstitute.com.au/cda/cpd/events/1,1335,,00.html> lists many of the TIA conferences, conventions, seminars, breakfast clubs. For further enquiries, contact Sarah Hadfield by telephone on (02) 8223 0031 or by email by clicking <mailto:sarahhadfield@taxinstitute.com.au>

Creating a competitive country: should Australia join the flat tax revolution? Centre for Independent Studies Seminar, Speakers include: Prof Peter Saunders, Dr Dan Mitchell, Dr Richard Rahn, Emeritus Prof Lauchlan Chipman, Thursday 17 November 2005; 4:30pm for 5pm start, Botanic Auditorium, ABN Amro, Level 28, 88 Phillip St, Sydney. \$55 incl GST;

CIS members \$45 incl GST. RSVP 14 November 2005. events@cis.org.au or (02) 94384377 or register online at <http://www.cis.org.au>

Govnet Annual Conference 2005 *Ethics, Governance, and the Professions*. Hosted by the Centre for Applied Philosophy and Public Ethics (CAPPE) Australian National University, 28th – 30th November. The central theme of the 2005 conference is *Ethics, Governance, and the Professions*.

Offers of papers are invited on any aspect of this theme, including, but not limited to: how professional standards, governance and regulatory frameworks are faring across a range of professions (including law, medicine, journalism, accounting, engineering, social work) and how they may be better addressed, in the context of professional practice within settings including large corporations, the public sector, and non-government organisations. In what ways might traditional methods of regulation need to be tailored to these settings? Addressing this question might involve providing some analysis of the proper nature of particular professional roles and practice; of gaining some understanding of the operation and values of the large organisations within which many professionals are embedded, and; then providing some descriptive and normative analysis of the impact of latter upon the former. In particular the relationship between duty to client, duty to employer, and duty to wider public interests (justice, health, the public good) bears fresh examination. This leads to a range of issues dealing with governance of professions and governance of the institutions where professionals work, as seen in cases such as James Hardie, the Bundaberg Hospital, and the UK Joint Intelligence Committee.

Another area on which papers are invited will be Professionalism in the Global Context. There are many issues that might be covered under this area. One set of issues is raised by the changing political environment including the weakening of many states and the rise of non-state actors. Just as the rise of sovereign states affected many professions (including the law, the military and the public service) so their weakening may generate change. In examining the effect of shifts toward a global context on professionalism it would also be of interest to look at the technological/electronic environments. These contexts represent a rapidly growing, relatively new global context within which a range of professional activity is now being undertaken and with respect to which proper governance and regulatory arrangements face new and distinctive challenges.

We are also interested in receiving suggestions for workshops and symposia on related governance topics. Offers of papers and suggestions for symposia to jeanette.kennett@anu.edu.au

Govnet members are encouraged to suggest potential keynote speakers, especially if they can provide partial funding for them. Govnet has 5 streams. 1. Global, International and Transnational Governance. 2. Asia Pacific Institutional Reform. 3. Public Sector Governance. 4. Corporate Governance and Regulation. 5. Civil Society Governance: professions, religious institutions and NGO's. Further information about Govnet streams and their activities may be found at <http://www.griffith.edu.au/govnet/>

Eighteenth Annual Australasian Tax Teachers Association Conference 2006, 30 January-1 February 2006, University of Melbourne Law School. Conference webpage: <http://www.law.unimelb.edu.au/taxgroup/attaConference2006.html> Contact Miranda Stewart, m.stewart@unimelb.edu.au A location map of the Law School is available: <http://www.law.unimelb.edu.au/LawSchoolStreetPlan.jpg>

7th International Conference on Tax Administration, Crowne Plaza Resort, Coogee Beach, NSW, 20-21 April 2006. Submissions for next year's conference papers are now being

accepted. For further enquiries, contact Anna Bartholomaeus, Atax, UNSW on (02) 9385 9320 or anna.b@unsw.edu.au

Nineteenth Annual Australasian Tax Teachers Association Conference 2007, January 2007, University of Queensland Law School. Contact Kerrie Sadiq, k.sadiq@law.uq.edu.au

Overseas

American Accounting Association Calls for paper website <http://aaahq.org/calls/default.cfm>

The Asian Law Institute (ASLI) Symposium "Reflections on Legal Education in Asia" 10 - 11 November 2005, Thursday and Friday, National University of Singapore (NUS)

The ASLI symposium on legal education is organized pursuant to a research project headed by the Deans of the Faculties of Law of the International Islamic University of Malaysia (IIUM) and National University of Singapore (NUS).

The symposium aims to bring together a distinguished group of legal scholars to present papers relating to legal education in Asia. The intention is for some of the papers to be published either in the inaugural issue of the Journal of the Asian Law Institute (ASLI) or as a monograph.

We would like to invite participants from your organization to the symposium. It will be an excellent opportunity to meet and forge closer ties with other scholars in Asian law and to discuss matters of interest relating to legal education in Asia.

The two-day symposium will bring together about 20 presenters from leading institutions in Asia, and will touch on the landscape of legal education in Asia and pedagogical skills.

Please find the programme (tentative) at

<http://law.nus.edu.sg/asli/docs/progsymposium220905.pdf>

The programme will be finalized and sent to registered participants by **end October 2005**. A copy will also be mounted on the web site.

Places for the symposium are limited to a maximum of 40. Registration will be on a first-come-first-served basis. Please download the Registration Form which contains information on conference fee and accommodation options at <http://law.nus.edu.sg/asli/docs/RLE-Symposium.pdf>.

Registration will close on **22 October 2005**, or when the limit is reached, whichever is earlier.

We regret that flights and accommodation are to be arranged by participants separately and are not covered by the conference fee. Transport will; however, be arranged to and from NUS for the 2 hotel accommodation options listed.

Asian Law Institute (ASLI)
c/o National University of Singapore

Faculty of Law

13 Law Link, Singapore 117590

Tel: (65) 6874 1305/6874 3604

Fax: (65) 6779 0979

Email: asli@nus.edu.sg Website: <http://www.law.nus.edu.sg/asli>

Canadian Tax Foundation <http://www.ctf.ca/profDev/schedule1.asp> has a 2005 events schedule. Fifty-Seventh Tax Conference, 25-27 September, Vancouver Hyatt Regency

Institute for Fiscal Studies Conferences and seminars

<http://www1.ifs.org.uk/conferences/index.shtml>

International Bureau of Fiscal Documentation Various courses in Amsterdam, the Netherlands. For details, see <http://www.ibfd.org> The IBFD International Tax Academy

(ITA) runs an extensive international course program. Generally all courses are held in Amsterdam. Should you require any further information or wish to register please refer to their web site www.ibfd.org or contact the International Tax Academy at +31-20-554 0160 or by e-mail ita@ibfd.org

International Tax Aspects of Permanent Establishments 17 & 18 November - Intermediate
Introduction to European Value Added Tax March 13 - 16, 2006 - Introductory
European Value Added Tax 20 & 21 October - Intermediate
Introduction to European Customs and Excise Duties February 06 & 07, 2006 -
Introductory February 06 & 07, 2006 - Introductory
Tax Treaties
Arbitration and Mutual Agreement in European Treaties 10 & 11 November - Specialized
topic
Tax Treaties Workshop May 15 & 16, 2006 - Advanced
Principles of Transfer Pricing 07 & 08 November - Introductory
Transfer Pricing of Intangibles 14 & 15 November - Specialized topic
International Tax English for Practitioners May 08 & 09, 2006

For 2005 courses go to http://www.ibfd.org/news/course_calendar.htm

The ITA also offers tailor-made in-house courses on a worldwide basis for corporate clients, tax administrations and other organizations. Should you have any queries, please contact Arcotia Hatsidimitris, Head of the International Tax Academy by telephone +31-20-554 0180, or by a.hatsidimitris@ibfd.org

International Tax Planning Association Forthcoming meetings
<http://www.itpa.org/meetings.html>

International Atlantic Economic Society (IAES) conference. You can visit IAES's web site (www.iaes.org) for more information. Prof Dr M. Peter van der Hoek Academy of Economic Studies, Bucharest, Romania and Erasmus University, Rotterdam, Netherlands. Mailing address: Erasmus University (L 7-20) P.O. Box 1738 NL-3000 DR Rotterdam Netherlands Phone/Fax: +31-10-4081622 E-mail: vanderHoek@frg.eur.nl 61 st International Atlantic Economic Conference will be held in Berlin 15-19 March 2006; Philadelphia 5-8 October 2006

European Association of Tax Law Professors Meetings and conferences
<http://www.eatlp.org> Budapest 2006; Helsinki 2007

Baker & McKenzie 21st Annual Asia-Pacific Tax Conference Hong Kong, 17-18 November 2005. For more information, contact Ms Marianne Shaw, Baker & McKenzie, Hong Kong. Tel: +852-2846 1078; Fax: +852-2842 0530 marianne.shaw@bakernet.com

Other useful tax and law related conference websites include the **IBFD Course calendar** http://www.ibfd.org/news/course_calendar.htm **UNSW Faculty of Law Conference Calendar** http://www.law.unsw.edu.au/news_and_events/events/events.asp **New South Wales Bar Association** http://www.nswbar.asn.au/Professional/Noticeboard/ComingUp/contents_coming.htm **Law Council of Australia** <http://www.lawcouncil.asn.au/events.html> **Law Courts Library** <http://www.lawlink.nsw.gov.au/conference> **LexisNexis Professional Development Calendar of events** <http://www.lexisnexis.com.au/aus/conferences/calendar/default.asp> See also the *inTax* Seminars Directory, published in *inTax Magazine*. **Practising Law Institute** <http://www.pli.edu/>

New York County Lawyers Association <http://www.nycla.org> **American Bar Association** <http://w3.abanet.org/home.cfm> **New York Bar Association** <http://www.nysba.org/> **Hieros Gamos** Worldwide Law Events Calendar http://www.hierosgamos.org/hg/db_meetings.asp?action=search <http://www.hg.org/calendar.html>

For social sciences and humanities conferences, meetings etc, see Mind: The Meetings Index <http://www.interdok.com/mind> See also the magazine *Australian Conference & Exhibition Diary*, Vamosi Information Publication.

12 Recent publications

Bold indicates ATTA members. Readers are encouraged to notify the Editor of recently written publications for notification, in these pages. Please note some of the overseas publications listed may not yet be available locally.

Local

Australia. Inspector-General of Taxation. *Review into the Tax Office audit timeframes* (This review examined the length of time taken to complete Australian Taxation Office (ATO) compliance activities directed at businesses) and *Review into the Tax Office's Administration of Penalties and Interest Arising from Active Compliance* (The review looked at the ATO's application of penalties and interest to businesses during active compliance activities), 2005. Both reports, which also contain the ATO response, are available at www.igt.gov.au

(2005) 5 (7) *Australian GST Journal*

- Brysland, Gordon 'Igloo homes to Atkinson – the GST cases just keep coming!'
- Stacey, Paul 'Technical Editor's Comment'

(2005) 5 (9) *Australian GST Journal*

- D'Ascenzo, Michael "Maintaining the integrity of the GST system"
- **Walpole, Michael** "Keeping to the straight and narrow: interpreting the GST and income tax"
- Stacey, Paul "Case update"

Australian National Audit Office *Administration of Goods and Services Tax Compliance in the Large Business Market Segment – Australian Taxation Office*, Report No 13, Year: 2005/2006 Tabled: Tuesday, 18th October 2005

<http://www.anao.gov.au/WebSite.nsf/Publications/05B75A8B16BD322DCA25709D00727486>

(2005) 17 (3) *Australian Superannuation Law Bulletin*

- Vrisakis, Michael "The statutory standard of care of a director, Hurricane Georges and the Grapes of Wrath"
- Stanhope, Bill "IFSA update"
- Batten, Richard and Day, George "Bankruptcy effect on super paper released"
- Hodges, Glenys "Casenote: *Commissioner of Taxation v Pitcher* [2005] FCA 1154; BC200506148 Ryan J 23 August 2005"
- Callaghan, Paul and Hodge, Nathan "Choice of fund: some practical issues – Part 2"
- "ATO news: ATO interpretive decision 2005/242 – self-managed superannuation fund: defined benefit pension"
- Riordan, Gary "Super cases: *DP Excavation & Haulage Pty Ltd v Commissioner of Taxation* (2005) 59 ATR 645 Barret J 3 June 2005"

(2005) 20 (3) *Australian Tax Forum*

- **Coleman, Cynthia** "Justice Donald Graham Hill 1938-2005"
- **Woellner, Robin** "Section 263 powers of access – why settle for second-best?"
- **Richardson, Grant** "A preliminary study of the impact of tax fairness perception dimensions on tax compliance behaviour in Australia"
- **Black, Celeste M** "Taxing crime: The application of income tax to illegal activities"
- Chalmers, Keryn and Hanlon, Dean "Share option grants: A myriad of accounting and tax prescriptions"
- Everett, Rosemary "Looking a gift horse in the mouth: The one-off opportunity for backdating Family Trust Elections"
- Overton, Julie "Defining conjugality in the family"

Bean, Gerry & Sprott, Jonathon 'ATO turns up the heat on tax and corporate governance' (2005) 79 (10) *Law Institute Journal* 56-59

Carmody, Michael 'Large business and tax compliance,' Address to the International CFO Forum, Sydney Australia, 13 October 2005
<http://www.ato.gov.au/corporate/content.asp?doc=/content/64796.htm>

Carter, Gerard *Australian law for the 21st century*, Ashfield, NSW, Wensleydale, 2004

(2005) 34 *CCH Tax Week*

- Power, Rob 'Twenty reasons to smile'

(2005) 35 *CCH Tax Week*

- Batalha, Luis 'A spanner in the works: the ruling on CFDs'

(2005) 36 *CCH Tax Week*

- Scott, Hayden 'The new company loss recoupment rules'

(2005) 37 *CCH Tax Week*

- Saverimuttu, Nick 'Revised approach to taxing capital gains of a trust'

CCH New Zealand Limited *Top 100 questions and answers on tax*, Auckland, CCH New Zealand, 2005

Cooper, Graeme 'Budget contains unexpected tax measures' (2005) 38 *Tax Notes International* 637-639

Cooper, Graeme 'Treasury review income tax self-assessment system' (2005) 37 *Tax Notes International* 298-302

Charaneka, Scott & Spanner, Wayne *Guide to super choice*, North Ryde, NSW, CCH Australia, 2005

Furnell, Chris 'Business sales and stamp duty' (2005) 79 (8) *Law Institute Journal* 46-49

Gerber, Paul 'Statute of Elizabeth and payroll tax: a collision between two anachronisms?' (2005) 79 *Australian Law Journal* 558-59

Glover, John "'Resettlements": revenue consequences of varying discretionary trusts' (2005) 79 *Australian Law Journal* 620-40

Granger, Jennie 'The compliance program – what is attracting our attention,' Speech, to the Taxation Institute of Australia 2005 Victorian State Convention, Lorne, Victoria, 7 October 2005 <http://www.ato.gov.au/corporate/content.asp?doc=/content/64618.htm>

Groves, Matthew (ed) *Law and government in Australia - Essays in Honour of Enid Campbell*, Annandale, NSW, Federation Press, 2005

Harris, Tony 'Property tax: how to balance the addiction' *Sydney Morning Herald* 19 October 2005 p 11

(2005) 8(1) *Journal of Australian Taxation*

- **Burton, Mark** 'The Australian tax expenditures statement'
- Dyson, Teresa 'Consolidated issues for financiers'
- **Sawyer, Adrian** 'Tax incentives for research and development'
- **Wyatt Kim**; McDonald, Jarrod and Nandha, Mohan 'Negative gearing and housing affordability'
- **De Zilva, Aldrin** 'Tax consolidation: key M&A issues'

Madden, Philip *Trust structures guide*, Sydney, Taxation Institute of Australia, 2005

Markham, Michelle 'Transfer pricing of intangible assets in the US, the OECD and Australia: are profit-split methodologies the way forward?' (2004) 8 *University of Western Sydney Law Review* 55-78

Morabito, Vince 'Contingency fee agreements with represented persons in class actions - an undesirable Australian phenomenon' (2005) 34 *Common Law World Review* 201-28

Stokes, Robert 'Environmental implications of land taxes on principal places of residence' (2005) 11 *Local Government Law Journal* 37-47

Tang, Reynah 'Service trusts – rewriting the rules' (2005) 79 (8) *Law Institute Journal* 38-41

(2005) 9 (1) *Tax Specialist*

- **Fisher, Rodney** 'Editorial Message'
- Clemens, Tony 'Australian taxation aspects of major funding transactions – Part 2'
- Timmers, Miquël 'ATO sets KPIs for CFOs'
- Tregoning, Ian 'Goodwill: another view'
- Bevan, Chris 'GST on long-term non-reviewable contracts – unresolved transitional problems'
- **Walpole, Michael** 'Have you shut the windows? Time limits applicable to finality of assessments'

(2005) 9 (2) *Tax Specialist*

- Rigney, Harry 'Editorial message'
- McCormack, Jock & Anderson, David 'CGT & non-residents: alignment with prevailing OECD tax practice'
- Bennett, Michelle 'Costs, capacity and characterisation – GST issues in arranging a financial supply'
- **Kendall, Keith** 'Legal professional privilege and the tax profession: Arguments for extension'
- Billyard, Neil & Young, Alison 'Conduit foreign income rules'
- Kyle, Tim 'Some curiosities in the scrip for scrip roll-over provisions'
- Bean, Gerry 'Demergers: Tales of mystery and imagination'

(2005) 40 (4) *Taxation in Australia*

- deWijn, John "Issues and agendas"
- Rowland, Noel "CEO's report"
- Taxwrite services "Technical news"
- Taxwrite services "Tax tips: capital gains of trusts"
- Gzell, Ian "Obituary Justice Graham Donald Hill 1938-2005"
- Riordan, Tony "At call loans under the debt/equity regime"
- Young, Grahame "Splitting trusts – 3 years on"
- **Kendall, Keith** and Kokkinos, Alexis "Statute barred loans and taxation"
- Mason, Anthony "Global challenges in tax administration"
- "Committee profile – SA education"
- Payne, Rod "A matter of trusts: TR 2005/12 and trusts – Whose money is it?"
- Myint, Rosalind "Tax case: *Commissioner of Taxation v McNeil* [2005] FCAFC 147"
- O'Bryan, Andrew & Parker, Michael "Q&A: funding discretionary trust distributions; deductibility of interest"
- Marxen, Robert "Member profile"

(2005) Taxation Institute of Australia Queensland *Convention Papers 2005*

- Burgess, Ian "Superannuation update"
- De Wijn, John "The role of the High Court in tax cases: a review of recent cases"
- Gangemi, Nick "Demergers and deconsolidations:"
- Godber, Peter and Banister, Paul "International tax reform – in search of foreign shores:"
- Lehmann, Geoff "Consolidation emerging issues"
- Marxen, Robert "Tax effect accounting/IFRS – iceberg ahead (Part 2)"
- Mills, Andrew and Healey, Stephen "Tax risk management in 2005"
- Schurgott, Ken "Trusts – sink or swim"
- Welshe, Damian "GST risk"
- West, Mark "SME loans – navigating the channels"
- Wolfers, Lachlan "Recent developments in the GST treatment of property"

Teo, Eu-Jin 'Clarifying the "discretionary" unit trust' (2005) 79 (10) *Law Institute Journal* 36-39

Timms, Roger 'ATO threat to service trusts now a reality' (2005) 5 *Law Practice Management Newsletter* 1-3

Walker, Bret *Lawyers and money*. St James Ethics Centre 2005 Lawyers' Lecture, Banco Court, NSW Supreme Court, 18 October 2005.

<http://www.cch.com.au/promo/pdf/lawyersandmoney.pdf>

(2005) 38 *Weekly Tax Bulletin*

- Fitton, Gary 'Proposed tax scheme promoter regime: concerns for practitioners and investors'
- Lijeski, Jim and Geddes, Rohan 'No extension of time for employee share election to pay tax up-front - a taxpayer dilemma'

(2005) 39 *Weekly tax Bulletin*

- Inglis, Michael 'Handling a Tax Office compliance enquiry, review or audit in 2005-06: Step # 2'

(2005) 40 *Weekly Tax Bulletin*

- **Hill, Peter** "Bad people, bad policy, bad law – La Rosa amendment"

(2005) 41 *Weekly Tax Bulletin*

- Inglis, Michael "Handling a Tax Office compliance enquiry, review or audit in 2005-06: Step # 2 (cont)"

- **Sridaran, Maheswaran** "Tax Agents' Board: some major defects in its constitution and performance"

Overseas

Amatucci, Andrea *International tax law*, The Hague, Kluwer Law International, 2005

Ault, Hugh J; McDaniel, Paul R & Repetti, James R *Introduction to United States international taxation*, 5th ed, The Hague, Kluwer Law International, 2005

Borrego, Felix Alberto Vega *Limitation on benefits clauses in double taxation conventions*, The Hague, Kluwer Law International, 2005

Brown, Rachel E 'Explaining environmental and tax policy incongruity twenty-five years later: treatment of environmental remediation costs imposed by CERCLA under the Internal Revenue Code' (2005) 18 *Tulane Environmental Law Journal* 357-84

Bulletin for International Fiscal Documentation No. 10 (2005)

- Tax Treaty News - Klaus Vogel

- "State of Residence" may as well be "State of Source" -- There is no Contradiction - Klaus Vogel

- Solving Conflicts of Qualification by Analogous Application of Tax Treaties - Stephan Gündisch

- Defining the Objective Scope of Income Tax Treaties: The Impact of Other Treaties and EC Law on the Concept of Tax in the OECD Model - Adolfo J Martín Jiménez

- Recent Problems of Definition and Taxation of German Permanent Establishments - Peter H Dehnen and Silke Bacht

Dahlberg, Mattias *Direct taxation in relation to the freedom of establishment and the free movement of capital*, The Hague, Kluwer Law International, 2005

(2005) 30 (2) *International Tax Journal*

- Ruble, RJ 'The characterization of credit derivatives – has the IRS told us but we've not been listening'

- Cheung, Bolivia SW & Chui, Alice PL 'A comparison of the International Monetary Fund and the People's Republic of China VAT policies'

- Bremer, Sven C & Engler, G 'Tightening of German transfer pricing documentation requirements'

- Marino, Guiseppe & Ballancin, Andrea 'The Italian corporate tax reform: US outbound update'

International Transfer Pricing Journal No. 5 (2005)

- Let's Tango! The Dance between VAT, Customs and Transfer Pricing - Folkert Idsinga, Bart-Jan Kalshoven and Monique van Herksen

- United States IRS APA Initiatives - Jennifer Drake, Ashwin Rode and Deloris R. Wright

- Australia International Financial Reporting Standards and Thin Capitalization - Anton Joseph

- International In Tax Practice the Cost-Plus Method is Often a TNMM in Disguise: What To Do about It? Lars P. Haugen

- Brazil Transfer Pricing Rules: Application to Financial Institutions - Fernanda Junqueira Calazans

- Treaty Treatment of Offshore Remittances of Consideration for Technical Services - Fernanda Junqueira Calazans
- Denmark - New Transfer Pricing Rules Enacted - Jens Wittendorff
- Greece - Tax Treatment of General Enterprise/Permanent Establishment Dealings
Dr Georgios Matsos and Silvia Kotanidis
- India Formulating an Intra-Group Management Fee Policy: An Analysis from a Transfer Pricing and International Tax Perspective - Narayan Mehta
- South Africa Transfer Pricing Disclosure Requirements - Wally Horak and Jens Brodbeck

International VAT Monitor No. 5 (2005)

- Editorial - A New Threat for VAT Practitioners in the European Union?
- 'State Aid and VAT' - Joep Swinkels
- VAT at Last - In Half of India - Sukumar Mukhopadhyay
- Immovable Property and VAT - Lessons from Past Experience - Christian Amand, Gottfried Schellmann, Rob Vermeulen
- Introduction of the "Open Market Value" in Belgium - Ivan Massin
- VAT Treatment of "European Mergers" under French Law - G. Bernier, D. Colin, L. Chetcuti
- VAT Treatment of Government Procurement: A Comparative Analysis - Xiaoqiang Yang
- Focus on Cape Verde: Introduction of VAT - Sérgio Vasques
- The European Court of Justice - Judgments and Cases Pending - Fabiola Annacondia
- VAT AROUND THE WORLD - Reports and Case Notes on, inter alia, Belgium, Brazil, Canada, Russia, Slovenia, South Africa, the United Kingdom and Ukraine.

Lang, Michael *WTO and direct taxation*, The Hague, Kluwer Law International, 2005

McCaffery, Edward J 'A new understanding of tax' (2005) 103 *Michigan Law Review* 807-938

Martinez, Leo P 'The trouble with taxes: fairness, tax policy, and the Constitution' (2004) 31 *Hastings Constitutional Law Quarterly* 413-46

Mears, Nick 'Quit taxing me, I'm dead' (2005) 26 *Whittier Law Review* 1143-68

Pugh, Richard C (ed) *International income taxation: codes and regulations – selected sections*, 2005-2006 edition, The Hague, Kluwer Law International, 2005

Terra, Ben & Wattel, Peter *European tax law*, 4th ed, The Hague, Kluwer Law International, 2005

Thiemann, Jason M 'The past, the present, and the future of pro bono: pro bono as a tax incentive for lawyers, not a tax on the practice of law' (2005) 26 *Hamline Journal of Public Law & Policy* 331-83

Van Raad, Kees (ed) *Materials on international and EC tax law 2005-2006*, 5th ed, vols 1&2, Leiden, International Tax Center Leiden, 2005

Weber, Dennis *Tax avoidance and the EC Treaty freedoms. A study on the limitations under European law to the prevention of tax avoidance*, The Hague, Kluwer Law International, 2005

13 Quotable quotes

“The key players in the advice market are those who develop tax planning ideas. Often these are lawyers in small firms, but they may be in large law firms, accounting firms, finance houses, or may even be academics. (p 42)

.....
Informants told other less precise stories of students in university tax law lectures identifying loopholes as a result of the learning process. In one of these cases, the loopholes may well have been apparent to the tax professor, but it was the student who had the interest and the marketing flair to use it in a way the professor did not have “the commercial wit to do”. Another inventor of one of the leading tax loophole discoveries of the 1990s got the idea while reading an article on tax law. As in most areas of innovation, the academy is an important engine room of ideas, but poor at commercialising them.” (p 49)

Source: Braithwaite, John *Markets in vice markets in virtue*, Leichhardt, NSW, Federation Press, 2005, pp 42; 49

"A cynical electorate did not need Terry Metherell's diaries to appreciate how lies and deception have become a regular part of the political armoury in this country."

Source: Latham, Mark 'Urban planning and the public interest,' in: Simington, S & McElwain, C (ed) *Public accountability and the law*, Public Interest Law Conference 1992, The University of New South Wales, Kensington, NSW, Continuing Legal Education, The University of New South Wales, 1993, p 105

“TAX commissioner Michael Carmody has overhauled the management of big company tax affairs in response to criticism that his officers are bureaucratic and, at times, bullying.

Mr Carmody also admitted yesterday that the tax office had made a \$1.6 billion error in estimating its revenue from large company tax audits.

The tax office handling of large company audits came under withering attack in a report compiled by tax barrister Kevin Burges, at Mr Carmody's request”.

Source: Uren, David ‘Taxman admits \$1.6bn error’ *The Australian* 14 October 2005 p

“A former Bar President cannot depart the topic of legal fees without reliving shudders about lawyers and the flouting of taxation obligations which are meant to come – as surely as death to us all – from the receipt of professional income. Because it is lawyers, not just barristers, or New South Wales.

There is a kind of reassurance of proper values being not quite moribund to be had from the grim reflexion that this was, and correctly, seen as the worst scandal in the Australian legal profession since convicts ceased to have a right of practice in penal colony days.

Lawyers have no better immunity than anyone else from the undemanding requirements to render annual returns of income and to pay the tax due on it.

If anything, the publicly funded system in which all lawyers – not just litigators – work makes it all the more intolerable that some lawyers resist meeting such reasonable obligations.”

Source: Walker, Bret *Lawyers and money*. St James Ethics Centre 2005 Lawyers' Lecture, Banco Court, NSW Supreme Court, 18 October 2005.

<http://www.cch.com.au/promo/pdf/lawyersandmoney.pdf>

ATTA News November 2005

<http://www.atax.unsw.edu.au/atta/newsletter.htm>

Editor: Colin Fong, Faculty of Law, The University of New South Wales

c.fong@unsw.edu.au

ATTA website <http://www.atax.unsw.edu.au/atta>

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1 Vice-Presidential column

As always, it is hard to believe another year is nearly over – the marking almost done and the summer, rich with research possibilities, stretches ahead of us. This culminates of course at the ATTA conference in Melbourne.

After an early spring election in New Zealand, the exigencies of our MMP voting system meant that it took a month for a government to be formed. In the various arrangements made by the Labour Party to ensure a Labour –led government, tax featured highly. Labour signed confidence and supply agreements with the New Zealand First and United Future Parties, a coalition agreement with the Progressive Party and a co-operation with the Green Party. United Future Leader, Peter Dunne, a man who has served in Cabinets of both Labour and National governments, has been appointed Minister of Revenue. As a result of these agreements, there will be a review of the current business tax regimes with a view to ensuring ‘better incentives for productivity gains’ and improved competitiveness with Australia. Interestingly all parties in the recent election appeared in favour of a reduction in the corporate tax rate from 33%, all that is except the Labour Party. Since the 1980s, successive New Zealand governments have broadly resisted using ‘incentives’ in the tax system to achieve desired outcomes. Generally there has been a consensus that tax ought to be as neutral a consideration as possible in investment decisions. It would seem this is changing. Dunne hopes that the terms of reference for the business tax review will be

completed before the end of 2005. The tax community will await its results with keen interest.

There is also to be cost/benefit analysis of the proposal to introduce a carbon tax as part of New Zealand's Kyoto obligations. It seems unlikely that this tax will come into force on the scheduled date of 1 April 2007 as this review is expected to take some time. New Zealand First Party managed to get a review of taxation of the racing industry on to the agenda and United Future has forced the income splitting for 'parents' in 'families' on to the programme. A discussion document on this is not expected until 2007, but there are some difficult social issues, as well as tax ones, to be grappled with in this policy given the rather different views of what constitutes a 'family' among politicians. The National Party campaigned strongly for reductions in personal income tax, but the Government remains firmly opposed to any rate changes and committed to extending its working for families tax relief package.

The New Zealand economy continues to bubble along and the Reserve Bank Governor has raised the official cash rate again, to 7%. With inflation at above 3%, household borrowing increasing by 15% to the year ended August 2005 and house prices continuing to rise, the Governor of the Reserve Bank has expressed growing concern about imbalances in the economy. High interests rates are not proving to be the silver bullet in this battle and New Zealanders' love affair with housing continues unabated. Reserve Bank and Treasury officials are presently considering whether 'ancillary instruments could be deployed to complement monetary policy'. While the Reserve Bank has said long term policy issues 'such as the tax treatment of capital gains' are beyond the scope of this present exercise, one can not help but wonder when the question of tax treatment of capital gains will reach the top of the agenda. For the 120 property investors in the Queenstown/Wanaka area who have recently been hit with a combined tax bill of some NZ\$11 million, taxation of 'capital' gains has reached the top of the agenda already. There is much astir in tax!

It seems appropriate to make some comment about the untimely death of Justice Graham Hill. I met him for the first time in a hotel lift in Adelaide last year. I was wearing a dripping bathing suit and a collection of hotel towels. He was utterly charming. There, and in Wellington, I noted two things. The first was the extraordinary depth and breadth of his knowledge and his passion for taxation. The second was the esteem in which he was held and the fact that everyone appeared to like and admire him so much. The response that so many of you have shown to his death came as no surprise.

Good wishes for the rapidly approaching Festive Season and I look forward to Melbourne.

Shelley Griffiths

2 ATTA Conference 2006

Melbourne Law School, University of Melbourne
185 Pelham Street, Carlton

18th Australasian Tax Teachers Association Conference 2006
"Old Taxes in a New World"

Dates: Monday 30 January to Wednesday 1 February 2006
<http://www.law.unimelb.edu.au/taxgroup/attaConference2006.html>

The 2006 ATTA Conference is immediately after the **AUSTRALIAN OPEN TENNIS, 16 - 29 January 2006**, <http://www.australianopen.com.au> . Melbourne Law School is located conveniently near the city and the Tennis venue. Our recommended accommodation choices are an easy tram ride or walk to the Law School and to the city. Delegates will be able to take advantage of the many cultural amenities of Melbourne including the Melbourne Museum, National Gallery of Victoria and Melbourne Zoo.

KEY DATES AND DRAFT SCHEDULE

Friday 9 December 2005	Final date for Registration at Early Bird rate
Monday 9 January 2006	Final date for submission of written Paper
Monday 30 January 2006	Conference Opening Plenary, 2pm Thomson Welcome Function, 5.30pm
Tuesday 31 January 2006	Conference 8:30am – 6pm CCH Conference Dinner, 7pm Treetops Function Centre, Melbourne Museum, Carlton
Wednesday 1 February 2006	Conference opens 9am Lexis Lunch Function, 12pm Conference closes, 4pm

Registration: The registration form is attached to this Newsletter and can be downloaded from the Conference webpage. **Get in early to ensure Early Bird Registration: \$330, DUE Friday 9 December 2005.** http://www.law.unimelb.edu.au/taxgroup/registration_form2.pdf

Conference Program and Keynote speakers:

We have more than 50 papers on a wide range of topics, so we are looking forward to a large, diverse and interesting conference. A Draft Program will be available soon on the conference webpage. To whet your appetite, our confirmed keynote speakers are below:

- His Honour Justice Richard Edmonds of the Federal Court, Opening Plenary in Honour of the Late Justice Graham Hill.
- Professor Neil Brooks of Osgoode Hall Law School, Toronto, Canada, *"The Times They Are a Changin'. Really? Should They Be? The Costs and Benefits of Tax Systems."*
- Professor Judith Freedman of Oxford University, UK, *Why taxing micro-business is not simple*
- Professor Malcolm Gammie QC of London School of Economics, UK, *"The impact of European Community Law on the UK's international tax rules"*.
- Professor Claire Young of UBC, Vancouver, Canada, *What's Sex Got to Do with It? Tax and the "Family"*

Inquiries concerning the program should be directed to Miranda Stewart (m.stewart@unimelb.edu.au). Inquiries concerning conference administration should be directed to Lillian Hong xyhong@unimelb.edu.au (Tel: + 61 3 8344 4298 Fax: + 61 3 8344 9971), Melbourne Law School, University of Melbourne, VIC 3010 Australia.

Journal of Australasian Tax Teachers Association

A reminder that all Conference Papers will be eligible for submission to the *Journal of the Australasian Tax Teachers Association* (2006 Volume). JATTA is a refereed electronic journal. The StyleGuide for JATTA is on the conference webpage. For more information about JATTA, please see the webpage at <http://www.atax.unsw.edu.au/atta/index.htm>

3 Arrivals, departures and honours

John Taylor, Associate Professor in the School of Business Law and Taxation, the University of New South Wales was appointed in August 2005 as a Honorary Research Fellow of the Taxation Institute of Australia. This position was created in order to:

- allow experienced tax academics or practitioners to devote time to specific projects
- strengthen the tax technical capabilities of the Taxation Institute.

Source: Dirkis, Michael 'Senior Tax Counsel's report: Law Simplification project' (2005) 40 *Taxation in Australia* 224

Second Commissioner of Taxation Michael D'Ascenzo will replace Commissioner of Taxation, Michael Carmody from 1 January 2006. Treasurer Peter Costello announced Mr D'Ascenzo would replace Mr Carmody, who will take over the running of the Australian Customs Service.

Source: Treasurer Media Release, 10 November 2005

<http://www.treasurer.gov.au/tsr/content/pressreleases/2005/097.asp>

4 Tributes to Justice Graham Hill 1938-2005

As more tributes to the late Justice Graham Hill keep being published, the Editor will make a copy of these, and put them in a binder, for perusal at the next ATTA Conference in Melbourne, 2006. This binder will probably be at the Registration desk.

5 Call for Atax Research Fellowship Applicants 2006

In 2006 Atax will offer two Research Fellowships to visiting academics or practitioners keen to further their research in the field of taxation and related disciplines. Each Fellowship is valued at up to \$A7,500.

Research Fellows normally spend four weeks working at Atax on a mutually agreed area of research. During their stay, Fellows are involved in the following activities:

- producing at least one research paper on a topic of taxation interest. This paper will be published as part of the Atax Discussion Paper Series and may also be published elsewhere
- conducting an Atax staff seminar for interested tax academics
- collaborating with Atax staff in writing a paper on any aspect of taxation or its related disciplines and suitable for eventual publication in a refereed journal
- participating in Atax collegial activities during the period of the Fellowship.

Atax will provide office space and computer equipment at its campus in Sydney, Australia. Fellows will be responsible for organising their own travel and

accommodation arrangements. The preferred timing for successful applicants to undertake the Fellowship is August 2006, but other times of the year may also be possible.

Selection

Selection is based on the applicant's field of interest, research proposal and on their ability to contribute to the Atax research profile.

Application

Applications are invited from academics and others working in taxation and related disciplines from around the world. To apply, applicants must send a letter of application, indicating the area they wish to research under the Fellowship, a current curriculum vitae and their preferred timing to undertake the Fellowship.

Applications should be sent to:

Associate Professor Binh Tran-Nam, Research Fellowship Convenor

Atax, Faculty of Law

UNSW SYDNEY NSW 2052

AUSTRALIA

Email: b.tran-nam@unsw.edu.au

Applications to undertake the Research Fellowship in 2006 must be received by 30 November 2005. Successful applicants will be notified by 31 December 2005 and undertake the Fellowship in 2006.

6 Call for Applications for the 2006 ATRF Research Fellowships

The Australian Tax Research Foundation is calling for applications for the award of the 2006 ATRF Research Fellowship. The maximum grant is \$10,000 (including GST). Details were included in the attached Brochure, to the *ATTA News* September 2005.

The ATRF is interested in encouraging all research into taxation issues which fit within its Mission Statement. This can be accessed on the Foundation's website at www.atrf.com.au as can past examples of research published by the Foundation.

Further information on the Fellowship can be obtained from the ATRF Research Director, Dr Neil Warren on (02) 9385 9350 (email n.warren@unsw.edu.au).

7 Vacancies

Associate Lecturer/Lecturer/Senior Lecturer (up to 2 positions)

AUSTRALIAN TAXATION STUDIES PROGRAM (ATAX) REF. 3939NET

The Australian Taxation Studies Program (Atax) is a leading national provider of education, training and research for the tax profession in Australia. It is part of the Faculty of Law and currently has over 1,400 students enrolled in its undergraduate and postgraduate taxation degree programs. Atax programs and courses are taught in both flexible delivery and traditional classroom modes.

There are opportunities to teach at undergraduate and postgraduate levels in all areas of taxation but special needs exist in relation to tax administration and administrative law, corporate taxation, taxation of commercial entities, taxation of employee remuneration and international taxation (particularly in the context of Asian Pacific rim tax jurisdictions). Applications are encouraged from both legal and accounting professionals, and from those with strong tax technical, policy or academic backgrounds. The successful applicants will also be expected to make strong contributions to Atax research activities and participate in a thriving research culture.

The salary range for Associate Lecturer is A\$45,591 - A\$60,770, for Lecturer is A\$63,812 - A\$75,216 per year, and for Senior Lecturer is A\$77,493 - A\$88,897 (plus up to 17% employer superannuation plus leave loading), depending on qualifications and experience. This salary includes a superable UNSW academic loading of A\$3,000 per annum payable to all academic staff (pro rata for fractional academic staff). A salary supplement may be negotiated with the successful applicant.

Successful applicants would be required to commence in February 2006 but an earlier or later start date could be negotiated. These are continuing positions. Interested applicants must obtain the information package and address the essential and desirable criteria for the relevant position. Further information about Atax and an application package can be obtained from Anita Clarke on telephone (61 2) 9385 9343 or email a.clarke@unsw.edu.au

For informal discussions about the positions please contact the Director of the Atax Program, Professor Chris Evans, on telephone (61 2) 9385 9346, mobile 0418 90 60 10 or email: cc.evans@unsw.edu.au

It is anticipated that interviews for shortlisted applicants will be held in the week commencing 19 December 2005.

Applications close on 30 November 2005.

8 Tax, Accounting, Economics and Law Related Meetings

Local

Taxation Institute of Australia

<http://www.taxinstitute.com.au/cda/cpd/events/1,1335,,00.html> lists many of the TIA conferences, conventions, seminars, breakfast clubs. For further enquiries, contact Sarah Hadfield by telephone on (02) 8223 0031 or by email by clicking <mailto:sarahhadfield@taxinstitute.com.au>

Govnet Annual Conference 2005 *Ethics, Governance, and the Professions*. Hosted by the Centre for Applied Philosophy and Public Ethics (CAPPE) Australian National University, 28th – 30th November. The central theme of the 2005 conference is *Ethics, Governance, and the Professions*.

Govnet members are encouraged to suggest potential keynote speakers, especially if they can provide partial funding for them. Govnet has 5 streams. 1. Global, International and Transnational Governance. 2. Asia Pacific Institutional Reform. 3. Public Sector Governance. 4. Corporate Governance and Regulation. 5. Civil Society Governance: professions, religious

institutions and NGO's. Further information about Govnet streams and their activities may be found at <http://www.griffith.edu.au/govnet/>

Eighteenth Annual Australasian Tax Teachers Association Conference 2006, 30 January-1 February 2006, University of Melbourne Law School. Conference webpage: <http://www.law.unimelb.edu.au/taxgroup/attaConference2006.html> Contact Miranda Stewart, m.stewart@unimelb.edu.au A location map of the Law School is available: <http://www.law.unimelb.edu.au/LawSchoolStreetPlan.jpg>

2006 Constitutional Law Conference and Dinner, 24 February, Sydney, Conference organised by the Gilbert + Tobin Centre of Public Law with the support of the Australian Association of Constitutional Law. Program http://www.gtcentre.unsw.edu.au/events/docs/2006ConLawConference_Program.doc Registration form at <http://www.gtcentre.unsw.edu.au>

7th International Conference on Tax Administration, Crowne Plaza Resort, Coogee Beach, NSW, 20-21 April 2006. For further enquiries, contact Anna Bartholomaeus, Atax, UNSW on (02) 9385 9320 or anna.b@unsw.edu.au

16th Inter-Pacific Bar Association Conference, 30 April-3May 2006, Hilton Hotel, Sydney. Conference theme: Free trade agreements. <http://www.ipba2006.com> Committee programs include Tax Law; Environmental Law, Intellectual Property etc.

Nineteenth Annual Australasian Tax Teachers Association Conference 2007, January 2007, University of Queensland Law School. Contact Kerrie Sadiq, k.sadiq@law.uq.edu.au

Overseas

American Accounting Association Calls for paper website <http://aaahq.org/calls/default.cfm>

Canadian Tax Foundation <http://www.ctf.ca/profDev/schedule1.asp> has a 2005 events schedule. Fifty-Seventh Tax Conference, 25-27 September, Vancouver Hyatt Regency

Institute for Fiscal Studies Conferences and seminars
<http://www1.ifs.org.uk/conferences/index.shtml>

International Bureau of Fiscal Documentation Various courses in Amsterdam, the Netherlands. For details, see <http://www.ibfd.org> The IBFD International Tax Academy (ITA) runs an extensive international course program. Generally all courses are held in Amsterdam. Should you require any further information or wish to register please refer to their web site www.ibfd.org or contact the International Tax Academy at +31-20-554 0160 or by e-mail ita@ibfd.org

Introduction to European Value Added Tax March 13 - 16, 2006 - Introductory
Introduction to European Customs and Excise Duties February 06 & 07, 2006 -
Introductory February 06 & 07, 2006 - Introductory
Tax Treaties
Tax Treaties Workshop May 15 & 16, 2006 - Advanced
International Tax English for Practitioners May 08 & 09, 2006

For 2005 courses go to http://www.ibfd.org/news/course_calendar.htm

The ITA also offers tailor-made in-house courses on a worldwide basis for corporate clients, tax administrations and other organizations. Should you have any queries, please contact Arcotia Hatsidimitris, Head of the International Tax Academy by telephone +31-20-554 0180, or by a.hatsidimitris@ibfd.org

International Tax Planning Association Forthcoming meetings

<http://www.itpa.org/meetings.html>

International Atlantic Economic Society (IAES) conference. You can visit IAES's web site (www.iaes.org) for more information. Prof Dr M. Peter van der Hoek Academy of Economic Studies, Bucharest, Romania and Erasmus University, Rotterdam, Netherlands. Mailing address: Erasmus University (L 7-20) P.O. Box 1738 NL-3000 DR Rotterdam Netherlands Phone/Fax: +31-10-4081622 E-mail: vanderHoek@frg.eur.nl 61 st International Atlantic Economic Conference will be held in Berlin 15-19 March 2006; Philadelphia 5-8 October 2006

European Association of Tax Law Professors Meetings and conferences

<http://www.eatlp.org> Budapest 2006; Helsinki 2007

Other useful tax and law related conference websites include the **IBFD Course calendar**

http://www.ibfd.org/news/course_calendar.htm **UNSW Faculty of Law Conference**

Calendar http://www.law.unsw.edu.au/news_and_events/events/events.asp **New South**

Wales Bar Association

http://www.nswbar.asn.au/Professional/Noticeboard/ComingUp/contents_coming.htm **Law**

Council of Australia <http://www.lawcouncil.asn.au/events.html> **Law Courts Library**

<http://www.lawlink.nsw.gov.au/conference> **LexisNexis Professional Development Calendar**

of events <http://www.lexisnexis.com.au/aus/conferences/calendar/default.asp> See also the

inTax Seminars Directory, published in *inTax Magazine*. **Practising Law Institute**

<http://www.pli.edu/>

New York County Lawyers Association <http://www.nycla.org> **American Bar Association**

<http://w3.abanet.org/home.cfm> **New York Bar Association** <http://www.nysba.org/> **Hieros**

Gamos Worldwide Law Events Calendar

http://www.hierosgamos.org/hg/db_meetings.asp?action=search

<http://www.hg.org/calendar.html>

For social sciences and humanities conferences, meetings etc, see Mind: The Meetings Index

<http://www.interdok.com/mind> See also the magazine *Australian Conference & Exhibition*

Diary, Vamosi Information Publication.

9 Recent publications

Bold indicates ATTA members. Readers are encouraged to notify the Editor of recently written publications for notification, in these pages. Please note some of the overseas publications listed may not yet be available locally.

Local

Ahmed, Elixia *Higher education loans and tax evasion: a case of policy eroding compliance?*

Centre for Tax System Integrity, Australian National University, 2005, Working Paper 75,

June 2005 <http://ctsi.anu.edu.au/publications/WPlist.html>

Australia Treasurer 'Board of Taxation to undertake scoping study of small business tax compliance costs' <http://www.treasurer.gov.au/tsr/content/pressreleases/2005/095.asp>

Australia Treasurer 098 Treasurer Opens 2005 Global Forum on Taxation [15/11/2005]
<http://www.treasurer.gov.au/tsr/content/pressreleases/2005/098.asp> and 017 Opening Address
to the 2005 Global Forum on Taxation, Melbourne [15/11/2005]
<http://www.treasurer.gov.au/tsr/content/speeches/2005/017.asp>

(2005) 17 (4) *Australian Superannuation Law Bulletin*

- Stanhope, Bill "Super splits: gymnastics ahead"
- Bourke, Stephen "When death can kill your super splitting"
- Vrisakis, Michael "The arcane art of disclosure"
- Batten, Richard and Camo, Andrew "Effect of bankruptcy on superannuation contributions: a review"
- Wall, Sam "Choice: will the employer be liable?"
- "ATO news"
- Riordan, Gary "Super cases: Re *Applicat v Commissioner of Taxation* [2005] AATA 378
Senior Member G Ettinger 20 June 2005

(2005) 38 *CCH Tax Week*

- Cunningham, Lance "Share buy-backs and Demergers with a difference"

(2005) 39 *CCH Tax Week*

- **Burton, Mark** "Part IVA roulette, anyone?"

(2005) 40 *CCH Tax Week*

- McMahon, Peter and MacIntyre, Amrit "Options duty (NSW and Vic)"

(2005) 41 *CCH Tax Week*

- Consultant Editor "Changes to GST provisions in NSW land"

(2005) 42 *CCH Tax Week*

- Bean, Gerry and Oppy, Charlotte "Tax jurisdiction of the Federal Magistrate's Court"

D'Ascenzo, Michael Second Commissioner of Taxation, 'Relationships between tax administrations and tax agents/taxpayers, Asia-Oceania Consultants Association (AOTCA) general meeting, Manila 11 November 2005

<http://www.ato.gov.au/corporate/content.asp?doc=/content/66215.htm>

D'Ascenzo, Michael Second Commissioner of Taxation, 'Value the past but focus on the future,' annual Taxpayers Australia conference Melbourne 4 November 2005

<http://www.ato.gov.au/corporate/content.asp?doc=/content/65905.htm>

Edmundson, Peter & Mitchell, James 'Knowing receipt in corporate group structures' (2005) 23 *Company & Securities Law Journal* 515-42

The *eJournal of Tax Research* is now available via AustLII at

<http://www.austlii.edu.au/au/journals/eJTR> as well as <http://www.atax.unsw.edu.au/ejtr>

Finn, Chris (ed) *Shaping administrative law for the next generation: fresh perspectives: papers presented at the 2004 National Administrative Law Forum, Canberra, Australian Institute of Administrative Law, 2005.*

Galitsky, Serge 'Capital gains taxation of damages: a challenge for litigants and their advisers' (2005) 2 *Macquarie Journal of Business Law* 21-46

Griffiths, Shelley 'Certainties collide: death and taxes' in: Peart, Briggs and Henaghan *Relationship property on death*, Wellington, Thomson, 2004 (ISBN 0-86472-477-2) - this book won the NZ Legal Research Foundation J F Northey Annual Law Book award 2005 for the best legal book.

(2005) 11 (3) *New Zealand Journal of Taxation Law & Policy*

Editorial - **Lin Mei Tan** and **Adrian Sawyer** 281

Comments

- Privy Council Delivers Final Tax Avoidance Decision: Peterson v CIR - Nicola Williams
- Off-Market Share Buybacks – The Current Debate in Australia - **Kim Wyatt** and Jarrod McDonald

Articles

- To Join the International Tax Cartel or Not? How Should Asia Respond to the OECD's Harmful Tax Regimes Project? - **Justin Dabner**

- The Fixed and Circulating Capital Test – Down and Now Out in New Zealand? -

Andrew J Maples

- The New Zealand–Netherlands Double Tax Agreement: A Significant Influence on New Zealand's Network of Double Tax Agreements - Sabrina Muck

Northeast, M 'Incorporation of legal practices - getting one to suit' (2005) 79 (11) *Law Institute Journal* 50-53

Taylor, Mark & **Stokes, Robert** 'Up the creek: what is wrong with the definition of a river in New South Wales?' (2005) 22 *Environmental and Planning Law Journal* 193-211

(2005) 40(5) *Taxation in Australia*

- de Wijn, John "Issues and agendas"

- **Dirkis, Michael** "Senior Tax Counsel's Report"

- Taxwrite services "Technical news"

- Taxwrite services "Tax tips: Same beneficiaries and terms"

- Pizzacalla, Mark "Tax issues affecting trusts. The seven deadly sins Part 1"

- Jones, Stephen and Torresi, Umberto "Clever GST transactions – are the anti-avoidance provisions cleverer?"

- **Kendall, Keith** "Legal professional privilege"

- Konza, Mark "Tax Office plans for 2005-06: How are agents affected?"

- Godber, Peter "Committee profile"

- De Stefano, Victoria and Monahan, Joanna "A matter of trusts Changing the trustee of a trust"

- Ryan, Marcus "Tax case: Macquarie Finance Limited v Commissioner of Taxation [2005] FCAFC 205"

- Tse, Jerome "Q & A"

- "Member profile: John Di-Candilo"

Taxation Institute of Australia 2005/6 *Convention papers*. Now available on CD-ROM.

(2005) 42 *Weekly Tax Bulletin*

-Inglis, Michael "Handling a Tax Office compliance enquiry, review or audit in 2005-06: Step #3"

(2005) 46 *Weekly Tax Bulletin*

- Richards, Robert “Unit trusts and present entitlement: danger lurks?”
- Wolfers, Lachlan; Curkovicz, Anetta and Wilson Kirk, “Tax-free share buy-back case – the next Hepples of CGT

Overseas

Antoine, Rose-Marie Belle *Trusts and related tax issues in offshore financial law*, Oxford, Oxford University Press, 2005

Barker, William B ‘Statutory interpretation, comparative law, and economic theory: discovering the *Grund* of income taxation’ (2003) 40 *San Diego Law Review* 821-80

Bulletin for International Fiscal Documentation No. 11 (2005)

- New Thin Capitalization Rules in New Zealand for Foreign-Owned Banks - **Andrew J Maples**
- Denmark: New Joint Taxation Regime, Territoriality Principle and Reduction of the Corporate Tax Rate - Arne Møllin Ottosen and Michael Nørremark
- The Attribution of Income to a Person for Tax Treaty Purposes - Joanna Wheeler
- The Land Value Tax in Jamaica: An Analysis and Options for Reform - David L Sjoquist

Caney, Simon , *Justice beyond borders: a global political theory*, Oxford University Press, 2005

Cnossen, Sijbren (ed), *Theory and practice of excise taxation: smoking, drinking, gambling, polluting, and driving*, Oxford University Press, 2005

Dahlberg, Matthias *Direct taxation in relation to the freedom of establishment and the free movement of capital*, Kingston upon Thames, UK; Boston, MA, Kluwer Law International, 2005

Derivatives & Financial Instruments No. 5 (2005)

- Egypt Macroeconomic Effect of Corporate Income Tax on Investments by Banks Mahmoud Abdellatif and Naoyuki Yoshino
- Portugal Tax Regime of Securitization - Luís Bandeira, Rita Tavares de Pina and Anabela Sérgio
- Comparative survey
- Tax Treatment and Consequences of Debt Restructuring and Workouts
- France - Sophie Marciniak
- Italy - Paola Flora
- Netherlands - Erik de Gunst and Jochem Kin
- Recent developments
- France Business Tax and the Sixth Directive: Possible Ramifications of the IRAP Case Dominique Villemot and Edgard Sarfati
- United States and International - Identification of Hedging Transactions - US Technical Advice Memorandum of 11 March 2005 and More - Anton Joseph

European Taxation No 11 (2005)

- European Union The Free Movement of Capital and Third Countries: Some Observations
- Cees Peters and Jan Gooijer
- The Schempp Case: EU Citizenship, Rights and Taxes - A New Leaf in ECJ Jurisprudence or Just a Fig Leaf? Christiana HJI Panayi
- Germany The Implementation of the EC Parent-Subsidiary Directive in Germany - Recent Developments and Unresolved Issues - Joachim Englisch and Alexandra Schützen

- An Overview of Recent Tax Reform Plans in Germany - Roman Seer and Susanne Ahrens -
- Opinion Statement of the CFE Task Force on ECJ Cases on the Opinion of Advocate General Maduro in the Case of Marks & Spencer plc v. Halsey (Case C-446/03)
- Austria International Group Taxation: An Overview of Austria's New Tax Incentive - Gerald Gahleitner and Stefan Ratzinger
- Finland Amends Tax Treatment of Foreign Limited Partners in Private Equity Funds Tomi Viitala, pp. 514-517
- Italy Taxation of the Deemed Dividends of Non-Resident Companies and the Anticipated Corporate Income Tax Amendments - Tancredi Marino
- Poland Recent Corporate Income Tax Changes in Poland Bogumil Brzezinski and Ewa Prejs

Goldstein, Robert J *Environmental ethics and law*, Aldershot, Hants, Ashgate, 2004

International Transfer Pricing Journal No. 6 (2005)

Comparative Survey: Global trading

- International - Global Trading: An Adventure in Financial Markets and Instruments - Louan Verdoner
- Belgium - Global Trading - David Ledure and Alessandra Houard
- Canada - Global Trading: Some Comments on the Canadian Transfer Pricing Practice and on Part III of the OECD's Study of Profit Attribution to Permanent Establishments - J Scott Wilkie
- France - Transfer Pricing and Global Trading - Pierre-Jean Duvier
- Germany - Global Trading - Axel Nientimp and Achim Roeder
- Spain - Global Trading - Florentino Carreño, Rebeca Rodríguez and Ana Mayo
- Recent developments - India - Intra-Group Management Services: Learning from Transfer Pricing Audits - Shyamal Mukherjee

(2005) 16 (8) *Journal of International Taxation*

- **Pinto, Dale** "Conservative" and "radical" alternatives for taxing e-commerce (Part 1)
- Neville, Jr Mark K 'The "First sale for export" customs valuation rule – the second time around'
- Chikara, Rajendra Singh 'Transfer pricing in Indian banks'
- Ruchelman, Stanley 'Economic substance around the world – the US'

International VAT Monitor No. 6 (2005)

- Editorial And Now, the End is Near
- Observations on the Dutch tax on passenger cars and motor vehicles.
- VAT-Saving Concepts and Interpretations - Joep Swinkels
- China's Gradual Transition to a Pure VAT - Rao Lixin
- VAT Registration Thresholds in Europe - Fabiola Annacondia and Walter van der Corput
- Focus on Egypt: General Sales Tax - Mahmoud M. Abdellatif

Kuper, Andrew , *Democracy beyond borders: justice and representation in global institutions*, Oxford University Press, 2005

Skene, Gavin R 'The extraterritorial operation of Australian e-commerce legislation' (2005) 13 *Tulane Journal of International and Comparative Law* 219-74

Tax Research Network Conference Papers, Edinburgh, September 2005

- **Sawyer, Adrian J** "Harmonisation of Rulings and APA Administration through International Coordination"
- Shah, Haider and Tuck, Penelope "Inland Revenue and HM Customs and Excise: Prospects for the merger"
- **Stewart, Miranda** "Waiting for consensus of the experts"? Expert discourse and the politics of tax reform"

- Teather, Richard “VAT anti-avoidance - the European character”
- Vording, Henk and Lubbers, Allard “How to limit the budgetary impact of the European Court's tax decisions”
- McBarnet, Doreen “Corporate Social Responsibility as an anti-avoidance tool: Can it work?”
- McNulty, John K “Flat Tax, Consumption Tax, Consumption-Type Income Tax Proposals in the United States: A Tax Policy Discussion of Fundamental Tax Reform”
- Rogers, Helen “Broadening Tax Research – The Case for Case Studies”
- Kaye, Tracy A “Tax Discrimination: A Comparative Analysis of U.S. and EU Approaches”
- Loutzenhiser, Glen “Income Splitting, Settlements and the Family Business: An International Comparison”
- **Markham, Michelle** “The transfer pricing of intangible assets”
- Greggi, Marco “Taxation of Royalties in a EU Framework”
- Heredia, Alejandro García “Copyright royalties: poetry and software in tax treaties”
- James, Simon “Tax Charters, Performance Indicators and the Case for a More Strategic Approach to Tax Administration”
- Arendse, Jackie; Karlinsky, Stewart; Killian, Sheila and **Payne, Garry** “Mixed Blessing of Being Designated a Small Business”
- Craig, William J “E-Commerce: Where to go with Taxation?”
- Craig, William J “Offshore banking and financial services: Case Study 1: Celtronic Brothers Bank”
- Craig, William J “Offshore corporate functions: Case Study 2: Martin & Martin”
- Glaister, Keith W and Hughes, Jane Frecknall “Multinational Corporate Strategy Formulation and International Taxation: Case Study Evidence”

10 Quotable quotes

“Hansard, the verbatim record of the Federal parliament, shows that in the eighteen months from January 2003 to August 2004 politicians referred to ‘battlers’ 237 times ...”

“Deprivation syndrome persuades politicians to distort policy to ‘reduce the burden of taxation’ and to increase welfare payments to middle class households that are living lives that would in other places and at other times be regarded as luxurious ... political parties have fomented dissatisfaction among the middle class in order to perpetuate the myth of the Aussie battler ... the little Aussie battler has turned into the great Australian whinger.”

“The working lives of Australia’s best-paid psychologists are not devoted to treating the distress of people with psychological problems: they are devoted to developing ways of increasing consumer’s insecurity, vulnerability and obsessiveness. They work in marketing.”

“ ... our marketing culture has done something profound right under our noses: it has redefined happiness itself. In place of the time-honoured belief that a happy life is one of fulfilment acquired through developing our capacities, cultivating personal relationships and adhering to a moral code, people today have been persuaded that a happy life is one in which we maximise the number of episodes of emotional and physical pleasure, however fleeting they might be.”

Source: Hamilton, Clive & Denniss, Richard *Affluenza – when too much is never enough*, Crows Nest, NSW, Allen & Unwin, 2005 as cited in Wilson, Bruce ‘A BMW won’t give you a hug’ *Market-Place* 9 November 2005 pp 12; 14

“I will be handing the baton to a person of great talent and commitment, Michael D’Ascenzo, who takes over as Tax Commissioner on January 1, 2006. I am sure that under his leadership, the Tax Office will continue to be among the world leaders in revenue administration.”

“The Tax Office is not, and never will be, resourced to chase every last dollar payable under the law.”

“Fortunately, the vast majority of people in this country take their obligations seriously and are honest.”

Source: ‘Talking to the taxman’ *Australian Financial Review* 18 November 2005 p 4

ATTA News December 2005

<http://www.atax.unsw.edu.au/atta/newsletter.htm>

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ATTA website <http://www.atax.unsw.edu.au/atta>

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Attachment: The Seventh Annual Global Conference on Environmental Taxation: Call for papers

1 Vice-Presidential column

Hello everyone!

Well, the end of 2005 is fast approaching and now is a good time to reflect upon some of the major events of ATTA over the past 12 months.

First, we should thank the organisers of the ATTA 2005 Conference in Wellington, New Zealand for putting together a splendid conference. A notable innovation in Wellington was the Doctoral and Teaching Workshops. I know that the workshops were well received by many of the participants.

Second, we should also acknowledge the tireless work of the Editorial Board of the *Journal of the Australasian Tax Teachers Association* (JATTA) for the successful launch of this electronic journal. JATTA is fully-refereed and satisfies the Australian Department of Education, Science and Training (DEST) publishing requirements. So, there is no excuse for any of us not publishing our work in this journal! What's more, I should mention that JATTA Volume 1, No. 2 can now be viewed and downloaded from: <http://www.atax.unsw.edu.au/atta/jatta/index.htm>.

May I also draw your attention to the ATTA 2006 Conference in Melbourne from 30 January – 1 February 2006. The theme of this conference is: "Old Taxes in a New World". A draft of the conference program is now available for you to examine at: <http://www.law.unimelb.edu.au/taxgroup/attaConference2006.html>. The papers look very interesting indeed! Well done Miranda!

Finally, I would like to take this opportunity to wish all ATTA members and their families a Merry Christmas and a Happy New Year.

That's all for now!

Best regards

Grant Richardson

2 18th Australasian Tax Teachers Association Conference 2006

Melbourne Law School, University of Melbourne, 185 Pelham Street, Carlton

"Old Taxes in a New World"

Dates: Monday 30 January to Wednesday 1 February 2006

<http://www.law.unimelb.edu.au/taxgroup/attaConference2006.html>

We are delighted to announce that Michael D'Ascenzo will give his first speech in his new role as Commissioner of Taxation at the ATTA 2006 conference. Inquiries concerning the program should be directed to Miranda Stewart (m.stewart@unimelb.edu.au) and concerning conference administration should be directed to Lillian Hong xyhong@unimelb.edu.au (Tel: + 61 3 8344 4298 Fax: + 61 3 8344 9971).

Key Dates and Draft Conference Program

Monday 9 January 2006	Final Date for Submission of Written Paper
Monday 30 January 2006	Conference Opening Plenary, 2pm Thomson Welcome Function, 5.30pm
Tuesday 31 January 2006	Conference 8:30am - 6pm CCH Conference Dinner, 7pm Treetops Function Centre, Melbourne Museum, Carlton
Wednesday 1 February 2006	Conference opens 9am Lexis Lunch Function, 12pm Conference closes, 4pm

Confirmed Keynote speakers:

His Honour Justice Richard Edmonds of the Federal Court, Opening Plenary in Honour of the Late Justice Graham Hill.	Mr Michael D'Ascenzo, incoming Commissioner of Taxation
Professor Neil Brooks of Osgoode Hall Law School, Toronto, Canada, <i>The Times They Are a Changin'. Really? Should They Be? The Costs and Benefits of Tax Systems.</i>	Professor Judith Freedman of Oxford University, UK, <i>Why Taxing the Micro-business is not Simple.</i>
Professor Malcolm Gammie QC of London School of Economics, UK, <i>The Impact of European Community Law On The UK's International Tax Rules</i>	Professor Claire Young of UBC, Vancouver, Canada, <i>What's Sex Got to Do with It? Tax and the Family</i>

Registration:

Registration for the ATTA 2006 conference is now open. Early Bird Registration AU\$330 - must be submitted by FRIDAY 9 DECEMBER 2005. Standard Registration AU\$400

The Conference is to be held immediately after the **AUSTRALIAN OPEN TENNIS, 16 - 29 January 2006**, <http://www.australianopen.com.au>.

Melbourne Law School is located conveniently near the city and the Tennis venue. Our recommended accommodation choices are an easy tram ride or walk to the Law School and to the city. Delegates will be able to take advantage of the many cultural amenities of Melbourne including the Melbourne Museum, National Gallery of Victoria and Melbourne Zoo.

As the ATTA Conference will be held during the peak holiday season (right after the Australian Tennis Open), we strongly recommend you to arrange your accommodation in Melbourne for the Conference period as early as possible. We have block booked some rooms at the selected hotels near the Conference venue (Melbourne Law School) at the special rates. These accommodation options are available at the conference webpage: <http://www.law.unimelb.edu.au/taxgroup/attaConference2006-travelInformation.html#accommodation> . As the number of the block-booked rooms is limited, we recommend you to do the room bookings directly with the hotels earlier. Otherwise, the block-booked rooms will be released to the public at the end of December this year or mid-January next year. Contact Lillian Hong xyhong@unimelb.edu.au (Tel: + 61 3 8344 4298 Fax: + 61 3 8344 9971) with any queries.

ATTA is grateful to our sponsors:



[Taxation Law & Policy Research Institute \(TLPRI\), Dept. of Business Taxation, Monash University](#)

Journal of Australasian Tax Teachers Association (see Item 3 below)

Finally, a reminder that all Conference Papers will be eligible for submission to the *Journal of the Australasian Tax Teachers Association* (2006 Volume). JATTA is a refereed electronic journal. The StyleGuide for JATTA is on the conference webpage. For more information about JATTA, please see the webpage at <http://www.atax.unsw.edu.au/atta/index.htm>

3 Journal of the Australasian Tax Teachers Association (JATTA)

JATTA is now included on the DEST Register of Refereed Journals. The *Journal of the Australasian Tax Teachers Association* is now included on the DEST Register of Refereed Journals. The Register will be updated on the internet to reflect this.

Miranda Stewart will be the Editor of *JATTA 2006*. All written papers submitted to the ATTA Conference 2006 are eligible for consideration for 2006 JATTA. Additional time will be provided after the conference for submissions to JATTA. Information about a deadline for submissions to JATTA 2006 will be available at the Conference and on the JATTA website in early 2006.

Dale Pinto and Miranda Stewart

4 Arrivals, departures and honours

In last month's issue, we mentioned Second Commissioner of Taxation, Michael D'Ascenzo will replace Commissioner of Taxation, Michael Carmody from 1 January 2006. However we failed to mention Michael is an ATTA member.

Congratulations to Adrian Sawyer on his promotion to Associate Professor at the University of Canterbury, effective from 1 January 2006.

Congratulations to Dale Pinto on his application for a Personal Chair (Professorship) at Curtin University which has been successful. You can call Dale "Professor" from 1 January 2006 or when you see him at the ATTA Conference.

5 Postcard from Washington, DC

It seems like only a few days ago that I arrived in a sweltering, humid D.C. with one week to find an apartment and settle in before launching into the job of giving tax technical assistance for the IMF. Yet suddenly Christmas, Hanukkah, and New Year are almost upon me, and now I am traipsing around in the bitter cold, wondering whether I need to purchase a Michelin-man coat or can get by wrapping an incredibly long scarf multiple times around my head. If there was a beautiful, golden-leafed autumn ("fall") in D.C., it must have happened in the three weeks I was in the Caribbean in November. Which brings me both to the start and ending of my 6 months here at the IMF. Less than a week after I arrived, I was off to Antigua and Barbuda to write a value added tax (the Antigua and Barbuda Sales Tax, or "ABST") and excise tax, tasks that became surprisingly complex once I'd unwisely adopted the approach of attempting to merge two examples written by my predecessors, each in a completely different drafting style. Suddenly I developed a new found respect and awe for the drafters of the

Australian GST. Every small change has ramifications that flow through the Act, sometimes in ways one doesn't anticipate.

I have certainly been lucky in the countries I've worked with. In my 6 month appointment, I have had 3 separate trips to the Caribbean, visiting Antigua and Barbuda, St Vincent and the Grenadines, and Belize, as well as a trip to Albania. And in keeping with the way in started, my appointment ends with one last trip back to the Caribbean. So it will be Christmas and New Year on the beach for me, just as it will be for those of you who are back in Australia. I have seen the challenges that small countries work with, and the difficulties of people working without the resources that Australians take for granted. I have been without water, power, phones, and worst of all (apart from Albania) without access to a decent cup of coffee. I've written and re-written provisions about vouchers (of course) and then simply deleted the whole lot. I've shamelessly copied place of supply rules from New Zealand, and gambling supply provisions from Australia. I've spent hours at airports when my flights have been delayed or connections missed. I've had stopovers in Vienna and Milan (where I spent 750 euros in less than 24 hours in shops less than 2 km from my hotel). And I've enjoyed every minute of my time. For any more detail, catch me back in Australia in 2006.....

Rebecca Millar

6 New parliamentary committee inquiry on taxation

"Federal Parliament's Public Accounts and Audit Committee is to conduct a inquiry reviewing a range of taxation issues within Australia.

"It is a number of years since the Public Accounts Committee last undertook a comprehensive review of taxation administration," Chairman Bob Baldwin said.

"This inquiry will be split into two parts, running concurrently. Part A of the inquiry will be looking at the administration by the Australian Taxation Office (ATO) of the *Income Tax Assessment Act 1936* and *1997*, with particular reference to compliance and the rulings regime. Part A of the inquiry will include:

- o the impact of the interaction between self-assessment and complex legislation and rulings;
- o the application of common standards of practice by the ATO across Australia;
- o the level and application of penalties, and the application and rate of the General Interest Charge and Shortfall Interest Charge; and
- o the operation and administration of the Pay As You Go (PAYG) system.

"Part B of the inquiry will look at the application of the Fringe Benefits Tax (FBT), including any 'double taxation' consequences arising from the intersection of fringe benefits tax and family tax benefits," Mr Baldwin said.

Interested parties may make a submission on Part A or Part B of the inquiry, or both. The Committee will be accepting submissions and running public hearings for both parts of the inquiry concurrently.

The Committee would like to emphasise that it will not be reviewing individual case studies or grievances with the Australian Taxation Office.

The Terms of Reference for the inquiry are attached. The Committee invites public submissions addressing the terms of reference of the inquiry. The closing date for submissions is **Friday, 24 February 2006**. The preferred format is for submission documents to be emailed to jcpa@aph.gov.au. Further information on making a submission is available on the Committee's website.

The Committee will consider all submissions and may then invite individuals and organisations to discuss issues directly with Members.

For media comment: please contact **Mr Bob Baldwin MP** on telephone **(02) 6277 4200**

For more information: please contact the inquiry secretary on telephone (02) 6277 4615 or visit the Committee's website at www.aph.gov.au/house/committee/jpaa/

Terms of reference: inquiry into taxation matters

Part A

The Joint Committee of Public Accounts and Audit resolves to inquire into and report on the administration by the Australian Taxation Office (ATO) of the *Income Tax Assessment Act 1936* and *1997* (including the amendments contained in the *Tax Laws Amendment (Improvements to Self Assessment) Bill (No. 2) 2005*) with particular reference to compliance and the rulings regime, and shall include the following:

- the impact of the interaction between self-assessment and complex legislation and rulings;

- the application of common standards of practice by the ATO across Australia;

- the level and application of penalties, and the application and rate of the General Interest Charge and Shortfall Interest Charge; and

- the operation and administration of the Pay As You Go (PAYG) system.

Part B

The Committee shall examine the application of the fringe benefit tax regime, including any "double taxation" consequences arising from the intersection of fringe benefits tax and family tax benefits."

Source: <http://www.aph.gov.au/house/committee/jpaa/taxation06/media.htm>

Editor's note: To get the above, see below.

From: Colin Fong [mailto:c.fong@unsw.edu.au]
Sent: Tuesday, 13 December 2005 3:01 PM
To: Committee, JCPAA (REPS)
Subject: Parliamentary Committee Inquiry on taxation

To whom it may concern

Last week, CCH, the publisher revealed the Joint Committee of Public Accounts will be conducting an inquiry reviewing a range of taxation issues within Australia. The source for their story was the JCPAA's media release, 8 December 2005. I visited the JCPAA's website looking for the media release, but could not find it. I went to <http://www.aph.gov.au/house/committee/jpaa/media.htm> and it was not there. Could you please tell me where to find this media release, preferably before next Tuesday.

Thank you
Colin

Colin

The media release you referred to was a little further into the JCPAA website. Hopefully this link will help you. <http://www.aph.gov.au/house/committee/jpaa/taxation06/media.htm>

Fran Wilson
Office Administrator
Joint Committee of Public Accounts & Audit/
Standing Committee on Industry & Resources

7 Commercial Law Journal – call for papers

Publishing in early 2006, the *Commercial Law Journal* will focus on a range of commercial law issues of relevance to legal and accounting practitioners and academics, and to those working in the financial planning and financial services are. Articles in the *Journal* will include corporations law, contract law, taxation, intellectual property, corporate governance, and securities and investment law.

The editorial team, based in the School of Accounting and Law at RMIT University are calling for submission of papers for consideration for the *Journal*. The *Journal* seeks contributions in three categories:

Refereed articles

Original contributions which have neither been published nor submitted to another publication and which are to undergo a formal process of peer review before publication.

Current developments

Book reviews and discussion on recent cases, legislation, exposure drafts and other matters of interest.

Shorter articles

On topical matters of interest to lawyers, accountants and financial advisers which are not to be refereed. Estimated length up to 2500 words.

How to submit articles

Please submit to the editor at editor.clj@rmit.edu.au. Contributors should use the Australian Guide to Legal Citation, available online at <http://mulr.law.unimelb.edu.au/mulr/aglc.htm>

8 Free Australian Bureau of Statistics publications

“In June this year I was happy to announce that, as a result of a May 2005 Budget initiative and consistent with the Government's policy of Backing Australia's Ability, many ABS publications would be available free of charge from the Internet. These publications previously cost between 20 and 40 dollars each.

Today, as a tribute to the people of Australia, and to enable them easier access to information about our country, and in celebration of the ABS Centenary, I have great pleasure in announcing that as from next Monday morning, ALL the statistical information published online by the ABS will be available free of charge. This means that electronic versions of all ABS publications, and all Census data, time series data and spreadsheets may be downloaded from the ABS web site, absolutely free.”

Source: The Treasurer, Address Australian Bureau of Statistics Centenary Celebration, ABS House, Belconnen, Canberra, 8 December 2005

<http://www.treasurer.gov.au/tsr/content/speeches/2005/019.asp>

9 Tax Treaty Tutorial

Get no-fee access to the International Tax Institute's "Tax Treaty Tutorial".

Created by Professor Catherine Browne, the tutorial helps students learn about bilateral tax treaties and quizzes them on their knowledge. Just visit <http://www.itinet.org> and click the tutorial button.

While you're at the ITI web site why not sign up for a trial subscription to "Tax Treaty Analyst" and the "Transfer Pricing Suite" to see why they've made such effective teaching and research tools.

Yours truly,

Eric Forsyth
eforsyth@itinet.org
President
International Tax Institute
URL: <http://www.itinet.org>

10 Tax, Accounting, Economics and Law Related Meetings

Local

Taxation Institute of Australia

<http://www.taxinstitute.com.au/cda/cpd/events/1,1335,,00.html> lists many of the TIA conferences, conventions, seminars, breakfast clubs. For further enquiries, contact Sarah Hadfield by telephone on (02) 8223 0031 or by email by clicking <mailto:sarahhadfield@taxinstitute.com.au>

Taxation Law units of study available on a single unit “attendance only” basis through the Faculty of Law, University of Sydney. We would like to advise you concerning Taxation Law units of study available during 2006. (Cost \$1,950 per unit). Units available are:

- * Advanced Customs Law
- * Advanced Goods & Services Tax
- * Australian International Taxation
- * Comparative Corporate Taxation
- * Comparative Income Taxation
- * Comparative International Taxation
- * Comparative Valued Added Tax
- * Corporate Taxation
- * Customs Law
- * Goods & Services Tax Principles
- * Impact of Tax on Business Structures & Operations
- * International and Comparative Law of Trusts
- * Public Policy
- * Stamp Duties
- * Tax Administration
- * Tax of Business & Investment Income A
- * Tax of Business & Investment Income B
- * Taxation of Corporate Groups
- * Taxation of Financial Transactions
- * Taxation of Partnerships and Trusts
- * Taxation of Superannuation
- * Tax Treaties

- * Transfer Pricing in Taxation
- * UK International Taxation
- * US International Taxation

To obtain a full copy of the booklet relating to Single Unit Enrolments in Taxation in 2006, please download the following document from the Faculty's website:

http://www.law.usyd.edu.au/cle//2006/2006_TaxBrochure.pdf

If you have any queries concerning single unit enrolment or are unable to download the booklet, please contact Ms Val Carey, Continuing Legal Education, Faculty of Law (Telephone 9351 0238, email: valc@law.usyd.edu.au). Full details of the Law School's Postgraduate Programs may be found at: <http://www.law.usyd.edu.au/> or alternatively you can telephone No. 9351 0351 for an information pack.

Eighteenth Annual Australasian Tax Teachers Association Conference 2006, 30 January-1 February 2006, University of Melbourne Law School. Conference webpage: <http://www.law.unimelb.edu.au/taxgroup/attaConference2006.html> Contact Miranda Stewart, m.stewart@unimelb.edu.au A location map of the Law School is available: <http://www.law.unimelb.edu.au/LawSchoolStreetPlan.jpg>

2006 Constitutional Law Conference and Dinner, 24 February, Sydney, Conference organised by the Gilbert + Tobin Centre of Public Law with the support of the Australian Association of Constitutional Law. Program http://www.gtcentre.unsw.edu.au/events/docs/2006ConLawConference_Program.doc Registration form at <http://www.gtcentre.unsw.edu.au>

7th International Conference on Tax Administration, Crowne Plaza Resort, Coogee Beach, NSW, 20-21 April 2006. For further enquiries, contact Anna Bartholomaeus, Atax, UNSW on (02) 9385 9320 or anna.b@unsw.edu.au

16th Inter-Pacific Bar Association Conference, 30 April-3May 2006, Hilton Hotel, Sydney. Conference theme: Free trade agreements. <http://www.ipba2006.com> Committee programs include Tax Law; Environmental Law, Intellectual Property etc.

Nineteenth Annual Australasian Tax Teachers Association Conference 2007, January 2007, University of Queensland Law School. Contact Kerrie Sadiq, k.sadiq@law.uq.edu.au

Overseas

American Accounting Association Calls for paper website <http://aaahq.org/calls/default.cfm>

Canadian Tax Foundation <http://www.ctf.ca/profDev/schedule1.asp> has a 2005 events schedule. Fifty-Seventh Tax Conference, 25-27 September, Vancouver Hyatt Regency

The Seventh Annual Global Conference on Environmental Taxation: Instruments of Change for a Sustainable Economy, 22-24 October 2006, Ottawa, Canada <http://www.environmental-tax-conference.uottawa.ca> Call for papers. Proposals should be emailed to envconf@uottawa.ca no later than 1 February 2006. See Attachment

Institute for Fiscal Studies Conferences and seminars
<http://www1.ifs.org.uk/conferences/index.shtml>

International Bureau of Fiscal Documentation Various courses in Amsterdam, the Netherlands. For details, see <http://www.ibfd.org> The IBFD International Tax Academy

(ITA) runs an extensive international course program. Generally all courses are held in Amsterdam. Should you require any further information or wish to register please refer to their web site www.ibfd.org or contact the International Tax Academy at +31-20-554 0160 or by e-mail ita@ibfd.org

Introduction to European Value Added Tax March 13 - 16, 2006 - Introductory
Introduction to European Customs and Excise Duties February 06 & 07, 2006 -
Introductory February 06 & 07, 2006 - Introductory
Tax Treaties
Tax Treaties Workshop May 15 & 16, 2006 - Advanced
International Tax English for Practitioners May 08 & 09, 2006

For 2005 courses go to http://www.ibfd.org/news/course_calendar.htm

The ITA also offers tailor-made in-house courses on a worldwide basis for corporate clients, tax administrations and other organizations. Should you have any queries, please contact Arcotia Hatsidimitris, Head of the International Tax Academy by telephone +31-20-554 0180, or by a.hatsidimitris@ibfd.org

International Tax Planning Association Forthcoming meetings
<http://www.itpa.org/meetings.html>

International Atlantic Economic Society (IAES) conference. You can visit IAES's web site (www.iaes.org) for more information. Prof Dr M. Peter van der Hoek Academy of Economic Studies, Bucharest, Romania and Erasmus University, Rotterdam, Netherlands. Mailing address: Erasmus University (L 7-20) P.O. Box 1738 NL-3000 DR Rotterdam Netherlands Phone/Fax: +31-10-4081622 E-mail: vanderHoek@frg.eur.nl 61 st International Atlantic Economic Conference will be held in Berlin 15-19 March 2006; Philadelphia 5-8 October 2006

European Association of Tax Law Professors Meetings and conferences
<http://www.eatlp.org> Budapest 2006; Helsinki 2007

Other useful tax and law related conference websites include the **IBFD Course calendar** http://www.ibfd.org/news/course_calendar.htm **UNSW Faculty of Law Conference Calendar** http://www.law.unsw.edu.au/news_and_events/events/events.asp **New South Wales Bar Association** http://www.nswbar.asn.au/Professional/Noticeboard/ComingUp/contents_coming.htm **Law Council of Australia** <http://www.lawcouncil.asn.au/events.html> **Law Courts Library** <http://www.lawlink.nsw.gov.au/conference> **LexisNexis Professional Development Calendar of events** <http://www.lexisnexis.com.au/aus/conferences/calendar/default.asp> See also the *inTax* Seminars Directory, published in *inTax Magazine*. **Practising Law Institute** <http://www.pli.edu/> **New York County Lawyers Association** <http://www.nycla.org> **American Bar Association** <http://w3.abanet.org/home.cfm> **New York Bar Association** <http://www.nysba.org/> **Hieros Gamos Worldwide Law Events Calendar** http://www.hierosgamos.org/hg/db_meetings.asp?action=search <http://www.hg.org/calendar.html>

For social sciences and humanities conferences, meetings etc, see Mind: The Meetings Index <http://www.interdok.com/mind> See also the magazine *Australian Conference & Exhibition Diary*, Vamosi Information Publication.

11 Recent publications

Bold indicates ATTA members. Readers are encouraged to notify the Editor of recently written publications for notification, in these pages. Please note some of the overseas publications listed may not yet be available locally.

Local

Australia Board of Taxation *Identification and possible repeal of the inoperative provisions of the 1936 and 1997 Income Tax Assessment Acts — A Report to the Treasurer*, 2005
http://www.taxboard.gov.au/content/inoperative_provisions/index.asp

(2005) 5 (8) *Australian GST Journal*

- Fehily, Ken 'The role of SGT practitioners – caught in the middle?'
- Stacey, Paul 'Publisher and Technical Editor's note'
- Terra, Ben JM 'Methods of interpretation in European VAT'

(2005) 5 (10) *Australian GST Journal*

- **White, David** 'Appellate interpretation of NZ's GST legislation: an initial survey: 1986-2005'

(2005) 34 (4) *Australian Tax Review*

- Slater, Tony 'Obituary: Donald Graham Hill'
- **Carbone, Domenic** and **Tretola, John** 'FCT v Hart: An analysis of the impact of the High Court decision on the application of Pt IVA'
- **Love, Nathalie** 'The application of the mutuality principle in timeshare companies'
- Chowdry, Monica 'Recovery of overpaid GST and VAT and the 'passing on' defence'

(2005) 45 *CCH Tax Week*

- Higgins, Ross "Trusts landed with higher tax – the new Victorian trust regime"

(2005) 46 *CCH Tax Week*

- Szekely, Les "International tax competition: the Australian response"

(2005) 3 (2) *eJournal of Tax Research*

- **Binh Tran-Nam** and **Michael Walpole** - Editorial Announcement
- **Patrick Gallagher** - Obituary - The Honorable Justice D. Graham Hill
- Fabrizio Bulckaen and Marco Stampini - Commodity Tax Reforms In A Many Consumers Economy: A Viable Decision-Making Procedure
- **David G Dunbar** - Trans-Tasman Tax Reform: The Real Story
- Nor Aziah Abdul Manaf, John Hasseldine and Ron Hodges - The Determinants of Malaysian Land Taxpayers' Compliance Attitudes
- **Ken Devos** - The Attitudes of Tertiary Students on Tax Evasion and the Penalties for Tax Evasion - A Pilot Study and Demographic Analysis
- Elaine Abery - Taxing Non-Fixed Trusts
- **Chris Evans, Shirley Carlon** and Darren Massey - Record keeping practices and tax compliance of SMEs
- **Dale Pinto** - Book Review - Global Challenges in Tax Administration

Humphreys, John *Rebuilding Australia's tax and welfare systems*, St Leonards, NSW, The Centre for Independent Studies, 2005

(2005) 11 (4) *New Zealand Journal of Taxation Law & Policy*

- Editorial - **Adrian Sawyer** and **Lin Mei Tan**

- Deemed Acceptance of Taxpayers' Notices of Proposed Adjustment - Mark Keating
- The General Anti-Avoidance Rule and the "Ten Commandments" – Eternal Tax Dilemma No More? Case Comment on Canada Trustco Mortgage Co v R - Eugen Trombitas
- The Case For A Simplified Tax Dispute Resolution Process - Greg Blanchard
- A Comparison of the Goods and Services Tax General Time of Supply Rules in New Zealand and Australia - **Kalmen Datt**
- Evidence of the Disjunction Between Book Income and Taxable Income
Jilnaught Wong and Norman Wong

Nielson, Leslie *Superannuation, social security and retirement income*, Canberra, Information and Research Services, Parliamentary Library, 2005
http://www.apo.org.au/linkboard/results.chtml?filename_num=44730

Nielson, Leslie *Tax comparisons: Australia and selected countries*, Canberra, Information and Research Services, Parliamentary Library, Economics Commerce and Industrial Relations Section, 2005, Research Note 18, 2005-06
<http://www.apo.org.au/library/pubs/RN/2005-06/06rn18.htm>

(2005) 47 *Weekly Tax Bulletin*

- Bevan, Christopher "The tax scheme promoters Draft Bill: some difficulties – Part I"
- Bailey, Kym "A friendly super split"

(2005) 48 *Weekly Tax Bulletin*

- Bannister, Paul "The flexible retirement strategy: the Commissioner responds"
- Bevan, Christopher "The tax scheme promoters Draft Bill: some difficulties – Part II"

(2005) 49 *Weekly Tax Bulletin*

- Collins, Peter and Abbey, Paul "Capital management issues: returns and buy-backs; hybrid securities; IFRS"
- Fitton, Garry "The packaged car benefit – removing the 'mystique'"
- O'Flynn, Stephen "Vic parking space levy: watch out for the double-hit!"

(2005) 50 *Weekly Tax Bulletin*

- Prestney, Sue "Business succession plans a worry for 'boomers'"
- Jones, Stuart "Last chance to implement DIY defined benefit pensions"

Overseas

Asia Pacific Tax Bulletin No. 6 (2005)

- China The Taxation of Foreign Investment Enterprises and Foreign Enterprises - William Chan and Ivan Wong
- Financing Investments into China - Becky C Lai
- International Tax Considerations - Pieter de Ridder
- Nuts and Bolts of Individual Income Tax - Dawn Foo
- Structuring an Appropriate Transfer Pricing Policy - Jon Eichelberger, Marc M. Levey and Peng Tao
- Hong Kong - The Implications of Double Taxation Agreements for Hong Kong's Tax Policy
Connie K.Y. Cheng
- COMPARATIVE SURVEY
Development and Taxation of Real Estate Investment Trusts
- A comparative study of the development and taxation of REITs in Asian jurisdictions.
Japan - Ken Takahashi
- Malaysia - Dr Veerinderjeet Singh and Renuka Bhupalan

- Singapore - Leonard Ong
- South Korea - Bong Hee Han and Robert Wachter
- Taiwan - Kevin Liao and Robin Wang
- Reports on the following: Australia, China, Egypt, India, Indonesia, Japan, Kazakhstan, Singapore/New Zealand, South Korea, Syria, Taiwan

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- The Role and Rationale of Excise Taxes in the ASEAN Countries - Sijbren Cnossen
- Value Added Tax Treatment of Public Sector Bodies and Non-Profit Organizations: A Developing Country Perspective - Pierre-Pascal Gendron
- Enterprise Annuities and Tax Policy in China: Engaged, but Not Yet Married - Jinyan Li
- Netherlands: Tax Treatment of a Statutory Director in a Dual Role - Martin H Pietersz and Don TJ Jol

Rohatgi, Roy *Basic international taxation*, Vol 1: Principles, 2nd ed, Richmond, UK, Richmond Law & Tax Ltd, 2005

Ward, DA et al *Interpretation of income tax treaties with particular reference to the commentaries on the OECD Model*, Amsterdam, International Bureau for Fiscal Documentation, 2006

12 Quotable quotes

“The Board has identified an estimated 2,135 pages of inoperative provisions of the Attorney-General’s Department’s Scaleplus version of the 1936 and 1997 Income Tax Assessment Acts. These provisions are listed at Appendix 2 to this report.

The Board recommends that these provisions be repealed and the tax publishers be asked to move repealed provisions of the two Acts from their annual publications into less frequently published hard copy or on-line archive volumes.”

Australia Board of Taxation *Identification and possible repeal of the inoperative provisions of the 1936 and 1997 Income Tax Assessment Acts — A Report to the Treasurer*, 2005 Executive summary

http://www.taxboard.gov.au/content/inoperative_provisions/Executive_Summary.asp

“The Australian Chamber of Commerce and Industry (ACCI), Australia’s largest and most representative business organisation, strongly supports the announcement by the Government that it will take the first steps towards tax simplification by cutting the size of the income tax act by around 30 percent.

ACCI has been calling for tax simplification for some time. In our Taxation Reform Blueprint, released in 2004, ACCI argued that tax rates were too high and the system was too complex. Today’s announcement is good news.

This announcement is good housekeeping, but it is not fundamental tax reform. The reduction in the size of the tax act will only have a limited direct effect on most businesses. The cost of using accountants may reduce, but most small and medium businesses do not have a need to use the tax act on a day-to-day basis.

ACCI also calls for a reduction in the complexity of business interactions with the Australian Tax Office (ATO). In particular, we argue that a tax administration impact statement, similar

to a regulation impact statement, should be required when new administration requirements are placed on business (for example, by increasing reporting requirements). We are also strongly supportive of reforms to make current ATO interactions easier.”

Business warmly welcomes start to tax simplification, Statement by Mr Peter Hendy, Chief Executive, The Australian Chamber of Commerce and Industry (ACCI), Media statement, 24 November 2005 <http://www.acci.asn.au>

“The Australian Chamber of Commerce and Industry (ACCI), Australia’s largest and most representative business organisation, has noted reports in this morning’s The Australian newspaper that the 2005-06 Federal Budget surplus is expected to be over \$14 billion compared to the \$8.9 billion forecast in May and called on the Howard Government to commit to significant structural taxation reform in the 2006-07 Budget.

In light of booming revenue and Australia’s strong financial position, it is time for the Government to stop denying the need for significant, structural taxation reform. This issue is not just about tax cuts, it is about tax reform.”

Large surplus signals need for structural taxation reform, Statement by Mr Peter Hendy, Chief Executive, The Australian Chamber of Commerce and Industry (ACCI), Media statement, 24 November 2005 <http://www.acci.asn.au>

LAWS:

This notion of slashing thousands of pages from the Tax Act, what kind of effect will that have, if any?

TREASURER:

It will make tax laws much simpler. There is a whole lot of sections in that Act which are never used. They are there, you know, you are reading the Act and you have got Section 1 and Section 2 and Section 3 and Section 3 is never used, it doesn’t apply to anything and Section 4 may never be used, it doesn’t apply to anything. I am not giving you real numbers here. So, an important simplification is if it isn’t used just get to rid of it, don’t leave it there, people don’t have to read it, they don’t have to wade through it, it makes it easier for tax practitioners. My view by the way is that probably very few taxpayers ever read Tax Acts so it is doesn’t worry them so much but it is certainly for accountants and lawyers and businesses and people who do look at the Tax Act, it is going to make things much simpler.

LAWS:

Yes, why would you ever have 8,000 pages in the Tax Act? I mean, how is that possible?

TREASURER:

Because what has happened over the years is as new situations have arisen, new laws have been made to cope with it and nobody has ever got around to abolishing old laws in relation to transactions that are long passed. It has taken us a while to identify all of these old laws that can be repealed – about two years...

LAWS:

Well I can understand that with 8,000 pages to go through.

TREASURER:

...and to get rid of 2,600 is the biggest legislative simplification that we have ever had. And by the way, this Act has been in place in various forms since 1936 so there have been Governments going back...

LAWS:

71 years.

TREASURER:

...as far as Curtin and Chifley and Menzies and Lyons that were adding to the Act without taking away so the fact that we have sat down in 2005 and worked out all of the redundant provisions and can get rid of 2,600, I think it is a good project actually. I notice that there has been very good response from business to it today.

LAWS:

Oh yes, well understandably they haven't got to wade through all of that other stuff.

TREASURER:

Yep.

Source: The federal Treasurer Interview with John Laws 2UE Friday, 25 November 2005
9.30 am

<http://www.treasurer.gov.au/tsr/content/transcripts/2005/160.asp>

“Italian porn stars are up in arms over plans by the Government to introduce a tax on their work that would go towards paying for working mothers to afford babysitters.

The measure - the brainchild of the formerly neo-fascist National Alliance and contained in the latest draft of Italy's 2006 budget - is due to be voted on in parliament next week.

The tax would take the form of a 20 per cent levy on the selling price or rental cost of pornographic videos and DVDs, and on payments for porn delivered by TV stations or on the internet.”

Source: Taxman's pound of flesh girds porn stars' loins, *Sydney Morning Herald*
December 10, 2005. Reprinted from *The Guardian*

