

ATTA News January 2015

<https://www.business.unsw.edu.au/about/schools/taxation-business-law/australasian-tax-teachers-association/newsletters>

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ATTA website <https://www.business.unsw.edu.au/about/schools/taxation-business-law/australasian-tax-teachers-association>

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1 Presidential column

Welcome back to everyone after the Christmas break. I hope that you are all rested in preparation for the new academic year.

The new year starts with a bang for ATTA as we head to Adelaide for the annual conference next week. The programme details are now available (see details later in this newsletter) and, as usual, it looks like being an interesting start to the year.

We will also be bringing the proposed constitutional amendments to the AGM for a vote of the membership, so please review the details that have been published in the ATTA news so that we can finalise the amendments next week. If you are unable to attend and would like your views to be taken into account, proxy forms have been circulated.

I hope to see as many of you as possible in Adelaide next week, which will see the end of my term as President of ATTA. I wish you all a happy, fulfilling and successful 2015.

Helen Hodgson

2 ATTA Conference 2015

The 27th ATTA Conference is only days away on 19 to 21 January 2015. The conference has over 100 registrants and will have six Keynote Plenary presentations and 70 academic and PhD presentations.

Below are some of the final details:

Location: The conference will be held at The University of Adelaide's North Terrace campus in the heart of the city of Adelaide. The Keynote Plenary sessions will be held in The Braggs lecture theatre and other (parallel) sessions in the Ingkarni Wardli building. A detailed map is available on the conference webpage by clicking on the "Map of conference venue" link.

Conference Program: A conference program is available on the conference webpage at:

<http://blogs.adelaide.edu.au/law/2014/07/08/australasian-tax-teachers-associations-conference>

by clicking on the "Event Program" link. The final version will be provided in the conference satchels as a hard paper copy.

Welcome Cocktails Event: The Welcome Cocktails event will be held on Monday evening, 19 January, at Ayers House at 288 North Terrace, Adelaide, beginning at 5.30 pm and ending at 7.30 pm. Ayers House is located to the east of the University campus on North Terrace within a 5 to 10 minute walk. The event is being held in the Ballroom of Ayers House.

Conference Dinner: The "Wolters Kluwer" (CCH) Conference Dinner will be held on Tuesday evening, 20 January, at the newly developed Adelaide Oval Stadium in the Ian McLachlan Room East. This is located on Level 3 (second floor) of the Southern Stand at the Adelaide Oval. Please go to the South Gate at the oval which is near the end of the Riverbank Footbridge. The conference dinner will begin at 7 pm and end at the later time of 11.30 pm. The standard of dress for the dinner is business/cocktail attire.

Also, we have arranged for the Bradman Collection and Visitor Centre to be open only for conference registrants from 6.30 pm to 7 pm. This is located on Level 1 (ground floor) of the Southern Stand at the Adelaide Oval.

Please remember that the Welcome Cocktails Event and the Conference Dinner can be attended only by full paying registrants or if Additional tickets have been purchased for them.

Full Papers: Full papers that were submitted on time are available on a password restricted webpage and can now be viewed. To access the various conference papers please click on the following link:

<http://law.adelaide.edu.au/connect/conference-papers/>

To view the webpage please enter:

Username: atta

Password: 2015papers

There will not be a USB stick or CD provided given containing all the conference papers.

An abstract booklet will be provided in the conference satchels as a hard paper copy.

Presentation Slide ppts: If you are presenting please ensure that you bring your presentation on a USB stick so it can be uploaded just prior to your presentation. As a courtesy to other presenters, when designing your presentation please be mindful of your allocated time, either (a) PhD presentations: 15 minutes + 5 minutes for questions, or (b) Tax/Teaching: 20 minutes + 10 minutes for questions.

Registration: To attend the conference you must be registered. Registration closed on 12 January.

Things to do in Adelaide: If you are arriving early or staying a few days after the conference, there are a lot of things to do in Adelaide including free entry to the South Australian Museum and the Art Gallery of South Australia. See the following websites for more information and ideas:

<http://www.southaustralia.com/regions/adelaide-city.aspx>

<http://www.southaustralia.com/things-to-do/top-10-things-to-do-adelaide-cultural-precinct.aspx>

Remember that Adelaide has been ranked in the world's top 10 cities to visit by Lonely Planet, the largest travel guide book publisher in the world:

<http://www.abc.net.au/news/2013-10-29/adelaide-ranked-in-worlds-top-10-cities-to-visit/5051300>

If you have any questions about the conference please contact Domenic Carbone email domenic.carbone@adelaide.edu.au or visit the conference webpage at:

<http://blogs.adelaide.edu.au/law/2014/07/08/australasian-tax-teachers-associations-conference>

3 ATTA Annual General Meeting agenda

Date & time: Wednesday 21 January 2015 @ 2-3pm

Venue: The Bragg Lecture Theatre

Apologies: Marg McKerchar, Dale Pinto, Miranda Stewart, Michael D'Ascenzo, Brett Bondfield, Kalmen Datt

1. Minutes of the previous meetings
2. Matters arising from the minutes
3. Reports
- President's report:
- Treasurer's report:
- Secretary's report:
4. Special Business: Amend the Constitution of ATTA
5. Office bearers
 - a) Election of President 2014-2015.
 - b) Election of Treasurer.
 - c) Election of Secretary.
6. Confirmation of State/Territory/NZ representatives
7. Appointment of auditor
8. CCH Doctoral series
9. JATTA
10. ATTA Conference 2016
11. Expression of interest for hosting ATTA 2017
12. General business

4 Notice of Meeting: Annual General Meeting

Special business will be voted upon at the Annual General Meeting of Members of Australasian Tax Teachers Association (ATTA) to be held on Wednesday 21 January 2015 at 1:45pm at The Braggs lecture theatre, Braggs Building, The University of Adelaide, North Terrace, Adelaide, South Australia, 5005.

Special business - Amend the constitution of ATTA: to consider and, if thought fit, to pass the following resolution as a special business:
'That the amendments to the ATTA Constitution tabled at the Annual General Meeting be passed to amend the constitution of ATTA.'

Attached are the proposed amendments to the ATTA Constitution for consideration. Also attached is the current ATTA Constitution.

It is possible for members of ATTA vote at the AGM via proxy pursuant to sub-clause 14(4) of the ATTA Constitution. For such a proxy to be valid it must be (a) signed by the member granting it; (b) name the member of the Association authorised to use it and specify the meeting at which it may be exercised; and (c) be registered with the Secretary at least 24 hours before the time notified for the meeting. See pro-forma Proxy Form attached.

5 TTPI Australian Visiting Fellow Awards program

The Tax and Transfer Policy Institute Australian Visiting Fellow Awards program will start in 2015, to fund research visits from Australian scholars to TTPI. We look forward very much to your applications and visits. Find further information on the guidelines and application form here, which is due for submission by 15 February 2015.

<<https://taxpolicy.crawford.anu.edu.au/taxpolicy-grants>>

We will soon announce the International Visiting Fellow awards.

To receive the TTPI newsletter directly, please email tax.policy@anu.edu.au or me with any queries on Miranda.stewart@anu.edu.au

Miranda Stewart

6 Arrivals, departures and honours

Congratulations to Kalmen Datt on the completion of his doctorate *A critical evaluation of how aspects of the tax system in Australia are administered and their impact on corporations and directors*. This was done at the University of New South Wales, Australian School of Business, School of Taxation and Business Law, with supervisors Prof Michael Walpole (Atax) and A/Prof Mark Burton (University of Melbourne).

7 United Kingdom developments

Diverted Profits Tax

The Government announced at Autumn Statement 2014 that it would introduce a new Diverted Profits Tax. It will apply to profits of multinationals artificially diverted from the

UK. The new tax will apply from 1 April 2015 at the rate of 25%. It is distinct from corporation tax and is intended to encourage companies to adjust their corporate tax position to reflect the expected outcomes from the G20/OECD Base Erosion and Profit Shifting project. The UK considers it will fall outside the scope of existing double tax treaties. The tax is not aimed at financing.

Further details were published on 10 December 2014, including draft legislation to be included in Finance Bill 2015 and a Technical Note with some examples of cases where HM Revenue & Customs consider it could apply.

Deloitte Comment The UK's move is a surprise, given the UK's general commitment to the multilateral process underpinning the BEPS project. It is clear that the UK would like to encourage multinationals which have structures potentially affected by the BEPS project to change at least the UK aspects of those structures. In fact the provisions have been written to remove a charge to the new tax where those adjustments are made - even after the end of the accounting year. The tax rate specifically encourages this, since the DPT is 5% higher than the regular 20% corporation tax. The proposals say they are intended to catch artificial arrangements not supported by economic substance, which references language used in the BEPS project. The tax will apply where there is a tax advantage for a multinational group and it is reasonable to assume that the alternative would be for additional profits to be taxed in the UK. The tax is not intended to apply to profits from activities carried on outside the UK, supported by people. At this stage, before the G20/OECD publishes the agreed Actions on Transfer Pricing and Permanent Establishment – due in September 2015 – companies will be justifiably concerned that they do not yet have sufficient information on which to make structural changes, or to comply with this new tax. Concepts such as 'economic contribution to value' require definition, preferably on a multilateral basis. The new tax is designed to sit outside the UK's double tax treaties, and as such will not be limited or supported by standard double tax treaty clauses such as permanent establishment provisions, rules on the taxation of business profits, access to double tax relief and mutual agreement procedures, and exchange of information between governments. Regrettably, the draft legislation is complex and badly-drafted. The Government says it welcomes comment on the details of the proposals, but it says it is not consulting on substantive changes.

Scope of Diverted Profits Tax

The Diverted Profits Tax (DPT) will apply in two distinct situations: (1) where a foreign company has **artificially avoided having a taxable presence** (permanent establishment) in the UK and/or (2) where a group has a UK company (or UK permanent establishment of an overseas company) and there is a **tax advantage as a result of an entity or transactions that lack economic substance**. In both cases, there is a requirement that there is activity (people) in the UK. The rules are focussed on profit that would have arisen in the UK if the arrangements had not

been implemented, and is not intended to bring within the charge to UK tax activities carried on by people in other countries. Broadly speaking, there is a tax advantage where the overseas tax is less than 80% of the UK tax that would have applied. Income taxed in high tax countries will not be subject to the DPT.

There is an exemption for small and medium sized businesses (based on the existing interpretation of the EU limits used in UK transfer pricing legislation).

There is an **exemption from DPT** in avoidance of UK permanent establishment cases, where total **UK sales** made by the group are **less than £10 million** per annum.

Situation 1: Artificial avoidance of a UK permanent establishment (also referred to as a 'section 2 charge')

The DPT will apply to cases where foreign companies make substantial sales (of goods or services) in the UK while avoiding creation of a UK permanent establishment (PE) – for

example where there is significant sales activity in the UK, but not conclusion of contracts. A PE will be considered to have been avoided if:

- A **connected party** is carrying on activity in the UK in connection with the supply of goods or services by a foreign company to UK customers. (This is termed a **material provision**);
- The arrangements are designed so that the foreign company does not have a UK PE. It does not matter whether there are any commercial or other objectives;
- Either or both of (i) a **tax mismatch** condition (which includes a requirement for there to be a **lack of economic substance**), discussed further below or (ii) a tax avoidance condition are met; and
- The **tax avoidance** condition is that the main purpose, or one of the main purposes, of the arrangements is to avoid the charge to UK tax.

Situation 2: Recharacterisation of intra-group transactions involving a lack of economic substance (also referred to as a ‘section 3 charge’)

The DPT will also apply to cases where a UK company is party to arrangements involving ‘provisions’ (broadly meaning transactions or series of transactions, as termed in the UK’s transfer pricing rules) between it and another group company, where:

- A **material provision** has been made (a transaction or series of transactions) between connected parties, and
- A **tax mismatch** arises, including a requirement that there be insufficient economic substance.

In addition, this approach is extended to situations where a non-UK resident company trades through a UK PE.

Tax mismatches

For a tax mismatch to arise (in relation to either situation) certain conditions have to be met. There needs to be an increase in deductible expenses or a reduction in taxable income of either (i) the foreign company that has avoided a UK PE (under the section 2 charge) or (ii) the UK company (under the section 3 charge) or UK PE.

Broadly, a tax mismatch relates to the **tax reduction** from comparing the rate of tax that would have applied (to (i) the foreign company or (ii) the UK company/UK PE, depending on the circumstance) with the tax actually paid in other countries on the diverted profits, including any withholding tax suffered. In calculating this reduction, losses utilised in the company elsewhere are disregarded, but all other claims, elections and deductions are assumed to have been made.

There is a hurdle test – there will not be a tax mismatch unless the tax paid elsewhere on the diverted profits is **less than 80%** of the equivalent actual tax payable (again excluding the effect of losses).

For there to be a tax mismatch, the tax reduction is considered further by reference to economic substance. The **insufficient economic substance** requirements have three tests – and only one needs to be satisfied for there to be a tax mismatch:

- The first two tests consider whether the **tax reduction is greater than ‘any other financial benefit’** applied to (i) a single transaction or (ii) a series of transactions.
- The third is a broader entity-based test and considers the overseas entity’s contribution of economic value, in terms of functions and activities of its people. The test will be met if the **tax reduction is greater than the contribution of economic value**.

The important point to note in relation to the avoidance of PE case is that this test also looks at **onward payments by the foreign company to a low-tax jurisdiction**. It is aimed at situations where a company in a treaty, or European Union, country is the one transacting

with the UK, but it itself has only a small margin as a result of on-payments to low tax countries where there may be little substance.

Calculating the Diverted Profits Tax

There are two stages to the calculation of the DPT:

HMRC will make an initial estimated charge based on their best estimate of the DPT due. However, there is a presumption that where HMRC consider expenses are or may be inflated (to create a tax mismatch and involving a lack of economic substance) that the expenses should be reduced by 30% in calculating the DPT. At this estimation stage there is no requirement for HMRC to assess fully whether the transactions are at arm's length under transfer pricing rules.

HMRC will calculate the DPT based on facts and circumstances, but assuming that an **alternative provision** (transaction or series of transactions) is substituted for the material provision (the actual transaction(s) undertaken). HMRC have discretion in determining the alternative provision, provided that it is just and reasonable, and in some cases HMRC may conclude that the alternative would be to assume that there would have been no transactions at all.

In relation to avoided PE cases this applies to assume a PE of the foreign company in the UK, and also negates any effects of excessive expenses flowing through the foreign company to a low-tax jurisdiction where there is little or no substance. In relation to recharacterisation of intra-group transactions involving a lack of economic substance, the alternative provision will negate the transactions or series of transactions.

In both cases the calculation of the DPT will include credit for any UK tax or any overseas tax paid on the profits, including withholding tax suffered.

Notification, assessment and penalties

As the DPT is a new tax it has its own administration system. It does not form part of the corporate tax self-assessment system, and is an assessed tax. The UK tax authorities (HMRC) must issue a 'notice' of the DPT charge. The process is as follows:

- The starting point is that a company must **notify HMRC** that it is potentially within the scope of the DPT **within three months of the end of the accounting period**. A penalty may apply if there is a failure to make this notification.
- HMRC may then issue a **preliminary notice** that there is a DPT charge **within two years** of the end of the accounting period (or 4 years if there has been no notification).
- The company then has **30 days** to make representations on the preliminary notice.
- HMRC have a further **30 days** to either issue a **charging notice** or confirm no notice will be issued.
- The company must **pay the DPT** in the charging notice **within 30 days**, together with any interest due from 6 months after the end of the accounting period. There is no right to defer payment or to appeal against this notice. Penalties and interest for late paid tax will apply if the tax is not settled when due.
- HMRC then have **12 months** to review and potentially amend the charging notice.
- The company will have **30 days** to appeal the charging notice after the review period or it will become final.

Ultimate resolution of any disputed charge will be through the UK tax tribunal and courts.

Timetable and implementation

The DPT will apply to diverted profits arising on or after 1 April 2015. Accounting periods that straddle 1 April 2015 will need to be split between pre- and post- 1 April, with diverted profits apportioned on a just and reasonable basis. HMRC will hold an open day on the DPT on Thursday 8 January 2015, and comments on technical aspects are invited at divertedprofits.mailbox@hmrc.gsi.gov.uk. The Government says it is committed to

introducing the legislation and, whilst it welcomes comments on the detail does not expect to make significant changes to the structure of the tax.

The draft legislation is at <<https://www.gov.uk/government/publications/finance-bill-2015-diverted-profits-tax>>

The draft guidance is at <<https://www.gov.uk/government/publications/diverted-profits-tax-guidance>>

Bill Dodwell
Deloitte, UK
December 2014

8 IBFD Frans Vanistendael Award for International Tax Law

Call for applications: IBFD wishes to promote outstanding scientific research output on international tax law. For this purpose it has decided to introduce the IBFD Frans Vanistendael Award, named after its previous, esteemed Academic Chairman, Prof. Dr. Frans Vanistendael. With his academic production at the highest scientific standards, Professor Vanistendael has long distinguished himself as one of the most far-sighted scholars in the field of international tax law.

I. Funding, focus and requirements

The proposed dotation is EUR 10,000 plus a flat financial reimbursement for travel and accommodation expenses incurred to attend the award ceremony.

Eligible publications are all articles and book chapters on international tax law (including EU tax law), in paper or digital format (with an ISBN or ISSN number), published in English between 1 January 2014 and 31 December 2014, which have provided an outstanding contribution to the development of international tax law. Applications may be submitted by anyone (therefore not just by the author) with a supporting statement of up to 100 words and an abstract of up to 100 words (prepared by the one submitting the application) until 31 January 2015 via email to <academic@ibfd.org?subject=IBFD%20Frans%20Vanistendael%20Award>. The subject line should include "IBFD Frans Vanistendael Award". There is no age limit for applicants.

II. Application and selection process

The applications for the Frans Vanistendael Award will be evaluated by an international jury composed of Philip Baker, Tsilly Dagan, Rick Krever, Michael Lang, Pasquale Pistone (Chairman), Wolfgang Schön, Luis E. Schoueri, Stephen Shay, Maria Teresa Soler.

Members of the jury are not eligible for the award.

III. Award information

The shortlisted publications will be announced on the IBFD Academic website on 1 April 2015. The jury will decide on the winner of the award by a 2/3 majority. The award will be conferred in September 2015 at the IBFD premises in Amsterdam, the Netherlands.

Submit your application mail to:
<academic@ibfd.org?subject=Frans%20Vanistendael%20Award>

<<http://www.ibfd.org/Academic/IBFD-Frans-Vanistendael-Award-International-Tax-Law>>

9 Master of Laws in international tax law scholarship

The Institute for Austrian and International Tax Law would like to inform you about a **Scholarship for a full time course within our LL.M. program in International Tax Law:**

Erste Bank and Die Presse offer a full-time scholarship for the academic year 2015/2016 amounting to €13.900,-. Every graduate in the field of economics, social science and law, who has not yet reached 30 years of age by the time of application, is allowed to apply. The scholarship will be granted in accordance with regulations for the curriculum of the LL.M. program in International Tax Law to the applicant who best fulfills the academic accomplishments. Additional skills will be taken into account, as well.

Please submit your application for the scholarship by **February 28, 2015 at the latest, to Ms. Mag. Ender**. Any recourse to courts of law is excluded. The application form is available to download at <http://www.international-tax-law.at> at „Scholarship“.

The deadline for applications for a regular place in the course is **April 15, 2015**.

For further information please contact:

Mag. Barbara Ender

Akademie der Wirtschaftstrehänder GmbH

Tel.: +043 (0)1-815 08 50-15; b.ender@wt-akademie.at

<http://www.international-tax-law.at>

10 Call for papers

Fresh submissions are being welcomed by the peer-reviewed journal *Advances in Taxation*

Advances in Taxation publishes relevant, quality manuscripts from around the world on any aspect of federal, state, local, or international taxation including tax compliance, tax planning, tax policy issues, and current issues in tax.

The journal welcomes and encourages interdisciplinary research and a wide variety of research methods, including archival, experimental, survey, qualitative, case-based, legal and literature review approaches that are appropriate to the project.

Potential authors should note that manuscripts should be rigorous and of interest to a broad cross-section of scholars interested in taxation. The Editor will consider occasional publication of manuscripts related to tax education and good replications by doctoral students/faculty of earlier studies where there is an extension of the original paper e.g. through sample period, country of sample or other contribution.

Manuscripts are peer reviewed by two external academic experts and comments are sent back to authors within two to three months.

John Hasseldine, Ph.D, FCCA

Professor of Accounting

Editor, *Advances in Taxation*

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<http://www.emeraldgroupublishing.com/products/books/series.htm?id=1058-7497>

Sydney International Business Research Conference 2015 Call For Papers

Dates: 17 – 19 April 2015

Conference Venue (proposed): University of Western Sydney, Campbelltown, Australia

Conference Web: www.aabl.com.au/event/sydney-conference

Conference Theme

Sydney International Business Research Conference 2015 aims to provide an opportunity to academics and practitioners around the world to discuss and share the contemporary issues of business and business research and to initiate collaboration/ networking amongst them. The proposed conference provides an outlet for high quality research in all areas of accounting, finance, economics, econometrics, education, information technology, Islamic Finance and Sharia, law, management, marketing, social business and multidisciplinary.

Conference Program Tracks

The conference welcomes empirical research as well as theoretical/conceptual research papers having potential for field applications and in-depth literature reviews.

Broadly defined, but not limited to, tracks of the conference are:

□ Accounting: Contemporary accounting issues, such as auditing, accounting education, accounting history, accounting regulation, accounting policies and estimates, accounting information systems, carbon accounting, earnings management, environmental accounting, financial reporting, forensic and investigative accounting, fraud and anti-bribery, management accounting, international financial reporting standards (IFRS), public sector accounting, taxation.

□ Finance: Banking, business valuation, capital markets, carbon finance, corporate finance, derivative and derivative markets, dividend policy, financial institutions, financial markets and instruments, globalisation and integration, green finance, international finance, insurance, investment and risk management, money and monetary policy, public finance, public sector financial management, regulatory framework (e. g. Basel III), small business finance and venture and venture capital.

□ Economics: Agribusiness, agricultural and resource economics, applied economics, economic development and growth, economic policy and rural development, economic regulations, energy economics, environmental and natural resource economics, financial economics, health economics, history of economic thoughts, industrial economics, international economics, institutional and ecological economics, Islamic economics, knowledge economy, labour economics, micro and macroeconomics, population economics, transport economics, urban and regional economics.

□ Econometrics: Applied statistics, biostatistics, correlation and regression, decision theory, items response theory, longitudinal models, meta-analysis, multivariate method, multilevel models, multivariate statistics, structural equation modelling, quantitative methods, predictive inference, preliminary test and shrinkage estimation, Stochastic Processes testing after pre-test.

□ Education: Competency based assessment, curriculum development and pedagogy, self-regulated learning, student assessment, teaching innovation, teaching methodologies and pedagogies, teaching strategies and research in business ethics education, teaching strategies and research in international business education, curriculum design/teaching strategies in operations management education.

□ Information Technology: Digital and social media, digital divide, digital future, e-commerce, information and communication studies, information technology and knowledge management, telecommunication and telecommunication policy, web development.

□ Islamic Finance and Sharia: The impact of Basel III on Islamic Finance practice, Corporate Governance in Islamic Financial institutions, Innovation in Islamic finance, instruments issues and development in Islamic Finance, financial markets in Islamic Finance, investment strategy and portfolio in Islamic Finance, risk management in Islamic Finance, social responsibility in Islamic Finance, sustainability and competitiveness in Islamic Finance.

□ Law: Banking law, business law, comparative legal system, constitutional law, corporate law, consumer law, criminal law, energy law, environmental law, international law, human rights law, Islamic and Sharia law, legal history, maritime law, mercantile law.

- Management: Business ethics, business strategy, conflict management, corporate governance, corporate social responsibility, corporate intellectual capital reporting, corporate venturing, human resource management, innovation, strategic theories of the firm, operations management, organisational behaviour, international business, sports management, strategic management, leadership, management, performance measurement in the public sector, stakeholder engagement, voluntary disclosure.
- Marketing: General marketing, business marketing, consumer behaviour, international marketing, marketing management, market orientation, services marketing, retail marketing, social marketing, strategic marketing and supply chain management.
- Social Business: Prospects and challenges of social business, social business and innovation, social business and law, social business and social media, social entrepreneurship, social government, social innovation, social marketing. Roundtables/workshops on social business are also expected.
- Multidisciplinary: Development studies, diversity and social issues, human rights, linguistics, entrepreneurship, hospitality and aviation, journalism, international trade, international relations, leadership development, library science, natural resources management policy, operations research, political economy, political science, public administration, renewable energy, research methodology, rural politics and policy, psychology, sociology, strategic leadership, tourism, women and gender issues.

Best Papers Awards

One Best Paper Award (value \$500) and one Best Student Paper Award (value \$300) will be conferred at the conference. In order to qualify for the award, the paper must be presented at the conference. The authors of best papers will also get certificates.

Publication Opportunities in Journals

- Australian Academy of Business Leadership Journals: Authors of the presented papers at the conference will be able to submit their papers to following journals published by Australian Academy of Business Leadership (AABL):
 - Australian Academy of Accounting and Finance Review (AAAFR)
 - Australian Academy of Business and Economics Review (AABER)
 - All submitted papers are subject to blind review process for acceptance and authors must follow the editorial policy of the respective journal. All accepted papers to the above journals will be published on a complimentary basis.
 - Taiwan Institute of Business Administration Journal: Some selected papers presented at the conference will be solicited for publications in Academy of Taiwan Business Management Review (<http://www.jtiba.com/>) published by Taiwan Institute of Business Administration. This journal is ranked B by Australian Business Deans Council Journal Ranking. Authors interested to publish in this journal must comply with the author guidelines and editorial policy of this journal. The ‘Conference Organising Committee’ or AABL does NOT provide any guarantee that a particular paper presented at the conference will be published by Taiwan Institute of Business Administration.
 - Canadian Centre of Science and Education Journals: Some selected papers presented at the conference will be solicited for publications in the following journals published by Canadian Centre of Science and Education:
 - Asian Social Science (<http://www.ccsenet.org/journal/index.php/ass>).
 - International Journal of Business and Management (<http://www.ccsenet.org/journal/index.php/ijbm>).
 - International Journal of Economics and Finance (<http://www.ccsenet.org/journal/index.php/ijef>).
 - These journals are ranked C by Australian Business Deans Council Journal Ranking.
 - Authors interested to publish in these journals must comply with the author guidelines and editorial policy of these journals. The ‘Conference Organising Committee’ or AABL does NOT provide any guarantee that a particular paper presented at the conference will be published by Canadian Centre of Science and Education.
 - Neilson Publishing Journals: The authors of the presented papers will also be able to submit their papers to the journals published by Neilson Publishing:

- Journal of Business Ethics Education (<http://www.neilsonjournals.com/JBEE/>).
- Journal of International Business Education (<http://www.neilsonjournals.com/JIBE/>).
- Operations Management Education Review (<http://www.neilsonjournals.com/OMER/>).
- These journals are ranked B by Australian Business Deans Council Journal Ranking.
- Authors interested to publish in these journals are strongly encouraged to visit these journals web pages and become familiar with their scopes, author guidelines and editorial policies. The 'Conference Organising Committee' or AABL does NOT provide any guarantee that a particular paper presented at the conference will be published by Neilson Publishing.

Program Committee Conference Coordinator: Dr Afzalur Rashid, University of Southern Queensland

Key Note Speakers: Professor Jeffrey Gow, University of Southern Queensland, Australia

Conference Chair: Associate Professor Anne Abraham, University of Western Sydney, Australia

Conference Advisor: Professor Marie Kavanagh, University of Southern Queensland, Australia

Conference Manager: Nicholas McDonald, Executive President, Australian Academy of Business Leadership

Full Conference Organising Committee

Professor Abdur Rab, Vice Chancellor, Eastern University, Bangladesh

Dr Abu Umar Faruq Ahmad, The Global University of Islamic Finance, Malaysia

Dr Afzalur Rashid, University of Southern Queensland, Australia

Dr Amzad Hossain, The University College of North, Canada

Dr Arash Najmaei, Macquarie Graduate School of Management, Australia

Dr Gregory Jones, University of Southern Queensland, Australia

Professor Marie Kavanagh, University of Southern Queensland, Australia

Dr Mohobbot Ali, University of Canberra, Australia

Dr Mostaque Ahmed Zebal, Abu Dhabi University, United Arab Emirates

Dr Zahra Sadeghinejad, Macquarie Graduate School of Management, Australia

Shibly Abdullah, Charles Sturt University, Australia

Nicholas McDonald, Australian Academy of Business Leadership, Australia

Important Dates

Abstract and/or Full Paper Due: 23 January 2015

Notification of Acceptance: 30 January 2015

Early Bird Registration Deadline: 20 February 2015

Regular Registration Deadline: 10 March 2015

Hotel Booking Deadline: 10 March 2015

Conference Dates: 17-19 April 2015

Fees Schedule* Registration Type Early Bird Regular Academic and Industry Delegate

A\$375.00 A\$425.00 Student Delegate A\$325.00 A\$375.00 Group Registration (total cost for

5 Members) A\$1,500 A\$1,750 Student Group Registration (total cost for 5 Members)

A\$1,250 A\$1,500 Second or Third Authors for Same Paper A\$250 A\$300 Conference Dinner

(18 April) Complementary Complementary Doctoral Symposium No additional cost No

additional cost Accommodation per night (including meals) A\$120 A\$120

* Full fees terms and conditions can be found at conference website

Paper Submission: To submit your abstract or full paper please visit conference website

<http://www.aabl.com.au/event/sydney-conference>

Alternatively, submissions can be made via e-mail to

conference.manager@aabl.com.au or info@aabl.com.au

For More Information, Please Contact: AABL Conference Secretariat Australian Academy of Business Leadership; E-Mail: secretariat@aabl.com.au

* Authority reserves the rights to amend the program as and when the need arises.

11 Tax, accounting, economics and law related meetings

Local

ATTA's **27th Annual Conference** will be hosted by the University of Adelaide 19-21 January 2015. The theme of the conference is *Tax - "It's time" for change*. The conference will celebrate 27 years of ATTA in Australasia. Further information about the conference is included above in this newsletter. If you have any questions please contact Domenic Carbone at domenic.carbone@adelaide.edu.au or visit the conference webpage at: < <http://blogs.adelaide.edu.au/law/2014/07/08/australasian-tax-teachers-associations-conference>>

Tax and Transfer Policy Institute, Crawford School of Public Policy, Australian National University **Looking Forward at 100 years: Where Next for the Income Tax?** on 27-28 April 2015. As the White Paper tax reform process kicks off with release of the Issues Paper in the new year, Australia's income tax reaches 100 years of age. We look forward to your Abstracts for this important conference. Participants with accepted papers will be funded to participate in the conference.

Please send your paper Abstract to tax.policy@anu.edu.au by 30 January 2015. See further < <https://taxpolicy.crawford.anu.edu.au/department-news/5149/call-papers-looking-forward-100-years-where-next-income-tax>>

The **Tax Institute's** website www.taxinstitute.com.au lists many conferences, conventions, seminars, and breakfast clubs. For further enquiries, contact Phillipa Cardigan (02) 8223 0045 or email phillipacardigan@taxinstitute.com.au or register online at www.taxinstitute.com.au Call the National Events team on 1300 733 842 for more details.

Please contact the National Events Team on 1300 733 842 or by email, nationalevents@taxinstitute.com.au Follow us on Twitter @TaxInstituteOz.

Danielle Thurston, Event and Member Services Executive The Tax Institute Phone: 02 8223 0000; Direct: 02 8223 0014 Fax: 02 8223 0077 daniellethurston@taxinstitute.com.au

Overseas

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

Canadian Tax Foundation <http://www.ctf.ca/ctfweb/en>

Institute for Fiscal Studies Conferences and seminars

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

Institute for Austrian and International Tax Law 2015 events:

January 26, 2015 – KPMG-WU-Workshop: “Abzugsverbote“ (in German)

January 29, 2015 – Semester closing

February 13-17, 2015 – European Doctorate Seminar

March 12, 2015 – Semester opening

March 16, 2015 – PwC-WU-Seminar: “Current Developments in European and International Tax Law” (in English): Peter Essers/Carlo Romano

April 13, 2015 – PwC-WU-Seminar: “Current Developments in European and International Tax Law” (in English): Christopher Orchard/Andrew Dawson

April 20, 2015 – Wolfgang Gassner-Gedächtnisvorlesung (in German): Prof. Joachim Englisch

May 18, 2015 – Panel discussion with tax lawyers (in German)

June 1, 2015 – PwC-WU-Seminar: “Current Developments in European and International Tax Law” (German/English): Aline Kapp/Claudine Devillet
June 11-13, 2015 – Conference: “Tax Treaty Case Law Around the Globe”
June 19, 2015 – 22nd Symposium on International Tax Law: “BEPS and Tax Treaties”
June 25, 2015 – Semester closing
July 30/1, 2015 – Second EU-China Tax Summit
July 2-4, 2015 – Conference: “The Impact of Bilateral Investment Treaties on Taxation” (Rust, Burgenland)
July 13-17, 2015 – CEE Vienna International Tax Law Summer School
The topics of the seminar sessions and other events can always be found at www.wu.ac.at/taxlaw. Please feel cordially invited to visit our website again regularly. Additionally, there will again be a huge number of other technical seminars and conferences. Please see our website for most up-to-date information on them.

International Bureau of Fiscal Documentation. Various courses in Amsterdam, the Netherlands or in Malaysia. 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
For 2014 courses go to <http://www.ibfd.org/Training>
IBFD International Tax Courses - A selection of related courses in 2015
Transfer Pricing Workshop 23 - 24 March 2015, Singapore
Treaty Aspects of International Tax Planning 26 - 28 November, Sao Paulo
International Corporate Tax Planning Aspects 20 - 22 April 2015, Singapore
VAT Considerations in M&A Transactions 28 - 29 May 2015, Amsterdam

Doctoral Meeting of Researchers in International Taxation (DocMIT) and Postdoctoral International Tax Forum (PITF), 21-22 May 2015, IBFD Head Office, Amsterdam, The Netherlands. In 2015, IBFD will organize the 13th edition of the meeting for doctoral researchers and the 4th edition of its postdoctoral (early career scholars) meeting. The purpose of these meetings is to provide the researchers with an opportunity to discuss their current research projects with leading academics and a select circle of colleagues. Participants benefit from tailored coaching provided by our panel of international tax professors, as well as from the feedback provided by peers from various parts of the world. Our aim is to provide researchers with a forum to further their research in the field of taxation.

<http://www.ibfd.org/IBFD-Tax-Portal/Events/Doctoral-Meeting-Researchers-International-Taxation-DocMIT-and-Postdoctoral-0?utm_source=Asia-Pacific%20newsletter%20September&utm_medium=email&utm_campaign=AP30-09-2014&utm_content=IBFD-Tax-Portal/Events/Doctoral-Meeting-Researchers-International-Taxation-DocMIT-and-Postdoctoral-0>

International Fiscal Association Congresses <http://www.ifa.nl/pages/default.aspx>
2015 **Basel, Switzerland** (30 August 2015 - 4 September 2015) www.ifabasel2015.com
Topics under consideration as Subjects 1 and 2 of the Congress are "The use of tax measures in the area of research and development (R & D)" and "Taxation and fundamental rights: taxpayers' procedural rights in a globalised world"
2016 **Madrid, Spain**
2017 **Rio de Janeiro, Brazil**
2018 **Seoul, Korea, Rep of**
2019 **London, United Kingdom**

International Atlantic Economic Society (IAES) conference 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

International Tax Planning Association Forthcoming meetings

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

Other useful tax and law related conference websites include the International Bar Association:

http://www.ibanet.org/Conferences/conferences_home.aspx

IBFD Course calendar

<http://www.ibfd.org/portal/app?bookmarkablePage=org.ibfd.portal.presentation.TaxCourses>

International Events and Law Conferences

<http://internationaleventsandlawconferences.yolasite.com>

Conferences in Australia <http://www.conferencealerts.com/country-listing.php?page=1&ipp=All&country=Australia>

New South Wales Bar Association

http://www.nswbar.asn.au/docs/professional/prof_dev/CPD/programme/index.php

Law Council of Australia <http://www.lawcouncil.asn.au/lawcouncil/index.php/conferences>

Practising Law Institute <http://www.pli.edu/>

New York County Lawyers Association <http://www.nycla.org>

American Bar Association Taxation CLE topics

http://www.americanbar.org/cle/cle_courses_by_topic/taxation.html

New York Bar Association <http://www.nysba.org/>

Hieros Gamos Worldwide Law Events Calendar <http://www.hg.org/legal-events.asp>

For Australian ones <http://www.hg.org/legal-events-australia.asp>

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 ATTA members in the media

Passant, John

Hutchens, Gareth 'Costly obsession with axing jobs' *Sydney Morning Herald* 5 January 2015 p 18 < <http://www.smh.com.au/business/why-this-obsession-with-cutting-public-service-jobs-20150104-12h1nj.html> >

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

Boulusa, Paul & Dowdinga, Keith 'The press and issue framing in the Australian mining tax debate' (2014) 49 *Australian Journal of Political Science* 694-710

<<http://www.tandfonline.com/doi/abs/10.1080/10361146.2014.948378>>

Dunning, Barry 'Royal Commission into tax loopholes a must', *The Drum*, ABC TV, 26 December 2014 < <http://www.abc.net.au/news/2014-12-26/dunning-royal-commission-into-tax-evasion-a-must/5985834>>

Prebble, John; Caldwell, Julia & Keene, Amelia ‘Using the Social Science Research Network to aid and to promote research’, (2013) 44 *Victoria University of Wellington Law Review* 631-52 <<http://www.victoria.ac.nz/law/research/publications/vuwlr/prev-issues/volume-44,-issue-34/15-Prebble.pdf>>

Overseas

del Pietro, Carla *Tax treaty override*, Alphen aan den Rijn, The Netherlands, Kluwer Law International, 2014

de Vaus, David; Gray, Matthew; Qu, Lixia & Stanton, David ‘The economic consequences of divorce in Australia’ (2014) 28 *International Journal of Law, Policy and the Family* 1-22 <<http://lawfam.oxfordjournals.org/content/early/2014/02/06/lawfam.ebt014.abstract>>

Eichfelder, Sebastian and Vaillancourt, François, ‘Tax compliance costs: a review of cost burdens and cost structures’ (December 9, 2014). Available at SSRN: <http://ssrn.com/abstract=2535664> or <http://dx.doi.org/10.2139/ssrn.2535664>

Moretto, Nicole; Kendall, Elizabeth; Whitty, Jennifer; Byrnes, Joshua; Hills, Andrew P; Gordon, Louisa; Turkstra, Erika; Scuffham, Paul and Comans, Tracy ‘Yes, the government should tax soft drinks: findings from a citizens’ jury in Australia’ (2014) 11 *International Journal of Environmental Research and Public Health* 2456-2471 <<http://www.mdpi.com/1660-4601/11/3/2456/htm>>

Richardson, Grant; Taylor, Grantley & Lanisc, Roman ‘The impact of financial distress on corporate tax avoidance spanning the global financial crisis: Evidence from Australia’ (2015) 44 *Economic Modelling* 44-53 <<http://www.sciencedirect.com/science/article/pii/S0264999314003435>>

Taylor, Grantley & **Richardson, Grant** ‘Incentives for corporate tax planning and reporting: Empirical evidence from Australia’ (2014) 10 *Journal of Contemporary Accounting & Economics* 1-15 <<http://www.sciencedirect.com/science/article/pii/S1815566913000337>>

14 Quotable quotes

“In plain English, the Government has shelved very modest measures to close a handful of the tax loopholes described by the head of the Australian Tax Office (ATO) as "abused" to the tune of "hundreds of millions of dollars" each year by major corporations.

It gets worse: the Government is also proceeding with plans, announced in November, to cut 4700 staff from the ATO. That's right. At the same time the budget has fallen off a cliff and the scale of this tax rort begins to emerge, the Government's response is to make it even harder for the ATO to chase tax evaders.

It's clear this Government doesn't have the temperament or the inclination to take on the cigar chomping executives, preferring instead to go after the sick, the poor, the young and the old.

But there is one institution in Australia that has the power, the resources and the wherewithal to do a thorough job of it - what we need is a Royal Commission into corporate tax evasion and avoidance.”

Source: Dunning, Barry 'Royal Commission into tax loopholes a must', *The Drum*, ABC TV, 26 December 2014 < <http://www.abc.net.au/news/2014-12-26/dunning-royal-commission-into-tax-evasion-a-must/5985834>>

"Late last year, a former assistant commissioner of the Australian Tax Office, John Passant, warned in a letter to The Australian Financial Review that repeated efficiency dividends had seriously hurt the ATO's ability to collect tax.

This is at a time when the government is making a big song and dance about cracking down on tax evasion by multinational companies and its related efforts to repair the budget.

"Treasurer Joe Hockey's announcement that 10 multinationals have ATO auditors embedded in them is a joke," Mr Passant wrote in November.

"Only 10? Are the other hundreds of multinationals squeaky clean? Further, that doesn't address the fact that for the last decade the international area of the ATO has been destroyed and its expertise wrecked, lost or dispersed. With 2200 staff cuts so far in the past 12 months (and an extra 2500 planned for the end of 2017), more of that international and audit experience has been or will be lost. Putting a few auditors into 10 multinationals isn't going to change that. It is a smokescreen to cover the destruction of international expertise and capacity in the ATO."

That's a serious charge from someone who knows what he is talking about."

Source: Hutchens, Gareth 'Costly obsession with axing jobs' *Sydney Morning Herald* 5 January 2015 p 18 < <http://www.smh.com.au/business/why-this-obsession-with-cutting-public-service-jobs-20150104-12h1nj.html> >

"KPMG chairman Peter Nash said the government's inability to "get on with the job" had hurt business confidence, but former AMP chief executive Craig Dunn said the fall in oil prices and the lower dollar would help the economy.

On hopes for the looming tax and industrial relations reviews, Mr Clifford said he hoped the tax review was all-encompassing, and then acted upon rather than ignored.

"There's been plenty of analysis ... people know what's there but it's caught in the political arm-wrestle."

Source: Heffernan, Madeleine 'Business warns of need for reform', *Sydney Morning Herald* 6 January 2015 p 18 < <http://www.smh.com.au/business/business-warns-of-need-for-reform-20150105-12hxwx.html>>

"It should also be remembered that much of Abbott's GST conundrum is of his own making. He is hindered by the voter perception that new and increased taxes are bad - largely created by him in opposition - and by the expectation that his would be a low-taxing government.

This difficulty is compounded by the fact that the main tax in people's lives these days (other than income tax) IS the GST. While Howard offered to scrap 10 taxes and replace them with

one, Abbott will be constrained to offering what is essentially an increase to an existing tax, perhaps with modest income tax cuts and compensation for those on low incomes.

Lastly, Abbott's Finance Minister, Mathias Cormann has helpfully placed the bar particularly high in identifying the level of support the Government will take as being permission to change the GST. According to Cormann, any proposed change will have to have broad support across the community and the parliament as well as the unanimous support of all state and territory governments.

That will be no easy feat, particularly with a contested strategy, a distrusted salesman, and a dubious product.

It is said by those who favour Howard's tax reform campaign that it rejuvenated his electoral prospects by giving the then PM a new purpose and stature in the eyes of voters. Even if this were true, it's hard to imagine any reform proposal involving the word "tax" endearing estranged voters to Abbott or making him more electable.”

Source: Matthewson, Paula ‘Abbott follows the Howard blueprint on GST’, *The Drum* ABC TV, 12 January 2014 <<http://www.abc.net.au/news/2015-01-12/matthewson-abbott-follows-the-howard-blueprint-on-gst/6011596>>

PROXY FORM for Australasian Tax Teachers Association (ATTA)

To be registered with the Secretary of Australasian Tax Teachers Association by 9am Tuesday 20 January 2015 via email: c.fong@unsw.edu.au

Your vote is important – appointing a proxy can see your vote count even if you cannot attend the AGM.

Appointment of proxy for the Special Business at the 2015 Annual General Meeting (AGM) of AGM of Australasian Tax Teachers Association

I, _____ (insert name) being a member of Australasian Tax Teachers Association, hereby appoint:

	Chair of the Meeting (mark this box with X);
	or
	_____ (print name of person you wish to appoint as proxy) (mark this box with X)

to act generally at the AGM on my behalf and to vote as directed below or if no directions are given as the proxy sees fit at the Annual General Meeting of the Australasian Tax Teachers Association to be held Wednesday 21 January 2015.

Voting directions to your proxy

For each item of special business please mark X in one box only to indicate your voting instruction. If you do not specifically indicate how to vote below then your proxy may decide how to vote on any motion at the AGM.

	In favour	Against
To adopt the amendments to the constitution of the Australasian Tax Teachers Association as table at the 2015 Annual General Meeting		

Signature of Member

Please sign and date.

____ / ____ / 20__

Proposed ATTA Constitution Amendments for consideration at 2015 ATTA AGM

Proposal #	Proposed Amendment	Reason
1	<p>Delete Clause 3(1) and insert instead: (1) (a) Ordinary membership shall be available to those persons who have a substantial interest in the advancement and scholarship of taxation and related disciplines. (b) Membership shall be obtained and retained on a tri-annual basis by being recorded as an attendee of the Association's annual tax conference at least one of the prior three years. (c) The executive has the discretion to set a tri-annual membership subscription for individuals who are not members by virtue of clause (1)(b).</p>	To make it easier and more representative of the current membership of ATTA.
2	<p>Delete 'annual' where appearing in clause 3(2)(c).</p>	Not needed given new clause 3(1)(c)
3	<p>Delete clause 4 and insert instead: 4. ASSOCIATION'S OFFICE The office of the Association shall be at such place as the committee may from time to time determine.</p>	To make it easier to ensure that we comply with this clause.
4	<p>Delete clause 7(4) and insert instead: (4) Except with the authority of the committee, no payment of a sum exceeding two dollars shall be made from the funds of the Association.</p>	To make it easier to ensure that we comply with this clause.
5	<p>Delete clause 8(1) and insert instead: (1) At each annual general meeting of the Association, the members present may appoint a person as the auditor of the Association.</p>	To make it optional to appoint an auditor to be determined annually at the AGM
6	<p>Delete clause 8(3) and insert instead: (3) If at an annual general meeting there is no nomination for appointment of an auditor, or if a casual vacancy occurs in the office of auditor during the course of a financial year of</p>	To make it easier to ensure that we comply with this clause.

	the Association, the committee may appoint an auditor for the then current financial year of the Association and the person so appointed shall hold office until the next succeeding annual general meeting.	
7	Delete clause 9(3) and insert instead: (3) When an auditor is appointed under rule (8) the officers of the Association shall cause to be attached to the statements provided for in sub-rule 9(2) an auditor's report relating to those statements.	Re-word to take into the possibility of no auditor being appointed.
8	Delete clause 10(1) and insert instead: (1) Where an auditor is appointed under rule (8) they shall report to members on the financial statements required to be laid before the annual general meeting and on the Association's accounting records and other records relating to those accounts.	Re-word to take into the possibility of no auditor being appointed.
9	Delete clause 11(2) and insert instead: (2) The annual general meeting shall be held at the annual tax conference of the Association following the close of the relevant financial year of the Association and if that is not possible, at such later day as the committee may determine.	Adjust the date to reflect that practice that the AGM does not occur until the annual ATTA conference in January each year.
10	Delete clause 11(3)(c) and insert instead: (3) (c) to receive the annual financial statements from the committee and any auditor's report thereon;	Adjust to reflect that an auditor's report may not always be received.
11	Delete clause 11(3)(e) and insert instead: (e) to consider the appointment of an auditor;	Re-word to take into the possibility of auditor being appointed
12	Delete clause 11(3)(f).	Not needed as annual subscription to be determined by executive.
13	Re-number clause 11(3)(g) clause 11(3)(f) consequent on the deletion above.	
14	Delete clause 12(2) and insert instead: (2) The committee shall, on the requisition not less than twenty members or one half of the members of the Association from time to time whichever number shall be the lesser, give notice to members of items of special business to be considered at the next annual	To make it easier for 'special business' to be raised at an AGM

	general meeting.	
15	Delete clause 12(3) and insert instead: (3) Items of special business shall state the objects of the items.	To make it easier for 'special business' to be raised at an AGM
16	Delete 'Fifty' and insert instead 'Twenty' in clause 14(1).	To make it easier to have a Quorum 20 (rather than 50).
17	Delete clause 14(3) and insert instead: (3) Upon any question arising at an annual general meeting of the Association: (a) a member has one vote which must be exercised in person; (b) in the case of an equality of voting on a question the matter chairman of the meeting shall have the casting vote.	To reflect current practice – to make the voting process easier and less complicated.
18	Delete clause 14(4).	To reflect current practice – remove the ability to have proxies to make it easier to determine with special business has been passed at a AGM.
19	Delete clause 16(1) and insert instead: (1) The officers of the Association shall be: a President; a Secretary; a Treasurer; and three other members as Vice Presidents.	To make it clear that there are two distinct roles – secretary and treasurer.
20	Delete clause 17(1) and insert instead: (1) Other than the office of Editor of the Association's journal, all officers shall be elected by the members at the Association's annual general meeting.	To make it clear that the executive is elected at the AGM.
21	Delete clause 17(2) and insert instead: (2) Nominations of candidates for election as officers of the Association shall be: (a) called by the Secretary at the annual general meeting; (b) be in writing, signed by a member of the Association and by the candidate as giving consent to the nomination.	To reflect current practice - allow that nominations be called at the AGM.

22	<p>Delete clause 17(3) and insert instead: (3) If the number of nominations made under clause 17(2) exceeds the number of vacancies to be filled a vote of members present shall be held.</p>	To reflect current practice – provide for the vote to be called at the AGM.
23	<p>Delete clauses 17(4 and 17(5).</p>	To reflect current practice – provide for the vote to be called at the AGM – accordingly provisions about a postal vote not needed.
24	<p>Delete clause 17(8)(a) and insert instead: (8)(a) appoint elected members of the Committee to the offices of the Association, except that the President will be the one who was appointed President elect in the prior year;</p>	To fix typo and re-word so grammatically correct

ATTA News February 2015

<https://www.business.unsw.edu.au/about/schools/taxation-business-law/australasian-tax-teachers-association/newsletters>

Editor: Colin Fong, Faculty of Law, University of New South Wales, Sydney
c.fong@unsw.edu.au

ATTA website <https://www.business.unsw.edu.au/about/schools/taxation-business-law/australasian-tax-teachers-association>

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1 Presidential column

After such a great conference in Adelaide, if you are like me, the year is now in full swing with classes commencing and large numbers of students on campus. While the realities of teaching and administration take centre stage, I have many fond memories of the conference hosted by the University of Adelaide. On behalf of all ATTA members, a big *Thank You* to Domenic Carbone, John Tretola, Sylvia Villios and their team of volunteers for organising a great conference. A big thank you also goes to the conference sponsors, plenary speakers, and delegates who, without you, the conference could not have gone ahead and been such a success. I am already looking forward to next year's conference to be hosted by UNSW – thank you John Taylor and your team. Please see later in the newsletter for a wrap up of this year's conference.

It is a privilege and a challenge to take over from Helen Hodgson as your new President, and in doing so, setting a precedent as the first non-Australian to hold the position. As I settle into the role I will certainly be looking to draw upon the experience of my fellow Executive members, to Colin Fong and prior ATTA Presidents.

You will soon see a significant change in the tax publishing arena, with Oxford University Press (OUP) acquiring the CCH tax and business academic titles. This has a familiar feel to it as I believe OUP took over the Blackstone Press titles in the UK some years ago. I am delighted that CCH has committed to supporting the publication of the thesis for this year's ATTA CCH Doctoral Series award winner, Theuns Steyn, from the University of Pretoria. OUP's move also raises interesting issues such as future ATTA conference sponsorship and

presence at conferences. Please be assured that your Executive, along with the Doctoral Series Panel, will do all they can to ensure that this award continues beyond 2015, including securing sponsorship.

On a less than happy note, the last few months have been a sad time for a number of ATTA members through the passing of members of their immediate family. I do sincerely hope you can reach out to your fellow ATTA members for support. Many of you may not know that Sir Ivor Richardson, retired President of the NZ Court of Appeal, passed away in late December 2014. Sir Ivor throughout his career significantly impacted upon the legal profession and academia in New Zealand, especially with regard to taxation. On a personal note, Sir Ivor encouraged and supported me on numerous occasions with my research, and I would encourage you to read the tributes to him given by the senior members of the NZ legal profession and judiciary. From a perspective of his impact on academia, I would draw your attention to a personal tribute in the *NZ Journal of Taxation Law and Policy's* forthcoming March 2015 issue.

On the political front, while being from across the ditch, Australian politics is not as close to my heart as it is to many of you, the recent (failed) attempt at a coup to oust Australian Prime Minister Tony Abbott may yet have implications for tax reform, especially GST reform (which is an area of interest to me). The Australian community (and even some in New Zealand) is waiting on the tax reform white paper which, at the time of writing, is (over)due. It is like Waiting for Godot! On this side of the Tasman, the New Zealand Parliament has just resumed for the year, with the first tax reform proposal for 2015 coming from a less than likely sector, namely local government.

Adrian Sawyer

2 ATTA 2015 Conference wrap-up

The University of Adelaide Law School was proud to host the 27th ATTA Conference on 19 to 21 January 2015. The conference was very successful with over 100 registrants, six Keynote Plenary presentations and 70 academic and PhD presentations. In this regard I want to thank attendees who have sent numerous emails complimenting the conference and its organisation.

I would also like to take the opportunity to again thank our Keynote Plenary speakers and Conference Dinner speaker who shared their insights about the theme of the conference: *Tax – “It’s time” for change*. I also thank again the conference sponsors The Tax Institute, Wolters Kluwer (CCH), Thomson Reuters, Bloomberg BNA, IFA Australia, CPA Australia (SA Division), Gustax Consulting Pty Ltd, The Federation Press, the Adelaide Law School, the Adelaide Business School and O’Leary Walker Wines.

As well as receiving some wonderful feedback about the conference overall, particular praise has been given about the Welcome Cocktails function held at the beautiful Ballroom of Ayers House, and about the Wolters Kluwer (CCH) Conference Dinner held at the newly developed Adelaide Oval Stadium. For my part, I really enjoyed both these functions and the entertainment provided at both.

I congratulate again the following winners of the various conference prizes:

Best PhD paper presented, as awarded by our ATTA Patron to Mattia Anesa for “Is corporate tax maximisation an unthinkable”.

Best PhD paper, as awarded by The Federation Press, to Ali Salehi Far for “The Role of the OECD in the Current International Tax Law: Voluntary or Obligatory”.

Best tax research paper, as awarded Bloomberg BNA, to Lisa Marriott for “An Investigation of attitudes toward white-and blue- collar crime in new Zealand”.

And thanks once more to my fellow members of the Conference Organising Committee, John Tretola and Sylvia Villios, and to our student volunteers who helped the conference run smoothly.

John Tretola and I are the guest editors of this year’s edition of the Journal of the Australasian Tax Teachers’ Association (JATTA) and there is a separate call for the submission of journal articles later in this newsletter. Submissions are due to John Tretola by 31 March 2015. The journal’s requirements can be found at:

<http://www.asb.unsw.edu.au/schools/taxationandbusinesslaw/atta/attajournal/Pages/submissions.aspx>

Any enquires about JATTA should be directed to John whose email address is john.tretola@adelaide.edu.au.

And a final thank you again to all who registered and attended the conference. I hope that you enjoyed both the conference and your visit to Adelaide.

Kind regards

Domenic Carbone

3 ATTA Annual General Meeting minutes

Date & time: Wednesday 21 January 2014 @ 2-3pm

Venue: The Braggs Lecture Theatre, University of Adelaide

Present: 68

Apologies: Marg McKerchar, Dale Pinto, Miranda Stewart, Michael D’Ascenzo, Mark Keating, Mark Bowler-Smith, Kalmén Datt

1. Minutes of the previous meeting:- These were signed as an accurate report moved by Ranjana Gupta, seconded by Adrian Sawyer.
2. Matters arising from the minutes. Issues will come under other items.

3. Reports

President’s report:

It has been my privilege to serve as the President of this organisation for the last two years, and to have been on the Executive since 2009.

There has been a sense of coming full circle: when ATTA incorporated in 1994 I was part of the first executive that was charged with preparing the Constitution. The major task of the Executive over the last 2 years has been to review that Constitution. I would like to record at this point my thanks to Brett Bondfield and Brett Freudenberg for their work in undertaking that review. I think it is fair to say that after 21 years the Constitution has held up fairly well to that scrutiny, although there are some changes recommended to update our procedures to reflect the way ATTA functions now.

One of the roles of the President is to be an access point for other organisations that want to reach Tax Teachers. I will not bore you with all of these requests, but a highlight was my involvement in the Thomson Reuters Tax Graduate of the year awards. I was approached in 2013 and for the last two years I have been on the selection panel. This year’s winner was

Sudha Vanthavasi of BDO East Coast Partnership, a Commerce graduate of UNSW. It has been rewarding and validating as a teacher to see the development of these graduates as they enter the workforce. The finalists have been motivated and hard working young people who are already making a contribution in their workplace. I expect they will go on to bigger things.

I would like to thank all of the ATTA members who contribute to the organisation on an ongoing basis. I expect that I will miss someone - my apologies if I do, but I would like to remind members of the work that is going on continuously:

- conference organising teams at Adelaide this year (Domenic Carbone, John Tretola and Sylvia Villios) and Griffith (headed by Brett Freudenberg and Anna Mortimore) last year;
- JATTA editorial board, headed by Dale Pinto with Mark Keating editing in 2013 and Lisa Samarovski editing the 2014 edition;
- CCH/ATTA Doctoral publication committee - and I would like to acknowledge the contribution of Rick Krever, who stepped down this year with Kerrie Sadiq replacing him;
- TBL at UNSW, which continues to host the ATTA website, and Kathrin Bain who liaises with the relevant admin staff when work needs to be done; and
- anyone else who has responded to ad-hoc requests for assistance.

Finally, I would like to thank the executive; currently Adrian, Ranjana, Brett Freudenberg, Brett Bondfield, Colin Fong and Shirley Carlon. We will be holding elections shortly, but I would like to thank Colin particularly as he steps down as Secretary/Treasurer - although he will be retaining his role as Newsletter Editor.

Thank you all again for your support over the last two years. ATTA is more than just an association - I have made many friends over the past 25 years. We have always taken pride in mentoring and encouraging junior colleagues and I know that ATTA will continue to do so.

Assoc Prof Helen Hodgson

Treasurer's report:

The audited accounts were distributed at the meeting. Comments on the accounts: The profit and loss account for 2013-14 showed a surplus of \$2,911 leaving accumulated funds as at 30 June 2014 of \$52,234. As at 30 June 2014 there were still carried forward tax losses. The auditor will prepare the tax return for lodgement. There was a transposition error on the asset and liability statement and the net assets should have been \$52,234 not \$53,134 as shown. The meeting was advised that for 2014 onwards the accrual basis of accounting would be used. Income for the association is interest and conference surpluses. The surplus/deficit from conferences will be recognised on receipt by the association as this is when the net surplus can be measured with certainty. Recall the annual conference is held in January each year and the surplus is normally remitted once the sponsoring university have covered all the costs, including the JATTA journal editing costs. This is usually about 12 months after the conference is held. The main direct outgoing costs of the association are the audit and tax preparation fees, the honorarium paid to the Colin Fong and the CCH doctoral publication costs. The expenses will be matched to the conference or the period to which the item relates. This would mean the net surplus from the Auckland conference was \$3,956.

Shirley Carlon

Fiona Martin queried that with \$50,000 in reserves, what can these be used for? It was reported in the past reserves have been used to pay for a range of losses, PhD student subsidies etc. The Executive would welcome concrete proposals for use of the reserves.

Treasurer's report moved by Helen Hodgson and seconded by Rob Woellner.

Secretary's report:

In the past year we have added about 25 new ATTA members from the previous Brisbane conference and another 20 names to the mailing list to receive the ATTA News. Rick Krever and others, on average, give me two new email addresses per month to add to the ATTA News mailing list. Presently the ATTA News is emailed to 493 recipients and after this Adelaide conference the figure will probably be in excess of 520.

The ATTA News is issued about the 20th of each month and in 2013 contained 414 pages plus other attachments, in 2014 contained 256 pages plus other attachments. The editor would appreciate members sending in a list of their various publications and other items for noting in the ATTA News.

The Secretary regularly gets emails involving issues that have already been published in ATTA News so I would encourage members to read their issues carefully. Other times the Secretary gets tax research questions and this year I received one which I have turned into a conference paper.

Colin Fong

The Secretary's report moved by Helen Hodgson and seconded by David Smith.

4. Special business - Amending the constitution of ATTA. Outlined by Brett Bondfield and Brett Freudenberg.

The idea of the proposed constitutional change is to modernise, keep the membership informed, audit the membership, manage the AGM, and appoint the auditor for the following year.

Membership will consist of those who have attended the last 3 years of ATTA conferences. We may impose fees for those absent in the past 3 years. This would be at the discretion of the Executive. Richard Collins suggested modernising the constitution to fill the positions on the Executive, move the quorum from 50 to 20.

Resolutions – proposed to move all the amendments in one go?

David Smith was concerned what a life member benefits include? Brett Bondfield suggested the life member status need not be expressed. What the rights are, no one has brought to the constitution review committee.

It was put that the special resolution be accepted.

Moved: Brett Bondfield, seconded by David Smith. Voted by 46 hands and adopted unanimously.

The President expressed her thanks to Brett Bondfield and Brett Freudenberg for their work on the constitution.

5. Election of Office bearers:

a) Election of President 2015-2016: Adrian Sawyer

b) Election of Treasurer: Shirley Carlon

c) Election of Secretary: Brett Bondfield

d) Election of Vice-Presidents: Ranjana Gupta nominated by Rob Woellner seconded Kathrin Bain; Brett Freudenberg nominated by Helen Hodgson seconded by Lisa Samarovski; Lisa Marriott nominated by Fiona Martin, seconded by Adrian Sawyer.

6. Confirmation of State/Territory/NZ representatives: NSW – Fiona Martin; ACT – John Passant; Qld – Lisa Samarovski; SA – Domenic Carbone; Nth Qld/NT – Justin Dabner;

Victoria – Keith Kendall; Tasmania – Sonia Shimeld; WA – TBA; North Island – Andrew Smith; South Island – Andrew Maples

7. **Appointment of auditor** – optional. Richard Collins is available. The membership was asked how it felt. A number of members prefer audited accounts, so Richard Collins was appointed as auditor going onwards.

8. **CCH Doctoral series.** Chris Evans revealed the winner of the fifth award is Theuns Steyn from the University of Pretoria, the first time it has been awarded to someone who is not from Australia or New Zealand.

9. **JATTA.** Lisa Samaroski reported she received 17 submissions and published 12 of these. Lisa thanked the referees, Trisha Main, proofreader who did an excellent job editing, Dale Pinto and Brett Freudenberg.

10. **ATTA Conference 2016.** John Taylor presented a video of UNSW hosting the 2016 conference with the theme of *Tax and time travel: looking forward and looking back*.

11. **Expression of interest for hosting ATTA 2017.** Victoria University of Wellington expressed interest in hosting 2017 however, if this did not eventuate, Auckland University of Technology also expressed interest.

12. **General business**

Brett Bondfield reported he has comprehensive lists of attendees of the last 3 years of ATTA conferences sorted so this is a legally audited list. The list of ATTA News recipients is a separate list to ATTA membership. We rely on the currency of ATTA members on the website on the members. We cannot always know if it is correct. There is the practical issue. The UNSW IT division do the work. We need a system to revise material in bulk. The best way is a periodic update. There are privacy issues. One option is to just have a person's name, no details, with an 'opt out' clause. Another is to have a person's name, employer, and contact email included.

The actual date for the next ATTA conference is not yet confirmed though John Taylor is open to suggestions.

Brett Freudenberg reminded people about the Queensland Tax Researchers' Symposium and Tax History Chapter meeting to be held at Griffith University, in July 2015. Details are to be supplied in the next ATTA News.

Domenic Carbone suggested a Facebook page or a dedicated ATTA website. Cynthia Coleman suggested a Twitter account. Both suggestions require someone to supervise them. The ATTA Executive to consider this.

John Azzi inquired about all the photos Rob Woellner has been taking at numerous ATTA conferences. Rob claimed he sent a number of photos to ATTA a few years ago. Colin Fong does not recall ever seeing these.

The AGM closed at 3:05pm.

4 ATTA medal presentation

The ATTA medal was originally introduced in 2000 and it is awarded in recognition of outstanding contributions to tax teaching and policy. It will always be associated with two

key members of ATTA: the first medal was awarded in 2000 to Abe Greenbaum, a founding member of this body. Subsequently, Justice Graham Hill, the first Patron of ATTA, was recognised with the medal now bearing his likeness and known as the ATTA Hill medal. The medal is awarded by the executive based on nominations from the general membership. This year we received four nominations and the executive decided that we would award two medals. Accordingly, I would like to acknowledge the contribution to the goals of ATTA made by Adrian Sawyer and Binh Tran Nam.

Adrian Sawyer was Head of Department at University of Canterbury late 2007 to mid-2008, Deputy and Acting Pro-Vice Chancellor for the College of Business and Economics during 2011-12, and has been a lecturer, senior lecturer, Associate professor and professor at this institution, commencing in 1991. He is currently the Research Director for the School of Business and Economics.

In these roles he has undertaken research, taught students at undergraduate and postgraduate levels, and supervised research students (including PhDs) and led tax groups. Professor Sawyer has published over 400 publications in tax and tax related areas. He has published in a wide range of journals including high ranking journals such as the *British Tax Review* and *Australian Tax Forum*.

Adrian has been a long time member of ATTA and was Vice-President for several years. He has been the ATTA representative for the South Island since this role's inception. He is chair of the Editors of the *New Zealand Journal of Taxation Law and Policy* (a role held since 2001) and is on the editorial board of JATTA, and has co-organised two ATTA conferences at the University of Canterbury.

A/Prof **Binh Tran-Nam** is a leading tax researcher in Australia with five ARC grants over his career and many smaller grants such as CPA, AIJA and AusAID. He is one of the few ATTA researchers whose work has been quoted by the High Court of Australia. (see *Commissioner of Taxation v Scully* [2000] HCA 6). He was a foundation member of the Atax program at UNSW and thus has made a significant contribution to the development of tax education in Australia. He was the foundation editor of the *electronic Journal of Tax Research* and has supervised and mentored many PhD and Research Masters students. He is a prolific researcher, especially of compliance costs of taxation, and his many research grants and projects have resulted in significant contributions to the development of tax policy in Australia. He is a frequent active participant at ATTA events and has been involved in organising the ATTA Conference on the three occasions it has been hosted by UNSW.

Helen Hodgson

5 Call for Articles: 2015 edition of JATTA

The closing date for submissions to the next edition of the Journal of the Australasian Tax Teachers' Association (JATTA) is Monday 31 March 2015.

All papers on taxation will be considered for publication. In particular, JATTA welcomes submissions from authors of the 2015 ATTA conference papers and other papers on the theme of this year's ATTA conference: *Tax – "It's time" for change*. JATTA can provide a forum for publication of the many excellent papers presented at the conference.

Submissions should be presented in MS Word format using double spaced 12 point Times New Roman font. For the purposes of ensuring that the refereeing process is anonymous, please ensure that your name does not appear anywhere on the paper (including in the headers

or footers, or the MS Word document information) and also ensure that the footnotes do not reveal your identity. Furthermore, papers should conform to the 3rd edition of the *Australian Guide to Legal Citation* produced by the Melbourne University Law Review: see <http://www.law.unimelb.edu.au/mulr/aglc>.

An abstract of approximately 100 words is also required. A document separate to this should also be submitted with the author's/authors' details (eg, name/s, position/s, institution/s, contact email address/es, etc).

All submissions to JATTA are subject to double blind peer review by appropriate specialists in the particular field of taxation. JATTA satisfies the description of a refereed journal and was included in the ERA 2012 Journal List.

Please submit your papers by email to John Tretola at john.tretola@adelaide.edu.au no later than 31 March 2015.

6 Impressions of my first ATTA Conference

The 2015 ATTA Conference was my first ATTA Conference and, I have to say, the best academic conference I have ever attended. As well as having an opportunity to hear from a broad range of excellent speakers, it was a great chance to have numerous stimulating discussions with other participants about reforming the Australian tax and superannuation systems.

As a first year PhD candidate at the Tax and Transfer Policy Institute at ANU, I was able to learn more about research methods and the findings of relevant research about the Australia and New Zealand systems, as well as learn from research about other countries' tax and transfer systems. I was also able to find some suitable experts to interview as part of my normative study on integrating the Australian tax and transfer systems. Everyone at the conference was very friendly and helpful.

Not only was the ATTA Conference a brilliant learning experience, we also had a lot of fun and had the chance to check out some of the sights of the lovely city of Adelaide. The cocktail party at historic Ayers House and conference dinner at the newly renovated Adelaide Oval, both events with fantastic musical entertainment, were MC'ed by Chair of the Conference Organising Committee, Domenic Carbone. Domenic has missed his calling as a comedian (although I'm sure his students appreciate his wit).

Congratulations to the 2015 ATTA Medal recipients, Bin Tran-Nam and Adrian Sawyer. Thanks very much to outgoing ATTA President, Helen Hodgson, and the ATTA Executive, as well Dominic and the conference organising committee and the University of Adelaide for such a memorable event. The 2015 ATTA Conference will be a hard act for Sydney to follow in 2016!

Wendy Heatley

The recent ATTA conference at Adelaide University was the first that I had attended.

On the opening day I found that the PhD presentations in the new and grand Braggs lecture theatre were thought provoking and informative. This was a great opportunity for attendees to participate by speaking with the 'roaming mike'. In doing so, we provided valuable feedback

to the presenters. Day 1 concluded with presentations from tax lecturers discussing challenges relating to taxation taught at universities. A highlight for me was Brett Freudenberg and Dale Pinto's persuasive argument that the law of trusts is not sufficiently covered in the accounting curriculum at Australian universities. Those types of issues can impact on the nature and type of training that my employer provides to its staff, since many are graduates from courses taught by ATTA members.

I attended the welcome cocktail function at Ayers House which was great fun and a fantastic opportunity to network and liaise with tax educators from the tertiary and private sector. It was quite humbling with all the 'doctors' in the room. In doing so, I also found out what is involved in completing a PhD in taxation, perhaps even inspiring me to undertake that 'marathon' in the future.

There were just too many great presentations over the following two days for me to mention them all. Just a small selection of the highlights for me included listening to the views of Justice Richard Edmonds and Robert Jeremenko in relation to tax reform in Australia. And the presentations by Justice Besanko and Dr Anthony Ting in relation to recent reforms and an inherent limitation of the anti-avoidance rules in Part IVA. Professor Gordon Cooper's speech on the history of taxation was also very entertaining.

Overall, it was such a great 3 days. Personally, it has been fourteen years since I had completed my first degree at Adelaide University, so it felt great to roam its grounds again and experience campus life. It really is such an impressive university and there had been significant upgrading of the facilities since I had left. The free coffee and great catering was the icing on the cake. Domenic Carbone, who was in fact my tax lecturer in 2001 and John Tretola did not miss a beat. They had done such a great job in organising the event. I'm sure I will be attending ATTA conferences in the future."

Glenn Pfitzenmeier

7 The Right Honourable Sir Ivor Richardson: Obituary*

ILM Richardson 24 May 1930 – 29 December 2014

In the last three decades of the Twentieth Century the Right Honourable Sir Ivor Richardson was undoubtedly New Zealand's, and arguably Australasia's, leading tax lawyer. In Australasia he was challenged only by Justice Graham Hill of the Federal Court of Australia. Regrettably, for jurists with so much in common, the two never met.

Richardson was born in Ashburton, a provincial town in the South Island of New Zealand, to a farming family. He rode to school on horseback. His father died when he was 13 and his mother when he was 16, which may have contributed to his notable self reliance. Richardson was top of his graduating class at Canterbury University and graduated LLM and SJD from the University of Michigan. He married Jane Krcma from Delaware and leaves three daughters, one, Megan, a professor at Melbourne Law School.

Returning to New Zealand he started practice with the firm Macalister Brothers in Invercargill: a prosperous but undeniably provincial town. This apparently unusual career move for someone of Richardson's achievements proved to be very successful. At the time,

* With permission, this obituary draws heavily on a tribute by Justice Sir John McGrath at a memorial service for Sir Ivor Richardson on 29 January 2015 and on an obituary for the New Zealand Law Society by Geoffrey Adlam. Opinions are the author's own.

wealthy farmers undertook a good deal of the tax planning in New Zealand; in addition, Macalister Brothers had the Crown Warrant for Invercargill. That is, the firm was responsible for representing the Crown in the district, including representation in tax cases. As well as transactional work, Richardson appeared with Sir Richard Wild QC (later Chief Justice) in the leading case *CIR v Walker* [1963] NZLR 339 at the Court of Appeal.

Such experiences led Wild to persuade Richardson to move to the Crown Law Office in Wellington, where he revitalized Crown litigation in tax cases. In particular, he selected *Elmiger v CIR* [1967] NZLR 161, an over-ambitious effort at tax planning, to launch a sustained attack on tax avoidance. It is probably fair to say that Richardson's work as Crown Counsel helped to ensure that the New Zealand Commissioner never faced the judicial sympathy for tax avoidance that marked Australia in the 1960s and 1970s.

Throughout his life as a practising lawyer and a judge Richardson remained an active legal scholar. He was Butterworths Fellow at the London School of Economics in 1967 and in the same year began six years as a professor of law at Victoria University of Wellington, three as dean, establishing tax law teaching on a sound footing. He maintained a lifelong connexion with Victoria, serving later on the University Council, as Pro-Chancellor, and as Chancellor. After retirement as a judge he worked in the Law Faculty as a Distinguished Fellow. He maintained a steady stream of scholarship, publishing a number of books and 100 scholarly papers during his career.

Another New Zealand university invited Richardson to become Vice-Chancellor, but instead he returned to private practice in 1973, joining the specialist corporate law firm, Watts and Patterson, where he very quickly built a hugely busy and successful practice in litigation and corporate advice.

In 1977 Richardson was appointed a judge of the High Court, and after only five months promoted to the Court of Appeal, where he served for twenty-five years, the longest term of any judge of that court. His last six years on the court were as President. He retired before the Supreme Court of New Zealand was founded, but would no doubt have been appointed to that court had it been established earlier.

Richardson's judgments were models of lucidity. His judgments often set out the basics of the relevant law in almost the form of a summary of a textbook, a practice that is extremely helpful for teachers of taxation law. Examples include explanations of the basic rules of deductibility of expenses and of their apportionment in, respectively, *Commissioner of Inland Revenue v Banks* [1978] 2 NZLR 472 (CA) and *Buckley & Young Ltd v Commissioner of Inland Revenue* [1978] 2 NZLR 485 (CA).

As a tax judge, Richardson took a relatively traditional, fairly literal approach. For instance, on the basis of a formal interpretation of the rule in question, in *Pacific Rendezvous Ltd v Commissioner of Inland Revenue* [1986] 2 NZLR 567 he expanded the rule as to the deductibility of interest well beyond the approach of economists and accountants, and even beyond the claim that the taxpayer made in the case. Nevertheless, so highly was Richardson respected in government circles that an amendment to the legislation tended to confirm his legalistic approach rather than, as might have happened, to reform his rule by winding the test back.

This respect in official and tax circles was particularly evident in GAAR cases. As a judge in *Challenge Corporation Ltd v Commissioner of Inland Revenue* [1986] 2 NZLR 513 (CA and PC) Richardson J drew some of the teeth of the New Zealand GAAR that he had helped to set in place as counsel in *Elmiger v Commissioner of Inland Revenue* [1967] NZLR 161. Despite being overturned in the Privy Council on appeal, Richardson's judgment in *Challenge* remained hugely influential in New Zealand until 2008, when the Supreme Court blew on it

(though very respectfully) in what is now New Zealand's leading avoidance case, *Ben Nevis Forestry Ventures Ltd & Ors v Commissioner of Inland Revenue* [2008] NZSC 115, [2009] 2 NZLR 289 (SC). *Ben Nevis* takes a more substantive approach than was typical of Justice Richardson.

In addition to his tax jurisprudence, Richardson was active in tax administration and policy making, in legal education and university education in general, and in many other areas of law. He delivered ground-breaking judgments in cases relating to the Treaty of Waitangi and its principles, the Bill of Rights, and relationship property. His judgments in many areas of regulatory law, including tax, competition and securities law, and employment, are just as extensive. He valued the approach of the law and economics discipline. He was Chairman of the Committee of Inquiry into Inflation Accounting from 1975-1977, the Committee of Inquiry into Solicitors' Nominee Companies in 1982, and the Royal Commission on Social Policy from 1987 to 1988. He was Chairman of the Council of Legal Education through much of the 1980s, in that capacity making two major reforms to New Zealand education. First, the Council freed New Zealand law schools from the highly stipulative LLB curriculum that had prevailed previously, allowing a wide range of electives. Secondly, the Council freed universities from the obligation of professional legal education, shifting this work to independent providers running short courses of, typically, thirteen weeks. From 1993 to 1994 Richardson chaired the Organizational Review of the Inland Revenue Department. He was the author of New Zealand's Generic Tax Policy Process, which involves much more active public consultation on tax policy than is found in most countries. His international work included rewriting the tax law of Mauritius.

Sir Ivor's contribution to the law was recognized with his knighthood in 1986. He was awarded honorary LL.D. degrees by Canterbury University in 1986 and by Victoria University in 1989. He was appointed a Principal Companion of the New Zealand Order of Merit in 2002. In her tribute to Sir Ivor, the Chief Justice, Dame Sian Elias, said that he had had an unparalleled influence on New Zealand law during his long tenure as a judge, law teacher and adviser: an accurate summary in the opinion of the present writer.

John Prebble
February 2015

8 Arrivals, departures and honours

Congratulations to **Celeste Black** who was promoted as an Associate Professor, at the University of Sydney Law School effective from 1 January 2015.

John McLaren has moved to Singapore to take up a position as a senior lecturer with James Cook University. His email is john.mclaren@jcu.edu.au

Brett Freudenberg was invited to give a Keynote Address at the 24th *Teaching and Learning Forum* at the University of Western Australia in January 2015. The paper was entitled: "Show me the evidence: How the scholarship of learning and teaching is critical for modern academics" and was based on the best teaching paper that Brett presented at 24th ATTA Conference (University of Sydney). See: <http://wand.edu.au/course/view.php?id=21>

Dr Mark Bowler-Smith was appointed a senior lecturer at University of Auckland, Business School. <<http://www.business.auckland.ac.nz/people/mbow440>>

John Passant at the ATTA Conference wanted to ask some questions of and respond to Second Commissioner Andrew Mills but didn't get time. So he sent a letter to the Australian Financial Review which addressed some of the points in the Second Commissioner's speech to the ATTA Conference. The AFR did not publish it. For those interested John republished the letter on his blog, En Passant, and here is the link to the letter, headed Neoliberalism and the destruction of the Australian Tax Office.

<http://enpassant.com.au/2015/01/20/neoliberalism-and-the-destruction-of-the-australian-tax-office/>

9 CCH transfer of academic textbooks to OUP

CCH has transferred its Academic textbook business in Australia to Oxford University Press from the last week of January 2015.

All your contact for the titles listed below will be via OUP.

Title	Print ISBN
Australian Taxation Law	9781925159677
Commercial Applications of Company Law	9781925159851
Core Tax Legislation & Study Guide	9781925159912
Foundations of Taxation Law	9781925159646
First Principles of Business Law	9781925159714
Australian Business Law	9781925159691
Australian Taxation Study Manual: Questions and Suggested Solutions	9781925091328
Australian Tax Casebook	9781925091304
Uniform Evidence Law: Principles and Practice	9781925215915
Planning Work Health & Safety: An Introduction to Best Practice	9781921948428
Effective Recruitment and Selection Practices	9781925091151
Guide to Life Risk Protection and Planning	9781922010292
Australian Human Rights Law	9781921701894
Introducing the Law	9781921322037
McCallum's Top Workplace Relations Cases: Labour law and the employment relationship as defined by case law	9781921322426
Australian Master Environment Guide	9781921485701
A Student Guide to Company Law	9781925159189
How to Pass Business Law	9781922180971
Contract Law in Context	9781922180957
Insurance and Risk Management	9781922042880

Please be advised that any orders for the titles listed above, including eBooks, previous additions, book packs and ancillary material such as teacher's resources will now need to be directed to OUP.

For more information, please contact OUP by emailing cs.au@oup.com or phoning 1300 650616.

Orders for all other titles should continue to be placed with the Wolters Kluwer customer service team or online at www.cchbooks.com.au.

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Any desk copy that is required for texts other than the list above will need to be sourced direct from CCH, please contact CCH on 1300 300 224.

10 2015 Atax Research Fellowship Applications

Call for 2015 Atax Research Fellowship Applications

In 2015 the School of Taxation & Business Law (incorporating Atax) at UNSW Australia will offer several Research Fellowships to international academics and professionals keen to further their research in the fields of taxation, business law and related disciplines. The maximum value of each fellowship is AUS \$7,500. The School may decide to award only one or no fellowship in any given year.

Fellowship duties

Research fellows normally spend a minimum of four weeks working at the School of Taxation & Business Law on a mutually agreed area of research. During their stay, fellows are involved in the following activities:

- producing at least one research paper on taxation or business law, in collaboration with Taxation & Business Law academic(s), to be published in a refereed journal with due acknowledgement of the fellowship
- conducting a Taxation & Business Law research seminar for interested members of the broader tax/business law research community
- participating in Taxation & Business Law collegial activities during the period of the fellowship.

The School of Taxation & Business Law will provide office space and computer equipment at its Kensington campus in Sydney, Australia. Fellows will be responsible for organising their own travel and accommodation although the School can offer assistance in these matters. The preferred timing for successful applicants to undertake the fellowship is or August–October 2015, but other times of the year may also be possible.

Selection

Selection is based on the applicant's research proposal and on their ability to contribute to the School of Taxation & Business Law research profile. A track record in collaborating with Taxation & Business Law academics will be considered as an advantage.

Application

Applications are invited from overseas academic and professional researchers working in taxation, business law and related disciplines. To apply, applicants must send by email:

(i) A letter of application, indicating in sufficient detail the area they wish to research under the Fellowship and anticipated publication(s), how they will collaborate with Taxation & Business Law academic(s), and their preferred timing to undertake the Fellowship.

(ii) A current curriculum vitae

Applications should be sent by 31 March 2015 to

Associate Professor Binh Tran-Nam,

Research Fellowship Convenor

School of Taxation & Business Law

UNSW Australia,

Sydney NSW 2052

Australia

Email: b.tran-nam@unsw.edu.au

The outcome of applications will be communicated to applicants in late April 2015.

11 New Zealand developments

There has been little of significance to report in the tax field as yet in 2015. Minor changes include:

- The Convention on Mutual Administrative Assistance in Tax Matters becoming operative for NZ from 1st January 2015.
- Changes to the tax treatment of allowances made to employees from 1st April 2015. These changes clarify the tax treatment of allowances relating to accommodation and payments made by employers relating to employee expenditure.
- Changes to the calculations for child support assessment, again from 1st April 2015.
- Changes to income calculations for those with student loans or receiving Working For Families Tax Credits. These changes provide for new income types (e.g. receiving vouchers for goods and services from an employer, or foregoing wages or salary in exchange for private use of an employer-provided vehicle) to be incorporated in calculations of loan repayments and Working for Families Tax Credit entitlements.

Lisa Marriott

12 Recent Federal Court of Australia tax cases

I understand my role as ACT rep may involve letting colleagues know of recent Federal Court cases. If so here are some brief details of those cases. Because this report goes back to early December it is I hope a bit longer than future reports will be. The words are from the Federal Court of Australia website. Here is access to the search engine for them <http://www.fedcourt.gov.au/publications/judgments/search>

John Passant

Krok v Commissioner of Taxation [2015] FCA 51

Catchwords: Practice and procedure - claim of legal professional privilege for discoverable documents – whether legal professional privilege has been impliedly waived by reason of partial disclosure of legal advice – relevant principles of implied waiver

Financial Synergy Holdings Pty Ltd v Commissioner of Taxation [2015] FCA 53

Catchwords: Taxation - capital gains tax – formation of consolidated group – disposal of units in unit trust – roll-over relief obtained – calculation of allocable cost amount – time of

acquisition of assets – construction – meaning of “worked out as at the time of acquisition” – whether time of acquisition deemed to be before 20 September 1985 for purposes of *Income Tax Assessment Act 1997* (Cth), ss 110-25(2)(b) – meaning of “before that day”.
Statutory Interpretation- Use of guides in interpreting operative provisions.

Commissioner of Taxation v Arnold (No 2) [2015] FCA 34

Catchwords: Taxation - *Taxation Administration Act 1953* (Cth) – Div 290 – civil penalty regime – whether entity engaged in conduct that resulted in it or another entity being a promoter of a tax exploitation scheme – whether an entity that entered into or carried out the scheme did so with the sole or dominant purpose of that entity or another entity getting a scheme benefit from the scheme – whether it is reasonably arguable that the scheme benefit is available at law – factors relevant to imposition of penalty

Taras Nominees Pty Ltd as Trustee for the Burnley Street Trust v Commissioner of Taxation [2015] FCAFC 4

Catchwords: Income Tax - Capital Gains Tax – conveyance of land to trustee for purposes of joint venture – whether transfer of land a “settlement” giving rise to a CGT event – whether transferor retained beneficial ownership of land – method of valuing land for purposes of calculating taxable capital gain – whether development costs ought be taken into account for purposes of cost base.

Kocharyan v Commissioner for Taxation [2015] FCA 13

Catchwords: Taxation - Income tax – Appeal from Administrative Appeals Tribunal on questions of law – Relevance of taxpayer’s failure to sign declaration authorising agent to lodge tax return to validity of return – Relevance to validity of assessment – Service of amended assessments – Whether required to be done at taxpayer’s preferred address – Onus of proof of receipt or non-receipt of amended assessments – Time limit for amendment of assessment – Scheme – What constitutes purpose of obtaining scheme benefit in absence of operation of anti-avoidance provision – Whether such a purpose could exist where scheme wrongly relied on to claim deduction

Seven Network Limited v Commissioner of Taxation [2014] FCA 1411

Catchwords: Intellectual Property ... Taxation - *Agreement between Australia and Switzerland for the Avoidance of Double Taxation with respect to Taxes on Income* [1981] ATS 5 – royalties as defined in Art 12(3) – whether consideration was for the use of, or right to use, ‘*copyright or other like property or right*’ within Art 12(3)

Hua Wang Bank Berhad v Commissioner of Taxation [2014] FCA 1392

Catchwords: Income Tax – residency in Australia by a company for the purposes of – place of central management and control; Double taxation treaties with the United Kingdom and Switzerland – tie-breaker provisions dealing with the position of taxpayers resident in more than one country – relevance of commentary on OECD Model Tax Convention to treaty interpretation; distinction between income and capital gains – share trading profits; trading stock – share trading; shares – whether held beneficially; etc

Albrecht v Commissioner of Taxation [2014] FCAFC 176

Catchwords: Constitutional Law - *Melbourne Corporation* principle – commissioned officers of Western Australian police force – members of constitutionally-protected superannuation schemes – whether *Melbourne Corporation* principle applies to invalidate superannuation contribution surcharge tax imposed on members – whether commissioned officers were at the

higher levels of government for the purposes of the application of the *Melbourne Corporation* principle.

John Holland Group Pty Ltd v Commissioner of Taxation [2014] FCA 1332

Catchwords: Taxation - fringe benefits – “fly-in fly-out” arrangements – costs of flights for employees to remote locations on periodic basis – travel at employer’s direction and employees received pay for period of travel – whether costs would be deductible if paid by employees – journey to work

Commissioner of Taxation v Qantas Airways Limited [2014] FCAFC 168

Catchwords: Taxation - fringe benefits tax – car parking fringe benefits – meaning of ‘commercial parking station’ – where definition required that car parking spaces be made available in the ordinary course of business to members of the public – whether definition required that car parking spaces able to be used by persons commuting to and from work – relevance of contractual restriction limiting use of car parks at Canberra Airport to airline passengers and meeters and greeters

Commissioner of Taxation v Macoun [2014] FCAFC 162

Catchwords: Income Tax - appeal from Administrative Appeals Tribunal – whether appeal competent – whether pension from foreign retirement plan received in years of income when pensioner no longer employed by Specialised Agency exempt from income tax under cl 8 of the *Specialised Agencies (Privileges and Immunities) Regulations 1986* (Cth); Part 1 of Fourth Schedule to *International Organisations (Privileges and Immunities) Act 1963* (Cth); and s 6-20(1) of the *Income Tax Assessment Act 1997* (Cth)

Nelson v Commissioner of Taxation [2014] FCA 57

Catchwords: Income Tax - whether taxpayer carrying on a business for the purposes of section 8-1 and Division 35 of the *Income Tax Assessment Act 1997* (Cth)

13 The Right Honourable Sir Ivor Richardson: Scholarship available to download

An obituary elsewhere in this issue notes that the late Sir Ivor Richardson remained a productive scholar throughout his life. From 2012 to 2014 Professor John Prebble, a member of the Australasian Tax Teachers’ Association, directed a project to collect, abstract, and post all of Sir Ivor’s 100 scholarly papers. The work was funded by the New Zealand branch of the International Fiscal Association. It was completed not long before Sir Ivor’s death.

Sir Ivor’s papers are posted on the Victoria University of Wellington pages of the Social Science Research Network, sorted into 21 volumes, being issues of the electronic series, *Victoria University of Wellington Legal Research Papers*. There are volumes on tax avoidance, tax accounting, several other taxation topics, and many topics from other areas of law and public administration. The papers may be found individually by searching on “Ivor Richardson” on the SSRN website, or collected into volumes on the research pages of Victoria University Law Faculty at [Ivor Richardson](#). All may be downloaded free of charge. In addition, subscription to *VUW Legal Research Papers* is free. Subscription requires joining SSRN, but SSRN does not sell electronic addresses.

February 2015

14 Critical tax studies

I floated at the beginning of my talk at Tax Teachers on tax avoidance, the judiciary, embedded neoliberalism and the commodity form theory of law the idea of setting up a critical tax journal. I will work out scope and aims if others are supportive of turning the thought bubble into a reality. However I envisage critical perspectives on tax to be a broad church and cover 'considerations of class, disability, gender, race, sexual orientation, and other so-called "outsider" perspectives.'

I have had expressions of interest from colleagues in the US and from other academic backgrounds in Australia. In the US there is an identified critical tax stream which has an annual conference. Details of the 2015 conference in early April will be announced soon. I see the first step as being a set of articles in a special issue in an already established and respected journal edited by senior tax academics with help from me and others. If anybody is interested in exploring the viability of an inclusive critical tax journal or a special critical tax edition in an established journal (suggestions most welcome) you can contact me at en.passant@bigpond.com or jpassant@uow.edu.au

John Passant

15 Master of Laws in international tax law scholarship

The Institute for Austrian and International Tax Law would like to inform you about a **Scholarship for a full time course within our LL.M. program in International Tax Law**: Erste Bank and Die Presse offer a full-time scholarship for the academic year 2015/2016 amounting to €13.900,-. Every graduate in the field of economics, social science and law, who has not yet reached 30 years of age by the time of application, is allowed to apply. The scholarship will be granted in accordance with regulations for the curriculum of the LL.M. program in International Tax Law to the applicant who best fulfills the academic accomplishments. Additional skills will be taken into account, as well.

Please submit your application for the scholarship by **February 28, 2015 at the latest, to Ms. Mag. Ender**. Any recourse to courts of law is excluded. The application form is available to download at <http://www.international-tax-law.at> at „Scholarship“.

The deadline for applications for a regular place in the course is **April 15, 2015**.

For further information please contact:

Mag. Barbara Ender

Akademie der Wirtschaftstreuhand GmbH

Tel.: +043 (0)1-815 08 50-15; b.ender@wt-akademie.at

<http://www.international-tax-law.at>

16 Call for papers

The 6th Queensland Tax Researchers' Symposium (QTRS) AND the 3rd Meeting of the Australasian Tax History Chapter (THC)

Griffith University Business School will host the 3rd meeting of the Australasian Tax History Chapter (THC) on Thursday, 2 July and the 6th Queensland Tax Researchers Symposium (QTRS) on Friday, 3 July 2015.

These two events bring together tax academics and research higher degree students to discuss and present their current research interests. This is a joint initiative between academics from various universities with Griffith University, QUT, James Cook University and UNSW also sponsoring the event. These events build on the success of the annual symposium, which has been held since 2010.

The 2015 Symposium will be held at Griffith University's South Bank campus (Brisbane) located on the fringe of Brisbane's central business district.

Registration is open to academics with a research interest in tax, as well as research higher degree students who are currently undertaking an honours, Masters or PhD dissertation in a tax related topic. While registration is free, numbers are limited and attendees will need to register by Friday 15 May 2015. Attendees may register for one or both days.

Those interested in presenting a paper (including research higher degree students) are encouraged to submit a short abstract of their work by 30 April 2015 (500 words) indicating whether they wish their paper to be part of the THC meeting on 2 July or the QTRS on 3 July. Authors will be notified of their acceptance by 11 May 2015. Note it is possible for tax academics to attend without presenting.

General enquiries about both the THC and QTRS (including paper submissions and registration) should be directed to:

Anna Mortimore
Lecturer- Taxation
Griffith Business School, Griffith University
Email: a.mortimore@griffith.edu.au
Ph: +61 7 555 28082

Fresh submissions are being welcomed by the peer-reviewed journal *Advances in Taxation*

Advances in Taxation publishes relevant, quality manuscripts from around the world on any aspect of federal, state, local, or international taxation including tax compliance, tax planning, tax policy issues, and current issues in tax.

The journal welcomes and encourages interdisciplinary research and a wide variety of research methods, including archival, experimental, survey, qualitative, case-based, legal and literature review approaches that are appropriate to the project.

Potential authors should note that manuscripts should be rigorous and of interest to a broad cross-section of scholars interested in taxation. The Editor will consider occasional publication of manuscripts related to tax education and good replications by doctoral students/faculty of earlier studies where there is an extension of the original paper e.g. through sample period, country of sample or other contribution. Manuscripts are peer reviewed by two external academic experts and comments are sent back to authors within two to three months.

John Hasseldine, Ph.D, FCCA
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<http://www.emeraldgrouppublishing.com/products/books/series.htm?id=1058-7497>

17 Tax, accounting, economics and law related meetings

Local

27th Atax GST Conference will be held at The Brisbane Hilton (Brisbane, Queensland) on 20 & 21 April 2015. The format will be two full days of conference presentations and discussions as well as a dinner on Monday 20 April at Malt restaurant. Professor Michael Walpole will be coordinating the program. The keynote speaker will be Stephanie Forgie, Deputy President of the Administrative Appeals Tribunal. Topics including GST refund issues; cross border transactions; and the electronic economy as well as the usual GST topics of importance such as real property. As with previous conferences we are offering a discounted registration to our speakers and an Earlybird discount.

Standard Registration \$1,650 (incl. GST)

Earlybird Registration (available until 1 March 2015) \$1,500 (incl. GST)

ATO \$1,000 (incl. GST)

Speaker Registration \$750 (incl. GST)

Additional dinner guest \$150 (incl. GST)

Conference speakers and ATO delegates please email the conference organiser to obtain discount information prior to registration.

<<https://www.business.unsw.edu.au/about/schools/taxation-business-law/conferences>>

Tax and Transfer Policy Institute, Crawford School of Public Policy, Australian National University **Looking Forward at 100 years: Where Next for the Income Tax?** 27-28 April 2015. As the White Paper tax reform process kicks off with release of the Issues Paper in the new year, Australia's income tax reaches 100 years of age. See further <<https://taxpolicy.crawford.anu.edu.au/department-news/5149/call-papers-looking-forward-100-years-where-next-income-tax>>

The **6th Queensland Tax Researchers' Symposium (QTRS)** AND the **3rd Meeting of the Australasian Tax History Chapter (THC)**, Griffith University Business School, South Bank campus, Brisbane, 2-3 July 2015. This is a joint initiative between academics from various universities with Griffith University, QUT, James Cook University and UNSW also sponsoring the event. While registration is free, numbers are limited and attendees will need to register by Friday 15 May 2015. Attendees may register for one or both days. Those interested in presenting a paper (including research higher degree students) are encouraged to submit a short abstract of their work by 30 April 2015 (500 words) indicating whether they wish their paper to be part of the THC meeting on 2 July or the QTRS on 3 July. Authors will be notified of their acceptance by 11 May 2015. Note it is possible for tax academics to attend without presenting. General enquiries about both the THC and QTRS (including paper submissions and registration) should be directed to:

Anna Mortimore, Lecturer- Taxation
Griffith Business School, Griffith University
Email: a.mortimore@griffith.edu.au
Ph: +61 7 555 28082

ATTA's **28th Annual Conference** will be hosted by the University of New South Wales School of Taxation & Business Law January 2016 (dates to be confirmed). The theme of the conference is *Tax and time travel: looking forward and looking back*. The conference will celebrate 28 years of ATTA in Australasia. Further information about the conference is included above in this newsletter. If you have any questions please contact John Taylor at c.taylor@unsw.edu.au

The **Tax Institute's** website www.taxinstitute.com.au lists many conferences, conventions, seminars, and breakfast clubs. For further enquiries, contact Phillipa Cardigan (02) 8223 0045 or email phillipacardigan@taxinstitute.com.au or register online at www.taxinstitute.com.au Call the National Events team on 1300 733 842 for more details. Please contact the National Events Team on 1300 733 842 or by email, nationalevents@taxinstitute.com.au Follow us on Twitter @TaxInstituteOz. Danielle Thurston, Event and Member Services Executive The Tax Institute Phone: 02 8223 0000; Direct: 02 8223 0014 Fax: 02 8223 0077 daniellethurston@taxinstitute.com.au

Overseas

3rd Annual Bentham House Conference, **The Philosophical Foundations of Tax Law**, UCL Faculty of Laws, Bentham House, Endsleigh Gardens, WC1H 0EG London, Friday 8th & Saturday 9th May 2015.

There is currently very little literature considering the philosophical aspect of tax law. Yet given the controversy that surrounds tax, particularly in a turbulent economic environment, it is an excellent time to explore tax from a philosophical perspective. It is essential that we have a complete understanding of the answers to some of the seemingly basic questions which surround tax, before we can begin to think about what a tax system should look like.

Questions such as what in fact is a tax? Why should we tax? How much should we tax and on whom should tax be levied? What should taxes be used for? How do ideas of fairness and justice tie in with the tax system? The consideration of all these questions is crucial to a complete understanding of the tax system and the future of the tax system.

This symposium brings together those with a shared interest in legal philosophy and tax law, as well as perspectives from economics and political philosophy, in order to give a comprehensive and unique perspective to a complex issue. The papers and presentations given over the course of the symposium will culminate in book of essays edited by Monica Bhandari. <<http://www.ucl.ac.uk/laws/conferences/tax-law>>

Registration details <<http://www.eventbrite.co.uk/e/philosophical-foundations-of-tax-law-registration-12462526753>>

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

Canadian Tax Foundation <http://www.ctf.ca/ctfweb/en>

Institute for Fiscal Studies Conferences and seminars
<http://www1.ifs.org.uk/conferences/index.shtml>

Institute for Austrian and International Tax Law 2015 events:

March 16, 2015 – PwC-WU-Seminar: “Current Developments in European and International Tax Law” (in English): Peter Essers/Carlo Romano

April 13, 2015 – PwC-WU-Seminar: “Current Developments in European and International Tax Law” (in English): Christopher Orchard/Andrew Dawson

April 20, 2015 – Wolfgang Gassner-Gedächtnisvorlesung (in German): Prof. Joachim Englisch
 May 18, 2015 – Panel discussion with tax lawyers (in German)
 June 1, 2015 – PwC-WU-Seminar: “Current Developments in European and International Tax Law” (German/English): Aline Kapp/Claudine Devillet
 June 11-13, 2015 – Conference: “Tax Treaty Case Law Around the Globe”
 June 19, 2015 – 22nd Symposium on International Tax Law: “BEPS and Tax Treaties”
 June 25, 2015 – Semester closing
 July 30/1, 2015 – Second EU-China Tax Summit
 July 2-4, 2015 – Conference: “The Impact of Bilateral Investment Treaties on Taxation” (Rust, Burgenland)
 July 13-17, 2015 – CEE Vienna International Tax Law Summer School
 The topics of the seminar sessions and other events can always be found at www.wu.ac.at/taxlaw. Please feel cordially invited to visit our website again regularly. Additionally, there will again be a huge number of other technical seminars and conferences. Please see our website for most up-to-date information on them.

International Bureau of Fiscal Documentation. Various courses in Amsterdam, the Netherlands or in Malaysia. 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

For courses go to <http://www.ibfd.org/Training>

IBFD International Tax Courses - A selection of related courses in 2015

Transfer Pricing Workshop 23 - 24 March 2015, Singapore

Treaty Aspects of International Tax Planning 26 - 28 November, Sao Paulo

International Corporate Tax Planning Aspects 20 - 22 April 2015, Singapore

VAT Considerations in M&A Transactions 28 - 29 May 2015, Amsterdam

Doctoral Meeting of Researchers in International Taxation (DocMIT) and Postdoctoral International Tax Forum (PITF), 21-22 May 2015, IBFD Head Office, Amsterdam, The Netherlands. In 2015, IBFD will organize the 13th edition of the meeting for doctoral researchers and the 4th edition of its postdoctoral (early career scholars) meeting. The purpose of these meetings is to provide the researchers with an opportunity to discuss their current research projects with leading academics and a select circle of colleagues. Participants benefit from tailored coaching provided by our panel of international tax professors, as well as from the feedback provided by peers from various parts of the world. Our aim is to provide researchers with a forum to further their research in the field of taxation.

<http://www.ibfd.org/IBFD-Tax-Portal/Events/Doctoral-Meeting-Researchers-International-Taxation-DocMIT-and-Postdoctoral-0?utm_source=Asia-Pacific%20newsletter%20September&utm_medium=email&utm_campaign=AP30-09-2014&utm_content=IBFD-Tax-Portal/Events/Doctoral-Meeting-Researchers-International-Taxation-DocMIT-and-Postdoctoral-0>

International Fiscal Association Congresses <http://www.ifa.nl/pages/default.aspx>

2015 **Basel, Switzerland** (30 August 2015 - 4 September 2015) www.ifabasel2015.com

Topics under consideration as Subjects 1 and 2 of the Congress are "The use of tax measures in the area of research and development (R & D)" and "Taxation and fundamental rights: taxpayers' procedural rights in a globalised world"

2016 **Madrid, Spain**

2017 **Rio de Janeiro, Brazil**

2018 **Seoul, Korea, Rep of**

2019 **London, United Kingdom**

International Atlantic Economic Society (IAES) conference 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

International Tax Planning Association Forthcoming meetings

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

Other useful tax and law related conference websites include the

International Bar Association:

http://www.ibanet.org/Conferences/conferences_home.aspx

IBFD Course calendar

<http://www.ibfd.org/portal/app?bookmarkablePage=org.ibfd.portal.presentation.TaxCourses>

International Events and Law Conferences

<http://internationaleventsandlawconferences.yolasite.com>

Conferences in Australia [http://www.conferencealerts.com/country-](http://www.conferencealerts.com/country-listing.php?page=1&ipp=All&country=Australia)

[listing.php?page=1&ipp=All&country=Australia](http://www.conferencealerts.com/country-listing.php?page=1&ipp=All&country=Australia)

New South Wales Bar Association

http://www.nswbar.asn.au/docs/professional/prof_dev/CPD/programme/index.php

Law Council of Australia <http://www.lawcouncil.asn.au/lawcouncil/index.php/conferences>

Practising Law Institute <http://www.pli.edu/>

New York County Lawyers Association <http://www.nycla.org>

American Bar Association Taxation CLE topics

http://www.americanbar.org/cle/cle_courses_by_topic/taxation.html

New York Bar Association <http://www.nysba.org/>

Hieros Gamos Worldwide Law Events Calendar <http://www.hg.org/legal-events.asp>

For Australian ones <http://www.hg.org/legal-events-australia.asp>

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.

18 ATTA people in the media

ATTA conference

‘Business experts divided on possible ATO appeals split’ *Australian Financial Review* 21 January 2015 p 4. Although it did not mention ATTA, it referred to a speech by Andrew Mills, made at the conference on 20 January.

‘Super tax breaks favour the rich, says judge’ *Australian Financial Review* 22 January 2015 p 1, 6. Quoted Justice Richard Edmonds speech given at the conference on 20 January.

Anderson, Fleur ‘Infrastructure Frydenberg meets Gordon Brown in Davos Higher returns to attract investment’ *Australian Financial Review* 23 January 2015 p 9. Mentions Justice Edmonds speech to the conference.

Wallis, Chris ‘Shooting the tax messenger’ (Letter to the editor) *Australian Financial Review* 23 January 2015 p 35

Collins, Richard; Cooper, Gordon & Kenny, Paul

‘Cricket Confidential: Michael Carberry snaps bat in two, McGrath Day turns SCG pink’, Fox Sports 5 January 2014 <<http://www.foxsports.com.au/cricket/the-ashes/cricket-confidential-michael-carberry-snaps-bat-in-two-mcgrath-day-turns-scg-pink/story-e6frf3gl-1226795331314>>

Carswell, Andrew ‘Whitewashed Poms in a sea of pink for Jane McGrath day at the cricket’,

The Daily Telegraph, 6 January 2014 (Editor's note, I think this was taken in a previous year) < <http://www.dailytelegraph.com.au/news/nsw/whitewashed-poms-in-a-sea-of-pink-for-jane-mcgrath-day-at-the-cricket/story-fni0cx12-1226795392482>>

Image with Glen McGrath Channel 7 News, January 2014

More from the past: Milligan, Paul 'Aussie PM Julie Gillard and cricket hero Glenn McGrath get into the spirit at breast cancer awareness Test match' *Daily Mail* (UK)

6 January 2012 <<http://www.dailymail.co.uk/news/article-2082801/Julie-Gillard-cricket-hero-Glenn-McGrath-breast-cancer-awareness-Test-match.html>>

Walshaw, Nick 'What would Jane McGrath have thought of her big day?'

Herald Sun 6 January 2012 < <http://www.adelaidenow.com.au/news/national/what-would-jane-mcgrath-have-thought-of-her-big-day/story-e6frea8c-1226237837415>>

Ting, Antony

'Apple's tax bill just a small slice of its Australian revenues' *Sydney Morning Herald* 28 January 2015 p 8 and online as 'Apple's \$80.3 million Australian tax bill revealed' *Sydney Morning Herald* 28 January 2015 < <http://www.smh.com.au/business/apples-803-million-australian-tax-bill-revealed-20150127-12yrqq.html>>

19 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 'Expanding the GST would hit the 'middle' and women the hardest' *The Conversation* 20 January 2015 < <http://theconversation.com/expanding-the-gst-would-hit-the-middle-and-women-the-hardest-36133>>

(2015) 44 (1) *Australian Tax Review*

Editorial - The delicate balance

From moral aspiration to rule of law – lessons from the United States in treating taxpayers fairly – **John Bevacqua**

A mandatory information disclosure regime to strengthen Australia's anti-avoidance income tax rules – **Nicole Wilson-Rogers** and **Dale Pinto**

Conceptualising "charity" in State taxation – GE Dal Pont

Bocabella, Dale & Bain, Kathrin 'Why the Commonwealth can change the GST without the states' *The Conversation* 28 January 2015 < <http://theconversation.com/why-the-commonwealth-can-change-the-gst-without-the-states-36298>>

Corden, Max 'Without revenue, Australia can only have half a budget debate' *The Conversation* 19 December 2014 < <http://theconversation.com/without-revenue-australia-can-only-have-half-a-budget-debate-35537>>

Davidson, Peter 'Who's the fairest (and most efficient) of them all – income or consumption taxes?' 15 January 2015 <<https://pagdavidson.wordpress.com/2015/01/16/whos-the-fairest-and-most-efficient-of-them-all-income-or-consumption-taxes>>

Fitzgerald, Tomas 'Making the case for GST on fresh food' *The Conversation* 19 January 2015 < <http://theconversation.com/making-the-case-for-gst-on-fresh-food-36130>>

Guest, Ross ‘Why it’s time to hike the GST and levy an inheritance tax’ *The Conversation* 17 December 2014 <<http://theconversation.com/why-its-time-to-hike-the-gst-and-levy-an-inheritance-tax-35496>>

Jackson, Catriona ‘Moses and the West Wing’, 28 January 2015
<<https://crawford.anu.edu.au/news/5200/moses-and-west-wing>>

(2014) 9 (1) *Journal of the Australasian Tax Teachers Association*
Tax Debt Management in New Zealand and Australia - **Lisa Marriott**
Are You Still Here, Mr Haase? A Study of Australia’s Tax Rebates for Residents in Isolated Areas - **Alexander Robert ‘Lex’ Fullarton**
Equity in the Amoral State: the Nexus between Charities, Gambling and the Taxation Redistribution System - **Jonathan Barrett** and **John Veal**
Balance of Power Politics and Tax Reform – **Helen Hodgson**
The Meaning of ‘Market Value’ in Australia’s Income Tax Assessment Act 1997 - **Nicholas Augustinos**
The Road to Freedom? Hayek and New Zealand’s Tax Depreciation - **Rob Vosslamber**
Taxation and the Rational Theory of Size of Government in Multi-Electorate Political Systems: The Median of the Medians is King – Alex Robson
Data Choice in Capital Gains Realisation Response Studies — A Review - **John Minas**
Changing use of business structures: Have university business law teachers failed to reflect this in their teaching? **Brett Freudenberg** and **Dale Boccabella**
University Teaching: A Reflection on Tax Teaching and Cultural Diversity - **Diane Kraal**
Using Schemas to Demonstrate the Methodology of Solving Complex Tax Problems: A Case Study - **Anna Mortimore** and Jennifer Dickfos
Can Teaching and Learning Taxation Be Fun While Still Maintaining Standards? **Heather Buchan** and Karin Olesen

Kobetsky, Michael; Brown, Catherine; Fisher, Rodney; Villios, Sylvia and Gillies, Peter
Income tax - text, materials and essential cases, 9th ed, Leichhardt, NSW, Federation Press, 2015

Mackenzie, Gordon ‘Murray pushes for fewer super tax breaks but change is unlikely’ *The Conversation* 12 December 2014 <<http://theconversation.com/murray-pushes-for-fewer-super-tax-breaks-but-change-is-unlikely-35158>>

Millar, Rebecca ‘What can other countries teach us about GST reform?’ *The Conversation* 27 January 2015 <<http://theconversation.com/what-can-other-countries-teach-us-about-gst-reform-36545>>

Murray, Ian and **Martin, Fiona** ‘The blossoming of public benevolent institutions: from ‘direct providers’ to global networks’ (2015) 40 (1) *Alternative Law Journal* 36-41

Nielson, Leslie ‘Who exempts what from consumption taxes?’ *FlagPost* 19 January 2014
<http://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/FlagPost/2015/January/Who-exempts-what-from-consumption-taxes>

Parkinson, Martin ‘Looking ahead: challenges and opportunities for Australia’, Address to the Committee for Economic Development of Australia (CEDA), 27 November 2014
<<http://www.treasury.gov.au/PublicationsAndMedia/Speeches/2014/CEDA-27112014>>

Parkinson, Martin ‘Reflections on Australia’s era of economic reform’, Address to the European Australian Business Council, Sydney, 5 December 2014

<<http://www.treasury.gov.au/PublicationsAndMedia/Speeches/2014/Reflections-on-Australias-era-of-economic-reform>>

Perram, Nye 'Tax reform, political parties and the prisoners' dilemma', Address to the Treasury, Canberra, 29 August 2013 <<http://www.fedcourt.gov.au/publications/judges-speeches/justice-perram/perram-j-20130829>>

Phillips, Ben 'The truth about bracket creep and Hockey's tax tales' *The Conversation* 20 January 2015 <<http://theconversation.com/the-truth-about-bracket-creep-and-hockeys-tax-tales-36492>>

Pickett, Kate 'The 1% are bad for your health – it's time to tax them more' *The Conversation* 21 January 2015 <<http://theconversation.com/the-1-are-bad-for-your-health-its-time-to-tax-them-more-36526>>

Raphael, David K 'What are accumulations and why they remain important' (2015) 89 *Australian Law Journal* 92-99

Reynolds, Rocque; **Stoianoff, Natalie** and Roy, Alpana *Intellectual property - text and essential cases*, 5th ed, Leichhardt, NSW, Federation Press, 2015

Smith, Warwick 'How's this for fundamental tax reform? Target the rentseekers' *The Conversation* 9 January 2015 <<http://theconversation.com/how-s-this-for-fundamental-tax-reform-target-the-rentseekers-36018>>

(2015) 80 *Taxation Today* – (January/February)

- The Diamond Case: Will Reason Prevail in the Permanent Place of Abode Test? - **Clinton Alley**
- Supreme Court Reverses "Super Priority" for Inland Revenue on Insolvency - David Friar, Partner and Murray Tingey

(2015) 81 *Taxation Today* – (March)

- OECD Recommendations on BEPS 2014 Deliverables - Richard Collier, Phil Greenfield, Pam Olson, Stef Van Weeghel
- The National Council of Women Litigation [Part 1] - Susan Barker

Ting, Antony 'Australia eyes missing billions with very own 'Google tax'' *The Conversation* 9 December 2014 <<http://theconversation.com/australia-eyes-missing-billions-with-very-own-google-tax-35249>>

Ting, Antony 'Tax transparency trend forces companies to face reality' *The Conversation* 10 February 2015 <<http://theconversation.com/tax-transparency-trend-forces-companies-to-face-reality-37275>>

University of New South Wales Law Theses and Dissertations released during February 2015 on AustLII, includes two taxation doctoral theses:

Gray, Anthony --- "Excise taxation in the Australian federation" [1997] UNSWLawTD 2 <<http://www.austlii.edu.au/au/journals/UNSWLawTD/1997/2.html>>

Orow, Nabil, F. --- "Solving the mystery of tax avoidance: a comparative study of general anti avoidance rules" [1999] UNSWLawTD 3 <<http://www.austlii.edu.au/au/journals/UNSWLawTD/1999/3.html>>

Woellner, Robin; Barkoczy, Stephen; Murphy, Shirley, Evans, Chris & Pinto, Dale
Australian taxation law, 25th ed, North Ryde, NSW, Wolters Kluwer CCH, 2015

Wood, Danielle ‘Selling a GST rise will be easier if we can follow the money’ *The Conversation* 21 January 2015 < <http://theconversation.com/selling-a-gst-rise-will-be-easier-if-we-can-follow-the-money-36210>>

Overseas

Bulletin for International Taxation Number 2 - 2015

Tax treaty monitor - Australia/China (People’s Rep.)/India/Japan/Korea (Rep)/Singapore/
United Kingdom - Tax Treaties and Temporary Residence for Individuals: Tax Abuse? –
Focus on the Rules in Australia, China (People’s Rep.) and Singapore in the Context of the
Tax Treaties between These States and with India, Japan, Korea (Rep.) and the United
Kingdom - **Nolan Cormac Sharkey**

China (People's Rep.)/Germany - The China-Germany Income and Capital Tax Treaty (2014)
– An Analysis - Andreas Perdelwitz

International/European Union/Switzerland - The Rubik Model: An Alternative for Automatic
Tax Information Exchange Regimes? Vokhidjon Urinov

OECD/International - The Effect of the OECD Base Erosion and Profit Shifting Action Plan
on Developing Countries - Leonard Wagenaar

United States - Structuring Foreign Investment in the United States - Jacob Stein

India/International - Tax Aspects of Cross-Border Secondment of Employees to India - Vijay
Krishnamurthy

Brazil/Mexico - Controlled Foreign Company Regimes in Brazil and Mexico: A Comparative
Analysis - Andréa Marco Antonio

Australia - Capital Gains Tax for Non-Residents Comes under Significant Review - Anton
Joseph

International - Country-by-Country Reporting: A New Approach towards Book-Tax
Conformity - Andrzej Stasio

Gumley, Wayne ‘An analysis of regulatory strategies for recycling and re-use of metals in
Australia’ (2014) 3 *Resources* 395-415 < <http://www.mdpi.com/2079-9276/3/2/395/htm>>

Klaus Vogel on Double Taxation Conventions - 4th revised ed, edited by Ekkehart Reimer &
Alexander Rust, Alphen aan den Rijn, The Netherlands, Kluwer Law, 2015, 2000 pp.
Hardcover, 2 volumes, ISBN: 9789041122988, Price: EUR 400.00 / USD 520.00 / GBP
320.00

Kluwer International Tax Blog <<http://www.kluwertaxlawblog.com>>

Key Features:

- Global coverage: provides short posts focused on international tax law and relevant developments in national law.
- Reports on selected case law, legislative developments, new publications, political developments and strategic tax aspects.
- Analysis of legal developments and general practice, on core topics such as: tax treaties, permanent establishments, transfer pricing, BEPS, tax planning, compliance, wealth management, and VAT.
- Filter and browse content by category, author, firm or organization
- Email and RSS feeds available.
- Links to other sources, such as [Kluwertaxlaw.com](http://www.kluwertaxlaw.com) for further analysis.

Martin, Fiona ‘The application of the Australian goods and services tax to real property in Australia’ (2015) *Fiscalite Pacifique* 179-194

Steyn, Theuns; Franzsen, Riël & Stiglingh, Madeleine ‘Conceptual framework for classifying government imposts relating to the tax burden of individual taxpayers in South Africa’ (2013) *12 International Business & Economics Research Journal* 239-52

<[http://repository.up.ac.za/bitstream/handle/2263/21199/Steyn_Conceptual\(2013\).pdf?sequence=1](http://repository.up.ac.za/bitstream/handle/2263/21199/Steyn_Conceptual(2013).pdf?sequence=1)>

Tran-Nam, Binh & Evans, Chris ‘Towards the development of a tax system complexity index’ (2014) *35 Fiscal Studies* 341–370 <<http://onlinelibrary.wiley.com/doi/10.1111/j.1475-5890.2014.12033.x/pdf>>

20 Quotable quotes

Hosts of the Brisbane FM 97.3 radio station: “The Goods and Services Tax is taxed at what percentage?”

Annastacia Palaszczuk (Queensland Opposition leader, now Premier): “Pass.”

Source: Extracted from Schliebs, Mark ‘Queensland election 2015: Palaszczuk’s talkback GST gaffe’ *The Australian* 29 January 2015 <<http://www.theaustralian.com.au/national-affairs/state-politics/queensland-election-2015-palaszczuks-talkback-gst-gaffe/story-fnr8rfrw-1227200484282>>

Hosts of the Brisbane FM 97.3 radio station: “Annastacia Palaszczuk, the Queensland Opposition Leader. Spell Palaszczuk”

Campbell Newman (Premier, Queensland, now ex-Premier): “Pass.”

Source: Silva, Kristian ‘Queensland Election 2015: Campbell Newman can’t spell ‘Palaszczuk’ *Brisbane Times* 30 January 2015 <<http://www.brisbanetimes.com.au/queensland/queensland-state-election-2015/queensland-election-2015-campbell-newman-cant-spell-palaszczuk-20150129-131oy7.html>>

“When is legal tender not legal tender?”

A man in the US has had a run-in with the law after an attempt to pay a tax bill in the most obnoxious way possible.

Texas man Timothy Andrew Norris was arrested last week when a tax office worker refused to accept payment for a \$US600 (\$A770) tax bill in tightly folded \$1 notes.

The Times Record News reports Mr Norris, 27, turned up to the Wichita County Courthouse on January 28 to pay his property tax with the offending currency.

The bills were said to have been folded so tightly it “required tax office personnel approximately six minutes to unfold each bill”.

Assuming that’s true (is that even possible?), Mr Norris not only has some pretty serious origami skills, but he would have put the tax collectors out by about 60 man hours.”

Source: ‘Man arrested for trying to pay his tax bill with ‘tightly folded’ \$1 notes’, News.com website 5 February 2015 <<http://www.news.com.au/finance/money/man-arrested-for-trying-to-pay-his-tax-bill-with-tightly-folded-1-notes/story-e6frfmci-1227209173069>>

“Lists of great legal scholars — those who are known throughout the world for their contribution to the discipline — are relatively short. They have generally been males from elite institutions and of a particular scholarly persuasion. I know of no studies of an Australian woman specialising in tax or contract law at a regional Australian university.”

Source: Susan Bartie, ‘Towards a history of law as an academic discipline’ (2014) 38(2) *Melbourne University Law Review* (Advance) p 26
<<http://www.law.unimelb.edu.au/files/dmfile/Bartie382Advance2.pdf>>

“Opposition treasury spokesman Chris Bowen says he does not feel his credibility will be damaged by failing to answer a question on Australia's tax rates during a television interview.

Under repeated questioning by talkback host Alan Jones, Mr Bowen was unable to correctly nominate the income tax-free threshold of \$18,200.

Jones asked the Labor frontbencher if he could "outline to everyone out there...the various tax levels" and "at what point we pay so much in tax if you're an income earner?"

After several attempts at getting an answer, the Sydney radio personality accused Mr Bowen of not knowing his portfolio.

"This is a serious issue – the man is pretending he wants to be the treasurer of Australia and doesn't know the tax thresholds," Jones said on Sky News.

Speaking after the interview, Mr Bowen said he thought Jones was quizzing him about superannuation tax, rather than personal income tax rates.”

Source: ‘Opposition treasury spokesman Chris Bowen confident his credibility undamaged following interview on tax rates’, ABC News, 18 February 2014
<<http://www.abc.net.au/news/2015-02-17/chris-bowen-confident-his-credibility-remains-intact/6133774>>

“In theory tax considerations shouldn't drive investment decisions, but for many retirees, including those with self-managed super funds, who have come to base their investment decisions on advice from their accountant that they will get a big tax break by pumping lots of money into super at concessional rates, and then take out lump sums tax-free, there will be much annoyance when they can no longer do so, even if it is the right policy outcome.”

Source: Khadem, Nassim ‘Push is on to tackle the big tax taboos’, *Sydney Morning Herald* Business Day 7-8 February 2015 p 5; Online as ‘Tackling tax taboos: the reform process the government doesn't want to have’ <<http://www.smh.com.au/business/tackling-tax-taboos-the-reform-process-the-government-doesnt-want-to-have-20150206-1377e7.html>>

“Moreover, the push to shut down proposals for greater tax transparency proceeds apace. In its submission to the inquiry, peak accounting body CPA Australia has called for the government to abandon plans for increased disclosure. Incredibly, its argument is that disclosure leads to uninformed public comment.

"Accordingly, to review taxpayers based predominantly on information they disclose will inevitably continue to lead to uninformed public comment," CPA said. "This could be both unfair and damaging to company reputations and their businesses, where companies complied fully with their legal obligations but are perceived by some commentators to have paid insufficient tax."

On this logic, if the CPA was about a few thousand years ago it would have advised Moses to stage a cover-up of the Ten Commandments, just in case the Israelite commentators got the wrong idea and challenged the views of the Rabbinical elite."

Source: West, Michael 'Tiny tax havens trading places with China', *Sydney Morning Herald* Business Day 14-15 February 2015 p 2; online 'Tax haven explosion puts hole in corporate tax' <<http://www.smh.com.au/business/tax-haven-explosion-puts-hole-in-corporate-tax-20150213-13dnh8.html>>

"As a federal parliamentarian of the Liberal Party, I despair that the Liberal Party of today is not the Liberal Party I joined 20 years ago and is not the Liberal Party I had the honour of serving in the Howard government. I feel confident many thinking Labor parliamentarians past and present would feel the same about the ALP of today compared with the Hawke and Keating era.

Equally, the political dynamic of opposition for opposition's sake must be jettisoned. The structural changes that needed to be made to the economy in the 1980s could not have been achieved without the Hawke and Keating governments' collaborative efforts in conjunction with the coalition led by John Howard.

Open debate is the lifeblood of every democracy, but political collaboration from opposing parties should not be an anathema. These are the conversations we need to have, but instead debate is reduced to a robotic regurgitation of stale talking points that resonate with the public like an overdose of Mogadon.

It is not enough for leaders to listen: they must also hear. A leader must create a team and champion the good performances of team members, not be fearful of them. And finally, a leader should not lie - to their colleagues or the Australian people.

The truth is often difficult, but any political figure who looks the public in the eye and betrays their trust is not worthy of office. I want to be part of a government that can look the Australian people in the eye and honestly say - we have listened to you, we have heard you and we will work with you in the best interests of our nation. We must be part of an ongoing conversation with the Australian people that is longer than 140 characters and does not peddle mindless political ideology."

Source: Gambaro, Teresa 'A real dialogue with the voters', *The Australian* 4 February 2015; online 'We must embrace a new way of governing' <<http://www.teresagambaro.com/media/media-releases/opinion-piece-we-must-embrace-new-way-governing-published-real-dialogue-voters>>

ATTA News March 2015

<https://www.business.unsw.edu.au/about/schools/taxation-business-law/australasian-tax-teachers-association/newsletters>

Editor: Colin Fong, Faculty of Law, University of New South Wales, Sydney
c.fong@unsw.edu.au

ATTA website <https://www.business.unsw.edu.au/about/schools/taxation-business-law/australasian-tax-teachers-association>

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1 Presidential column

Now that we are all into the first semester for the year, if you are like me then the great times had at the ATTA Conference are being crowded out by the demands of teaching, preparing assessments and responding to student queries. One positive is that the weather generally seems to be holding up with summer not ready to let go, although for some I expect you would like to see some decent rain. On a note of concern, our thoughts go to those living in and around Vanuatu, as well as parts of the North Island of New Zealand and the Chatham Islands following the devastation of Cyclone Pam. As I am writing this column, a close watch is needed over the potential path of Cyclone Nathan in the upper regions of Queensland.

The ATTA Executive will be meeting (virtually) in the next few weeks to discuss several items that have come to me as the new President. I will provide an update in due course. In the meantime I would encourage you to submit your conference paper to JATTA before the end of this month, especially if you have not got another target journal in mind. JATTA's continued success is dependent upon us as ATTA members.

On the tax policy front the year is underway with a major tax bill released in New Zealand (I would commend to you Lisa Marriott's commentary on New Zealand developments). The Commonwealth Government released Issues Paper 5 – *COAG and Federal Financial Relations* last month; it provides a background in part at least as to what may appear in the imminent White Paper on Tax Policy. As mentioned later in this newsletter, Robert Jeremenko has temporarily left the Tax Institute to work on the Federal government's tax reform agenda. I am sure these papers, along with the tax bill, will provide informative reading to inform our discussions going forward.

Adrian Sawyer

2 Call for Articles: 2015 edition of JATTA

The closing date for submissions to the next edition of the Journal of the Australasian Tax Teachers' Association (JATTA) is Monday 31 March 2015.

All papers on taxation will be considered for publication. In particular, JATTA welcomes submissions from authors of the 2015 ATTA conference papers and other papers on the theme of this year's ATTA conference: *Tax – "It's time" for change*. JATTA can provide a forum for publication of the many excellent papers presented at the conference.

Submissions should be presented in MS Word format using double spaced 12 point Times New Roman font. For the purposes of ensuring that the refereeing process is anonymous, please ensure that your name does not appear anywhere on the paper (including in the headers or footers, or the MS Word document information) and also ensure that the footnotes do not reveal your identity. Furthermore, papers should conform to the 3rd edition of the *Australian Guide to Legal Citation* produced by the Melbourne University Law Review: see <http://www.law.unimelb.edu.au/mulr/aglc>.

An abstract of approximately 100 words is also required. A document separate to this should also be submitted with the author's/authors' details (eg, name/s, position/s, institution/s, contact email address/es, etc).

All submissions to JATTA are subject to double blind peer review by appropriate specialists in the particular field of taxation. JATTA satisfies the description of a refereed journal and was included in the ERA 2012 Journal List.

Please submit your papers by email to John Tretola at john.tretola@adelaide.edu.au no later than 31 March 2015.

3 Arrivals, departures and honours

Catherine Brown, formerly with the Queensland University of Technology, was appointed as lecturer at Griffith University with the Griffith Business School in February 2015.

Professor **Margaret McKerchar** will retire from UNSW effective 30 April 2015 and has been appointed as an Emeritus Professor in recognition of her distinguished service to scholarly academic work and to the development of the University.

Professor **Dale Pinto** from the Curtin Law School has been invited to become a Fellow of the Australian Academy of Law (FAAL) by the President of the Australian Academy of Law, Kevin Lindgren AM, QC, FAAL and pursuant to a resolution of its Board of Directors. Individuals who are invited to become Fellows of the Academy are "persons of exceptional distinction in the discipline of law who are demonstrably committed to the objects of the Academy" (clause 6.3(a) of the Academy's Constitution). The Chief Justice of the High Court of Australia, the Hon Robert S French AC, is the Patron of the Australian Academy of Law which is the fifth learned Academy in Australia.

In addition to the above, Dale was recently awarded a Meritorious Service Award by the Tax Institute for his outstanding service to the Tax Institute.

Binh Tran-Nam retired from his continuing position as Associate Professor at the University of New South Wales Australia School of Taxation & Business Law on 9 March 2015. He will take up a 0.5 FTE (six months a year) full professorship in the Centre of Commerce and Management of RMIT Vietnam. He will continue to be associated with the UNSW Australia School of Taxation & Business Law to conduct his joint ARC Discovery research with Michael Walpole.

Thomson Reuters is pleased to announce the appointment of Professors **Dale Pinto** and **Kerrie Sadiq** as Associate Editors for the *Australian Tax Review*. Dale and Kerrie will assist General Editor **Chris Evans** with the management of the Journal.

Source: Email of 5 February 2015

Congratulations to Professor **Richard Cullen** (Visiting Professor, Hong Kong University, Adjunct Professor, University of Western Australia), whose May 2014 article "Land Revenue and the Chinese Dream" was recognised by the *China Policy Review* as one of the "Top 20 Economic Essays of 2014". The *China Policy Review* is a monthly journal of the State Council's Development Research Centre (DRC) in Beijing. The article was published in two parts in the July and August issues. It will also appear in the 2014 *Almanac of China's Economy*, an important annual publication that has been recording the changes in China's national economy since 1981. The Almanac's editorial board "consists of government department heads -- at the national, provincial and municipal level -- and prominent economists. Its editors-in-chief are officials of the DRC." (China Daily, Sept 2013). The article noted above is, in fact, is a short / synoptic article derived from the same research and the full article published in the *e-Journal of Taxation* (another shorter version published late last year in *The Asian Business Lawyer* (KoreaU).)

Congratulations to **Victoria Roberts** who was conferred with her PhD on 18 March 2015 at the University of New South Wales. Her thesis was entitled: *Australia's contribution to achieving global food security: to what extent can reform of the federal research and development tax incentives assist?* Her supervisors were Profs Margaret McKerchar (UNSW) and Natalie Stoianoff (UTS).

Robert Jeremenko, Senior Tax Counsel, The Tax Institute will be taking leave of absence from the Tax Institute for the next 18 months with his appointment as Chief of Staff for the Government's Tax White Paper. This new role within the Federal Treasurer's office will be responsible for guiding the tax reform process up until the next election, after which he plans to return to the Tax Institute. He is looking forward to playing a part in the national conversation on options for a better tax system in Australia.

4 Tax and Transfer Policy Institute invitation

The Tax and Transfer policy institute would like to invite all ATTA members to our conference in April 2015. ATTA members will receive free registration.

LOOKING FORWARD AT 100 YEARS: WHERE NEXT FOR THE INCOME TAX?

The Tax and Transfer Policy Institute will present a landmark research and policy conference on the future of the income tax, to be held at Crawford School of Public Policy, The Australian National University, Canberra, from Monday 27 to Tuesday 28 April 2015. As the Federal Government prepares its White Paper on Tax Reform during 2015, our income tax has reached its first century. The personal and company income tax has shown remarkable resilience as together, these tax bases have come to provide the lion's share of tax revenues in Australia in the last 100 years. Today, the income tax faces new stresses from social and economic changes in the way that we work, save and invest and from the globalisation and digitisation of Australia's economy.

What role should the income tax play in Australia's future tax system? What can we learn from the past or from new research in reforming the policy, law and administration design of our income tax for the future? Papers are invited on any aspect of theory or practice of the income tax including personal and company tax, from diverse disciplinary perspectives in public economics, law, accounting, political science or public policy disciplines.

Confirmed international academic keynote speaker at this conference will be Professor Michael Graetz, of Columbia University, in the United States. Presenters include:

- Julie Smith
- Rob Bray
- Geoffrey Brennan
- Valerie Braithwaite
- Richard Vann
- Antony Ting
- Mark Bowler-Smith
- Richard Eccleston
- Neil Warren
- Graeme Cooper
- Chris Evans
- John Minas
- Youngdeok Lim

The conference will run from 9am on Monday 27 April to 2pm on Tuesday 28 April 2015. A program will be available shortly on our website taxpolicy.crawford.anu.edu.au/ This event is by invite only with a limited number of places available to the public. Please register your interest to attend the conference with diane.paul@anu.edu.au.

5 2015 Atax Research Fellowship Applications

Call for 2015 Atax Research Fellowship Applications

In 2015 the School of Taxation & Business Law (incorporating Atax) at UNSW Australia will offer several Research Fellowships to international academics and professionals keen to further their research in the fields of taxation, business law and related disciplines. The maximum value of each fellowship is AUS \$7,500. The School may decide to award only one or no fellowship in any given year.

Fellowship duties

Research fellows normally spend a minimum of four weeks working at the School of Taxation & Business Law on a mutually agreed area of research. During their stay, fellows are involved in the following activities:

- producing at least one research paper on taxation or business law, in collaboration with Taxation & Business Law academic(s), to be published in a refereed journal with due acknowledgement of the fellowship

- conducting a Taxation & Business Law research seminar for interested members of the broader tax/business law research community
- participating in Taxation & Business Law collegial activities during the period of the fellowship.

The School of Taxation & Business Law will provide office space and computer equipment at its Kensington campus in Sydney, Australia. Fellows will be responsible for organising their own travel and accommodation although the School can offer assistance in these matters. The preferred timing for successful applicants to undertake the fellowship is or August–October 2015, but other times of the year may also be possible.

Selection

Selection is based on the applicant's research proposal and on their ability to contribute to the School of Taxation & Business Law research profile. A track record in collaborating with Taxation & Business Law academics will be considered as an advantage.

Application

Applications are invited from overseas academic and professional researchers working in taxation, business law and related disciplines. To apply, applicants must send by email:

- (i) A letter of application, indicating in sufficient detail the area they wish to research under the Fellowship and anticipated publication(s), how they will collaborate with Taxation & Business Law academic(s), and their preferred timing to undertake the Fellowship.
- (ii) A current curriculum vitae

Applications should be sent by 31 March 2015 to

Associate Professor Binh Tran-Nam,
 Research Fellowship Convenor
 School of Taxation & Business Law
 UNSW Australia,
 Sydney NSW 2052
 Australia
 Email: b.tran-nam@unsw.edu.au

The outcome of applications will be communicated to applicants in late April 2015.

6 New Zealand developments

New Zealand tax developments in the last month include:

- Inland Revenue announcing they will use discretion in relation to the income equalisation scheme, in order to assist farmers affected by drought in some parts of the South Island. The aim of the income equalisation scheme is to allow farmers to manage fluctuations in their income. Farmers can put aside funds from productive years, and withdraw these funds in years that are less productive. The assistance provided by Inland Revenue is to relax the rules by allowing late deposits into the scheme (up to 30 April 2015), regardless of when the return is filed, or when it is due. In addition, early refunds will be permitted.
- From 1st April 2015, certain associated person's transactions must be shown. These new rules apply when the associated person is not a company or a tax resident of NZ. The types of transactions that are captured under the amended rules include interest expense on loans from associated persons; loans to associated persons; expenses for services provided by associated persons; and expenses paid to associated persons for rents or leases.
- Clarification by the Minister of Revenue that bodies corporate are no longer required to register for GST.
- Introduction of the *Taxation (Annual Rates for 2015-16, Research and Development, and Remedial Matters) Bill*. This Bill covers:
 - Cash out of research and development tax losses

- Black hold expenditure (related to depreciable intangible assets and non-depreciable assets)
- Charities with overseas purposes
- FBT from employment related loans
- CFC and other remedial matters
- Working for families

More detail on the Bill can be found in the Commentary at:

<http://taxpolicy.ird.govt.nz/publications/2015-commentary-arrdrm/overview>

Lisa Marriott

7 Recent Federal Court of Australia tax cases

Recent Federal Court of Australia cases, (from 1 February to 8 March 2015), with the catchwords taken from the Federal Court website. For the full cases check the FCA website search engine here (<http://www.fedcourt.gov.au/publications/judgments/search#legislation>) or Google the case names.

***Commissioner of Taxation v Moignard* [2015] FCA 143**

White J, 3 March 2015

Catchwords: Taxation – appeal from decision of Administrative Appeals Tribunal (AAT) that trust income was not part of taxpayer’s assessable income pursuant to ss 97 and 101 of Income Tax Assessment Act 1936 (Cth) because taxpayer had not been presently entitled to that income – whether AAT misconstrued or misapplied ss 97 and 101 – whether AAT failed to address issues or make necessary findings of fact in determining present entitlement – whether AAT erred in having reliance on subsequent conduct of trustee – whether AAT misapplied or reversed onus of proof imposed on taxpayer by s 14ZZK of Taxation Administration Act 1953 (Cth) – whether taxpayer bore burden of establishing actual tax liability before AAT.

***Rio Tinto Services Ltd v Commissioner of Taxation* [2015] FCA 94**

Davies J, 19 February 2015

Catchwords: Taxation: Goods and services tax – whether entitlement to input tax credits – meaning of “creditable purpose” as defined in s 11-15 of the A New Tax System (Goods and Services Tax) Act 1999 (Cth)

***Financial Synergy Holdings Pty Ltd v Commissioner of Taxation* [2015] FCA 53**

Pagone J, 9 February 2015

Catchwords: Taxation: Capital gains tax – formation of consolidated group – disposal of units in unit trust – roll-over relief obtained – calculation of allocable cost amount – time of acquisition of assets – construction – meaning of “worked out as at the time of acquisition” – whether time of acquisition deemed to be before 20 September 1985 for purposes of Income Tax Assessment Act 1997 (Cth), ss 110-25(2)(b) – meaning of “before that day”.

***LHRC v Deputy Commissioner of Taxation (No 3)* [2015] FCA 52**

Perry J, 6 February 2015

Catchwords: Taxation – Where Commissioner in process of assessing objections by taxpayer and associated entities – Whether power to issue notice under s 264 of the Income Tax Assessment Act 1936 (Cth) after objection lodged – Whether s 14ZYA of the Taxation Administration Act 1953 (Cth) confers exclusive power to gather information after taxation objection lodged – Whether s 264 notice limited to gathering information for raising assessments before objection

Taxation – Where Australian Taxation Office conducting special operation auditing taxpayers transferring payments to or from tax havens endorsed by special Australian Crime Commission investigation – Where transcript of Australian Crime Commission examination

of taxpayer disseminated to officers of the Australian Taxation Office under s 59(7) of the Australian Crime Commission Act 2002 (Cth) - Whether requirement to afford the taxpayer an opportunity to be heard before dissemination of the examination transcript to the Australian Taxation Office - Whether use of examination transcript in deciding whether to issue notice under s 264 of the Income Tax Assessment Act 1936 (Cth) or conducting s 264 interview authorised – Whether use of examination transcript in connection with s 264 interview contravenes non-publication directions made under the Australian Crime Commission Act 2002 (Cth) - Whether non-publication direction ought to have precluded use in connection with s 264 interview in order to avoid prejudice to a fair trial if the taxpayer is charged.

Taxation - Whether power to restrain exercise of compulsive powers to require evidence on the subject-matter of offences applies only where the examinee has been charged – Whether decision-maker issuing s 264 notice bound to have regard to detriment suffered as a result of the exercise of the power in s 264 – Whether decision to hold s 264 interview unreasonable

John Passant

8 Letter to the editor

I am pleased that so many attendees enjoyed the Tax Teachers Conference in Adelaide in January (as their correspondence in the February newsletter makes clear.) I too enjoyed many of the academic presentations. I do hope however that at the next Conference there is better balance among the range of guest speakers so that those of us who are concerned about the erosion of equity in society and the tax system are not subject to guest speaker after guest speaker from the conclave of conservatives. Given the Tax Justice Network and United Voice and their 'Who Pays for our Common Wealth' report seemed to be the focus of much of their anger, maybe we should ask one of those organisations to speak and respond. A year late I know, but nevertheless that might lead to a more balanced and wider range of views on offer from our guest speakers.

John Passant

9 Giveaways

One full set of *GST Legislation Plus* (19 editions 1999 to 2015) available for free to good home. If the recipient is in Melbourne, then this person can pick it up, otherwise postage will be paid for recipient elsewhere within Australia.

Contact Samantha Stewart

Samantha Stewart <samantha.stewart@monash.edu>

10 Call for papers

The 6th Queensland Tax Researchers' Symposium (QTRS) AND the 3rd Meeting of the Australasian Tax History Chapter (THC)

Griffith University Business School will host the 3rd meeting of the Australasian Tax History Chapter (THC) on Thursday, 2 July and the 6th Queensland Tax Researchers Symposium (QTRS) on Friday, 3 July 2015.

These two events bring together tax academics and research higher degree students to discuss and present their current research interests. This is a joint initiative between academics from various universities with Griffith University, QUT, James Cook University and UNSW also sponsoring the event. These events build on the success of the annual symposium, which has been held since 2010.

The 2015 Symposium will be held at Griffith University's South Bank campus (Brisbane) located on the fringe of Brisbane's central business district.

Registration is open to academics with a research interest in tax, as well as research higher degree students who are currently undertaking an honours, Masters or PhD dissertation in a tax related topic. While registration is free, numbers are limited and attendees will need to register by Friday 15 May 2015. Attendees may register for one or both days.

Those interested in presenting a paper (including research higher degree students) are encouraged to submit a short abstract of their work by 30 April 2015 (500 words) indicating whether they wish their paper to be part of the THC meeting on 2 July or the QTRS on 3 July. Authors will be notified of their acceptance by 11 May 2015. Note it is possible for tax academics to attend without presenting.

General enquiries about both the THC and QTRS (including paper submissions and registration) should be directed to:

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Email: a.mortimore@griffith.edu.au

Ph: +61 7 555 28082

The **Global Conference on Environmental Taxation** is the leading global forum for exchanges on the principles and practices of environmental taxation and other market-based instruments relevant for greening of the economy and progressing sustainable development. Research presented at the previous fifteen conferences has helped provide a much stronger theoretical and empirical underpinning of the legal, economic and behavioural issues in this area. These conferences are intended to advance knowledge, understanding and debate rather than any particular environmental agenda.

The **theme** for the Conference is **Green Fiscal Reform: Protecting our Natural Resources for a Sustainable Future**. The theme is designed to place greater focus on natural resource protection, a theme that has received less explicit attention in past conferences. It also emphasises an area of great concern to the host country, Australia.

We invite the submission of abstracts for the 16th Global Conference on Environmental Taxation (GCET16), to be held in Sydney at the UTS Haymarket campus, Australia from 23-26 September 2015.

Topics can extend from climate change and other sustainability related policies; biodiversity protection; environmental stewardship; pollution control; water conservation; land degradation; renewable energy and innovation such as wind, solar, geothermal, biogas; mining and rehabilitation; wildlife protection and feral animal treatment; while encompassing market instruments such as carbon pricing, emissions trading schemes, other environmental taxes, subsidies, direct action or spending programs and tax concessions both positive and perverse.

Note:

Wednesday 23 September 2015 will be an afternoon session open to everyone with PhD candidate presentations only.

Saturday 26 September 2015 will be a morning session open to everyone that will focus on evaluation frameworks for environmental taxes and concessions.

Abstracts should not exceed 400 words. No figures, tables, footnotes, endnotes or other references should be included in the abstract.

Final acceptance of any contribution requires registration of an author.

Important dates:

Deadline for submission of abstracts: 30th April 2015

Notification of acceptance of abstracts: 28th May 2015

Deadline for submission of papers: 24th August 2015

For further information and to submit your Abstract please visit:

<http://www.gcet16.uts.edu.au>

We look forward to welcoming you to Sydney.
Professor Natalie Stoianoff
Conference Chair
Faculty of Law, University of Technology Sydney

11 Tax and related meetings

Local

Tax and Transfer Policy Institute, Crawford School of Public Policy, Australian National University, Professor Alan J Auerbach, Director of the Robert D Burch Center for Tax Policy and Public Finance at University of California at Berkeley, will be visiting to participate in the forthcoming East Asia Forum conference. Professor Auerbach will present the annual Sir Roland Wilson Public Lecture on the topic of taxation of capital and inequality, co-hosted this year by TTPI on Wednesday 15 April 2015, 5:30pm. An audio will be available after presentation. For more information on TTPI, please email tax.policy@anu.edu.au

UNSW, Taxation and Business Law lunchtime seminars: first research seminar for 2015 will be presented by Dr Sue Yong, Faculty of Business and Law, Auckland University of Technology. Her topic: "Cultural Diversity and Tax Compliance: Lessons from New Zealand", 20 April 2015 – Monday, 12.30-2.00pm, QUAD Building, Level 2, Room 2055, UNSW, Kensington. A light lunch will be provided. For any inquiries and to RSVP please contact Associate Prof Fiona Martin on f.martin@unsw.edu.au

University of Sydney Ross Parsons Centre of Commercial, Corporate and Taxation Law, Can a 20th Century Business Income Tax Regime Serve a 21st Century Economy? 6-7pm, Mon 20 April 2015. This lecture delivered by Professor Michael J Graetz (Columbia Law School) will address the possibilities for tax reform in the 21st century economy. It will range from the OECD Base Erosion and Profit Shifting Project to the GST and the individual income tax. <<http://sydney.edu.au/news/law/457.html?eventcategoryid=37&eventid=10936>>

27th Atax GST Conference, The Brisbane Hilton (Brisbane, Queensland) 20-21 April 2015. The format will be two full days of conference presentations and discussions as well as a dinner on Monday 20 April at Malt restaurant. Professor Michael Walpole will be coordinating the program. The keynote speaker will be Stephanie Forgie, Deputy President of the Administrative Appeals Tribunal. Topics including GST refund issues; cross border transactions; and the electronic economy as well as the usual GST topics of importance such as real property. Standard Registration \$1,650 (incl. GST); Speaker Registration \$750 (incl. GST); Additional dinner guest \$150 (incl. GST). Conference speakers and ATO delegates please email the conference organiser to obtain discount information prior to registration. <<https://www.business.unsw.edu.au/about/schools/taxation-business-law/conferences>>

Tax and Transfer Policy Institute, Crawford School of Public Policy, Australian National University **Looking Forward at 100 years: Where Next for the Income Tax?** 27-28 April 2015. As the White Paper tax reform process kicks off with release of the Issues Paper in the new year, Australia's income tax reaches 100 years of age. The keynote speaker is Professor Michael Graetz of Columbia University. The conference will address key topics of future of the personal income tax, company tax and income tax in the federation. Confirmed speakers include Professor Geoffrey Brennan, Richard Vann, Chris Evans, Neil Warren and Richard Eccleston. More information and program for this invitation conference will be available soon. Free registration for ATTA members. See further <<https://taxpolicy.crawford.anu.edu.au/department-news/5149/call-papers-looking-forward-100-years-where-next-income-tax>>

The **6th Queensland Tax Researchers' Symposium (QTRS) AND the 3rd Meeting of the Australasian Tax History Chapter (THC)**, Griffith University Business School, South Bank campus, Brisbane, 2-3 July 2015. This is a joint initiative between academics from various universities with Griffith University, QUT, James Cook University and UNSW also sponsoring the event. While registration is free, numbers are limited and attendees will need to register by Friday 15 May 2015. Attendees may register for one or both days. Note it is possible for tax academics to attend without presenting. General enquiries about both the THC and QTRS (including paper submissions and registration) should be directed to:
Anna Mortimore, Lecturer- Taxation
Griffith Business School, Griffith University
Email: a.mortimore@griffith.edu.au
Ph: +61 7 555 28082

The **Global Conference on Environmental Taxation**, University of Technology, Sydney, Sydney, Australia 23-26 September 2015. Theme for the Conference is *Green Fiscal Reform: Protecting our Natural Resources for a Sustainable Future*. Note:
Wednesday 23 September 2015 will be an afternoon session open to everyone with PhD candidate presentations only.
Saturday 26 September 2015 will be a morning session open to everyone that will focus on evaluation frameworks for environmental taxes and concessions.
<http://www.gcet16.uts.edu.au>

ATTA's **28th Annual Conference** will be hosted by the University of New South Wales School of Taxation & Business Law January 2016 (dates to be confirmed). The theme of the conference is *Tax and time travel: looking forward and looking back*. The conference will celebrate 28 years of ATTA in Australasia. Further information about the conference is included above in this newsletter. If you have any questions please contact John Taylor at c.taylor@unsw.edu.au

The **Tax Institute's** website www.taxinstitute.com.au lists many conferences, conventions, seminars, and breakfast clubs. For further enquiries, contact Phillipa Cardigan (02) 8223 0045 or email phillipacardigan@taxinstitute.com.au or register online at www.taxinstitute.com.au Call the National Events team on 1300 733 842 for more details.
Please contact the National Events Team on 1300 733 842 or by email, nationalevents@taxinstitute.com.au Follow us on Twitter @TaxInstituteOz.
Danielle Thurston, Event and Member Services Executive The Tax Institute Phone: 02 8223 0000; Direct: 02 8223 0014 Fax: 02 8223 0077 daniellethurston@taxinstitute.com.au

Overseas

3rd Annual Bentham House Conference, **The Philosophical Foundations of Tax Law**, UCL Faculty of Laws, Bentham House, Endsleigh Gardens, WC1H 0EG London, Friday 8th & Saturday 9th May 2015.

There is currently very little literature considering the philosophical aspect of tax law. Yet given the controversy that surrounds tax, particularly in a turbulent economic environment, it is an excellent time to explore tax from a philosophical perspective. It is essential that we have a complete understanding of the answers to some of the seemingly basic questions which surround tax, before we can begin to think about what a tax system should look like. Questions such as what in fact is a tax? Why should we tax? How much should we tax and on whom should tax be levied? What should taxes be used for? How do ideas of fairness and

justice tie in with the tax system? The consideration of all these questions is crucial to a complete understanding of the tax system and the future of the tax system. This symposium brings together those with a shared interest in legal philosophy and tax law, as well as perspectives from economics and political philosophy, in order to give a comprehensive and unique perspective to a complex issue. The papers and presentations given over the course of the symposium will culminate in book of essays edited by Monica Bhandari. <<http://www.ucl.ac.uk/laws/conferences/tax-law>>
Registration details <<http://www.eventbrite.co.uk/e/philosophical-foundations-of-tax-law-registration-12462526753>>

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

Canadian Tax Foundation <http://www.ctf.ca/ctfweb/en>

Institute for Fiscal Studies Conferences and seminars
<http://www1.ifs.org.uk/conferences/index.shtml>

Institute for Austrian and International Tax Law 2015 events:

April 13, 2015 – PwC-WU-Seminar: “Current Developments in European and International Tax Law” (in English): Christopher Orchard/Andrew Dawson

April 20, 2015 – Wolfgang Gassner-Gedächtnisvorlesung (in German): Prof. Joachim Englisch

May 18, 2015 – Panel discussion with tax lawyers (in German)

June 1, 2015 – PwC-WU-Seminar: “Current Developments in European and International Tax Law” (German/English): Aline Kapp/Claudine Devillet

June 11-13, 2015 – Conference: “Tax Treaty Case Law Around the Globe”

June 19, 2015 – 22nd Symposium on International Tax Law: “BEPS and Tax Treaties”

June 25, 2015 – Semester closing

July 30/1, 2015 – Second EU-China Tax Summit

July 2-4, 2015 – Conference: “The Impact of Bilateral Investment Treaties on Taxation” (Rust, Burgenland)

July 13-17, 2015 – CEE Vienna International Tax Law Summer School

The topics of the seminar sessions and other events can always be found at www.wu.ac.at/taxlaw. Please feel cordially invited to visit our website again regularly.

Additionally, there will again be a huge number of other technical seminars and conferences. Please see our website for most up-to-date information on them.

International Bureau of Fiscal Documentation. Various courses in Amsterdam, the Netherlands or in Malaysia. 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

For courses go to <http://www.ibfd.org/Training>

IBFD International Tax Courses - A selection of related courses in 2015

Transfer Pricing Workshop 23 - 24 March 2015, Singapore

Treaty Aspects of International Tax Planning 26 - 28 November, Sao Paulo

International Corporate Tax Planning Aspects 20 - 22 April 2015, Singapore

VAT Considerations in M&A Transactions 28 - 29 May 2015, Amsterdam

Doctoral Meeting of Researchers in International Taxation (DocMIT) and Postdoctoral International Tax Forum (PITF), 21-22 May 2015, IBFD Head Office, Amsterdam, The Netherlands. In 2015, IBFD will organize the 13th edition of the meeting for doctoral researchers and the 4th edition of its postdoctoral (early career scholars) meeting. The purpose of these meetings is to provide the researchers with an opportunity to discuss their current

research projects with leading academics and a select circle of colleagues. Participants benefit from tailored coaching provided by our panel of international tax professors, as well as from the feedback provided by peers from various parts of the world. Our aim is to provide researchers with a forum to further their research in the field of taxation.

<http://www.ibfd.org/IBFD-Tax-Portal/Events/Doctoral-Meeting-Researchers-International-Taxation-DocMIT-and-Postdoctoral-0?utm_source=Asia-Pacific%20newsletter%20September&utm_medium=email&utm_campaign=AP30-09-2014&utm_content=IBFD-Tax-Portal/Events/Doctoral-Meeting-Researchers-International-Taxation-DocMIT-and-Postdoctoral-0>

International Fiscal Association Congresses <http://www.ifa.nl/pages/default.aspx>
2015 **Basel, Switzerland** (30 August 2015 - 4 September 2015) www.ifabasel2015.com
Topics under consideration as Subjects 1 and 2 of the Congress are "The use of tax measures in the area of research and development (R & D)" and "Taxation and fundamental rights: taxpayers' procedural rights in a globalised world"
2016 **Madrid, Spain**
2017 **Rio de Janeiro, Brazil**
2018 **Seoul, Korea, Rep of**
2019 **London, United Kingdom**

International Atlantic Economic Society (IAES) conference 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

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

Other useful tax and law related conference websites include the International Bar Association:

http://www.ibanet.org/Conferences/conferences_home.aspx

IBFD Course calendar

<http://www.ibfd.org/portal/app?bookmarkablePage=org.ibfd.portal.presentation.TaxCourses>
International Events and Law Conferences

<http://internationaleventsandlawconferences.yolasite.com>

Conferences in Australia <http://www.conferencealerts.com/country-listing.php?page=1&ipp=All&country=Australia>

New South Wales Bar Association

http://www.nswbar.asn.au/docs/professional/prof_dev/CPD/programme/index.php

Law Council of Australia <http://www.lawcouncil.asn.au/lawcouncil/index.php/conferences>

Practising Law Institute <http://www.pli.edu/>

New York County Lawyers Association <http://www.nycla.org>

American Bar Association Taxation CLE topics

http://www.americanbar.org/cle/cle_courses_by_topic/taxation.html

New York Bar Association <http://www.nysba.org/>

Hieros Gamos Worldwide Law Events Calendar <http://www.hg.org/legal-events.asp>

For Australian ones <http://www.hg.org/legal-events-australia.asp>

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 ATTA people in the media

John Passant in the *Canberra Times* Letters of 13 March:

My letter on the neoliberal capture of the Australian Tax Office (March 7)

<<http://www.canberratimes.com.au/comment/ct-letters/western-politicians-responsible-for-rise-of-islamic-state-20150306-13xnm.html?rand=1426157234312>> was edited to give the impression that Chris Jordan was a deputy commissioner before coming commissioner. He has never been a deputy commissioner of taxation. The Labor government in 2013 appointed him from the ranks of the tax industry (KPMG via the Board of Tax).

John Passant
Kambah ACT 2902

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

Australia. Inspector-General of Taxation *Management of tax dispute: A report to the Assistant Treasurer*, Canberra, 2015

<http://www.igt.gov.au/content/reports/tax_disputes/downloads/management_tax_disputes.pdf>

(2014) 29 (4) *Australian Tax Forum*

- Uncertainty and possibilities in taxation of Australian investment in China: Profit distributions and payments to group members - Dongmei Qiu and **Nolan Sharkey**
- Expatriate employees and consultants working in China - **Ann O'Connell**, Miranda Webster and **Yue Mei Guo**
- The development of transfer pricing in China - **Michelle Markham** and Yixin Liao
- China's Enterprise Income Tax system: Policy objectives and key design features - Xiliang Ge and **Antony Ting**
- Chinese investment in Australian resources: Can the legal debt/equity distinction still create windfalls and impediments? - **Nolan Sharkey** and **Ian Murray**

(2015) 44 (1) *Australian Tax Review*

Editorial - The delicate balance

From moral aspiration to rule of law – lessons from the United States in treating taxpayers fairly – **John Bevacqua**

A mandatory information disclosure regime to strengthen Australia's anti-avoidance income tax rules – **Nicole Wilson-Rogers** and **Dale Pinto**

Conceptualising "charity" in State taxation – GE Dal Pont

Hastings, Debbie 'Reinventing the way we manage tax disputes', First Assistant Commissioner addresses the Tax Institute of Australia's Financial Services Conference 2015, Surfers Paradise, 20 February 2015 <<https://www.ato.gov.au/Media-centre/Speeches/Other/Reinventing-the-way-we-manage-tax-disputes>>

Jordan, Chris 'Reinventing the ATO', Commissioner's speech to the Tax Institute's 30th national convention, Thursday, 19 March 2015, Royal Pines Resort, Gold Coast

<<https://www.ato.gov.au/Media-centre/Speeches/Commissioner/Commissioner-s-speech-to-the-Tax-Institute>>

Mills, Andrew 'It's time for tax (administration) reform', Second Commissioner Keynote address to the Australasian Tax Teachers' Association 27th annual conference, University of Adelaide, 20 January 2015 <[https://www.ato.gov.au/Media-centre/Speeches/Other/It-s-time-for-tax-\(administration\)-reform](https://www.ato.gov.au/Media-centre/Speeches/Other/It-s-time-for-tax-(administration)-reform)>

Stewart, Miranda; Moore, Andre; Whiteford, Peter and Grafton, R Quentin *A stocktake of the tax system and directions for reform: five years after the Henry Review*, Canberra, Tax and Transfer Policy Institute at the Crawford School of Public Policy, 2015. The full version of this report is available at <https://taxpolicy.crawford.anu.edu.au/news/5391/we-need-talk-about-tax>

(2014-15) 49 (6) *Taxation in Australia*

- Protecting your lifestyle from bankruptcy - Matthew Payne
- Tax design, international philanthropy and the "in Australia" special conditions - Matthew Turnour
- Superannuation: SMSF succession strategies - Daniel Butler
- Tax cases: A liquidator's obligations to retain tax - Michael Norbury
- A hidden tax cost for infrastructure projects - Charles Ferraro and Paul Naglan
- A matter of trusts: SMSFs, trusts and property development: Part 1 - Philip Broderick
- Review of Div 7A: What to expect - Herc Koustas, Damien Burke, and Geljic Sanyin
- Trusts, powers and default appointment clauses- John Ioannou and Darius Hii

(2015) 49 (7) *Taxation in Australia*

- Tax cases: Qantas and the taxation of airport employee car parking spaces - Michael Norbury
- Superannuation: SMSF borrowing - Daniel Butler
- A matter of trusts: SMSFs, trusts and property development: Part 2 - Philip Broderick
- Reassessment when review pending? Holger Sorensen
- The income tax and CGT consequences of property disposals - **Michael Blissenden**
- Overseas travel by employees: When does FBT apply? - **Fiona Martin**
- Alternative assets insights: Super funds – Tax impediments to going global - Wendy Hartanti, Christian Holle and Mark Edmonds

(2015) 49 (8) *Taxation in Australia*

- Declaratory relief in revenue matters - Jennifer Batrouney
- Powers to amend trusts are no longer available from courts - Michael Bennett
- Insurance-funded business succession - Patrick Ellwood and Matthew Burgess
- Taxation and crowdfunding – the start - Guy Brandon
- Transferring Victorian property out of trusts and into SMSFs without duty - Phil Broderick and Melissa Brazzale
- Superannuation: Paying a pension in kind using the partial commutation strategy - Daniel Butler
- Tax Cases: An Olympic struggle: Seven Network Ltd v FCT - Michael Norbury
- Accounting for Tax: Informal liquidations - Arthur Athanasiou
- Alternative assets insights: Are NSEIs the election-proof solution to infrastructure funding? - Chris McLean

Taxation Institute Papers published in February/March
National Division:

- The Murray Review through a tax lens - Rob McLeod
- The Murray Review into Australia's financial system - Rob Colquhoun and Stephen Kirchner

- The politics of tax reform in Australia - John Hewson
- The ATO's changing approach to resolution of banking and finance industry issues - James Campbell
- Update on capital management issues - Tim Kyle
- FATCA/GATCA/CRS: What will be the impact? - William Brown
- Infrastructure - Richard Buchanan and Addison Younan
- Recent developments in thin capitalisation - Sarah Bernhardt
- ATO reinvention & managing disputes post independent review - Deborah Hastings
- Financial services acquisitions and disposals - Teresa Dyson
- The reconstruction provision in the new Australian transfer pricing rules - Ian Fullerton
- BEPS - Topics of specific interest to financial services - Peter Collins, Piotr Klank and Kate Phelan

(2014) 18 (2) *The Tax Specialist*

- The WET: is it a good drop? - Glen Barton, **Annette Morgan**, and **Dale Pinto**
- Defective pattern of distributions test guarantees revenue loss usage - **Dale Boccabella**
- The role and design of a transfer pricing risk assessment framework for tax administrators - Thu Ha Le Thi, **Colleen Mortimer**, and **Dale Pinto**
- From local GST loophole to the worldwide BEPS problems - Maggie Mei-Ki Shiu

(2015) 18 (3) *The Tax Specialist*

- Discretionary trusts without vesting dates - Lister Harrison
- Practical application of the new Pt IVA - Tim Kyle
- Issues arising from the Resource Capital Fund case - Abdol Mostafavi and Charlotte Brierley

Overseas

Asia-Pacific Tax Bulletin Number 1 - 2015

International - Carbon Emissions and Other Environmental Issues in Asia-Pacific: Recent Developments in Environmental Taxes as an Economic Instrument - Satoru Araki

International - Designing A Tax Amnesty – One Size Does Not Fit All - **Najeeb Memon**

International - Enforcement or Cooperation: An Analysis of the Compliance Psychology of Taxpayers - Asmita Singh

India - Casenote – Decision on Application of Non-Discrimination Article under India's Treaty with Japan - Kamesh Susarla and Ravisankar Ramesh

The Developments section is discontinued from January 2015.

British Tax Review Number 1 2015

Introduction to Special Issue in Honour of John Tiley

Professor John Tiley CBE QC (Hon) FBA 1941–2013: appreciations - Judith Freedman; Philip Baker

Current Notes

A proposal for business tax reform in Sweden - Peter Melz

Case Notes

Autogrill España SA v European Commission; and Banco Santander SA and Santusa Holding SL v European Commission: Spanish tax rules, state aid and “selective advantage” - Emma Hardwick and Michael McGowan

Skandia America Corporation USA, Filial Sverige v Skatteverket: VAT grouping and intra entity supplies - Richard Stratton

Articles

Administrative Income Tax Legislation: A Century of the Revenue Following the Letter (but not the Spirit) of the Legislation - John F. Avery Jones

Ancient and Modern: Addington's 1803 Tax System Meets 21st Century Avoidance Schemes in Chappell v HMRC - Richard Thomas

Purposive Interpretation in the Age of Horse Trams - Dominic de Cogan
Income Tax in South Africa and Australia Turn 100: A Letter from the Queen for the
Dizygotic Twins? **Peter Harris**
Transferable Personal Allowances: A Small Step in the Wrong Direction - Glen Loutzenhiser
Capital Gains Tax Principal Private Residence Relief Reform: An Alternative to the “Mansion
Tax”? Natalie Lee

Bulletin for International Taxation Number 3 - 2015

United Nations - Report on the Tenth Session of the United Nations Committee of Experts on
International Cooperation in Tax Matters - Brian J Arnold
OECD/International - Treaty Shopping and Limitation on Benefits Articles in the Context of
the OECD Base Erosion and Profit Shifting Project - Qunfang Jiang
Peru - The Role of the UN Model in Peru’s Tax Treaties - Khaled Luyo Acosta
Africa - Tax Policy Trends in Africa – Commentary on the Major Tax Developments in 2013
and 2014 - Kennedy Munyandi, Ridha Hamzaoui, Carlos Gutiérrez Puente, Lydia Ogazón,
Anapaula Trindade Marinho, Monica Montes, Monia Naoum and Emily Muyaa
International/OECD - Tax Amnesties as a Transitional Bridge to Automatic Exchange of
Information - Vokhidjon Urinov
South Africa - Hybrid Debt and Hybrid Equity Instruments and the Interest Limitation Rules
in South Africa - Ernest Mazansky
Germany - German Federal Tax Court Again Questions Constitutionality of Treaty Override
- Tobias Hagemann and Christian Kahlenberg
Germany/OECD - The Implementation of the “Authorised OECD Approach” under German
Law and Its Relation to Tax Treaties Already in Force – Can the “Authorised OECD
Approach” Be Applied Retrospectively - Rabea Katharina Lingier - Available online only.

European Taxation Number 2-3 - 2015

France - Recent Transfer Pricing Developments - Bruno Gouthière
Italy - Recent Tax Jurisprudence on the Concept of Beneficial Ownership for Tax Treaty
Purposes - Francesco Avella
Luxembourg - The Luxembourg Private Foundation: A Flexible Tool for Private Wealth
Management - Jean Schaffner and Florent Trouiller
Spain - Fiscal State Aid: Lights and Shadows in the 2013 Commission Decision on the
Spanish Tax Lease System - Gemma Martínez Bárbara
European Union - The (In)Compatibility of IP Box Regimes with EU Law, the Code of
Conduct and the BEPS Initiatives - Fabian Mang
United Kingdom - UK Anti-Avoidance – Where Are We Now? Douglas Roxburgh
Latvia - Latvia as a Holding Company Jurisdiction - Zigurds G Kronbergs
Malta - Malta and the Hybrid Loan Amendment to the EU Parent-Subsidiary Directive -
Astrid Vroom
EU update – Commission - Laura Ambagtsheer-Pakarinen; Council - Laura-Ambagtsheer-
Pakarinen
Human rights issues and developments - Some Recent Decisions of the European Court of
Human Rights on Tax Matters - Philip Baker
CFE news - Opinion Statement ECJ-TF 3/2014 of the CFE on the decision of the European
Court of Justice of 23 January 2014 in DMC (Case C-164/12), concerning taxation of
unrealized gains upon a reorganization within the European Union
CFE ECJ Task Force - Opinion Statement ECJ-TF 4/2014 of the CFE on the decision of the
European Court of Justice in SCA Group Holding BV et al. (Joined Cases C-39/13, C-40/13
and C-41/13), on the requirements to form a “fiscal unity”
What's going on in ...
Montenegro - 2014 Tax Highlights - Aleksandar Milosavljevic
Turkey - The Effects of the ECtHR’ s Eko Elda Avee and Riener Decisions on Turkish Tax
Law - Billur Yalti

International Transfer Pricing Journal Number 2 - 2015

Australia - Australian Taxation Office's Transfer Pricing Risk-Rating System - Michael Butler, Lucille White and Montana Prpic

Germany - Regulations Provide Further Guidance on the Application of the Authorized OECD Approach to the Attribution of Profit to Permanent Establishments - Ulf Andresen
International/Netherlands - (Non-)Recognition of Transactions between Associated Enterprises: On Behaving in a Commercially Rational Manner, Decision-Making Traps and BEPS - Martijn de Lange, Paul Lankhorst and Rutger Hafkenscheid

International - Transfer Pricing Economics for the Digital Economy - Julien Pellefigue

International/India - Economic Adjustment: Capacity Utilization Adjustment - Sunny Bilaney

Australia - Guidance Regarding Reconstruction of Cross-Border Transactions by the Commissioner - Anton Joseph

France - Experience with the New Transfer Pricing Documentation Requirement - Pierre-Jean Douvier and Xavier Daluzeau

France - Cost-Plus Contract R&D Services: Should State Subsidies Be Deducted from the Cost Base? Caroline Silberstein and Benoît Granel

Greece - APA Guidance Released by Tax Authorities - Katerina Perrou

India - Analysis of High Court Rulings in N.G.C. Network and L'Oreal India - Sunny Bilaney

India - Analysis of Vodafone Case on Applicability of Transfer Pricing Provisions to Issuance of Equity Shares - Vispi T. Patel and Bhavya Haria

International VAT Monitor Number 1 – 2015

New Rules from 2015 Onwards for Telecommunications, Radio and Television Broadcasting, and Electronically Supplied Services - Patrick Wille

Amendments to the VAT Systems of EU Member States on 1 January 2015 – Update - Fabiola Annacondia

The 2015 Rules for Electronically Supplied Services – Compliance Issues - Marie Lamensch
Scanning the Scope of Skandia - Simon Cornielje and Ivan Bondarev

New Rules for Head Office to Branch Scenarios – Comments on the Skandia Case - Odile Courjon

Publishing Industry and Reduced VAT Rates: An Open Question - Paolo Centore and Maria Teresa Sutich

Practical Information on European VAT - Fabiola Annacondia

VAT NEWS - Reports from: Algeria, Argentina, Australia, Austria, Belarus, Belgium, Bolivia, Bosnia and Herzegovina, Bulgaria, Burundi, Cameroon, Cape Verde, China (People's Rep.), Colombia, Comoros Islands, Croatia, Czech Republic, Ecuador, Egypt, El Salvador, Estonia, European Union, Georgia, Ghana, Hungary, Iceland, India, Iran, Iraq, Ireland, Isle of Man, Israel, Italy, Jamaica, Japan, Kazakhstan, Kenya, Kosovo, Kyrgyzstan, Latvia, Lithuania, Luxembourg, Macedonia (FYR), Madagascar, Maldives, Malta, Mauritania, Mexico, Morocco, New Zealand, Nicaragua, Niger, Norway, Pakistan, Paraguay, Poland, Romania, Russia, Seychelles, Slovenia, Spain, Suriname, Sweden, Switzerland, Tunisia, Turkmenistan, United Kingdom and United States.

VAT case notes - Case notes from: Austria, Brazil, Canada, Denmark, Finland, Norway, Poland, Russia, United Kingdom and United States.

14 Quotable quotes

“At the end of 2014, Greeks owed their government about €76 billion (\$86 billion) in unpaid taxes accrued over decades, though mostly since 2009. The government says most of that has been lost to insolvency and only €9 billion can be recovered.

Billions more in taxes are owed on never-reported revenue from Greece's vast underground economy, which was estimated before the crisis to equal more than a quarter of the country's gross domestic product.

The International Monetary Fund and Greece's other creditors have argued for years that the country's debt crisis could be largely resolved if the government just cracked down on tax evasion. Tax debts in Greece equal about 90% of annual tax revenue, the highest shortfall among industrialized nations, according to the Organization for Economic Cooperation and Development.

Greece's new government, scrambling to secure more short-term funding, agreed on Tuesday to make tax collection a top priority on a long list of measures. Yet previous governments have made similar promises, only to fall short.

Tax rates in Greece are broadly in line with those elsewhere in Europe. But Greeks have a widespread aversion to paying what they owe the state, an attitude often blamed on cultural and historical forces.

During the country's centuries long occupation by the Ottomans, avoiding taxes was a sign of patriotism. Today, that distrust is focused on the government, which many Greeks see as corrupt, inefficient and unreliable.

"Greeks consider taxes as theft," said Aristides Hatzis, an associate professor of law and economics at the University of Athens. "Normally taxes are considered the price you have to pay for a just state, but this is not accepted by the Greek mentality."

Source: Karnitschnig, Matthew & Stamouli, Nektaria 'Greece Struggles to Get Citizens to Pay Their Taxes', *Wall Street Journal* 25 February 2015
< <http://www.wsj.com/articles/greece-struggles-to-get-citizens-to-pay-their-taxes-1424867495>>

"Treasurer: Taxation legislation is going to be under ever increasing pressure over the next few decades. The world is changing remarkably and whilst you would have easily have assumed ten, 15 years ago that, for example, the GST is going to be an enduring tax, and it has given the states a lot of revenue, with global trade, with the development of internet commerce, with not just the transaction of the sale of goods over the internet but increasingly services, there are going to be more and more goods and services that are provided from offshore under free-trade agreements that are going to miss that net.

Paul Kelly: Well, what do we do then in relation to the GST?

Treasurer: We will release a discussion paper in April about tax...

Paul Kelly: What's your personal view?

Treasurer: That's a dangerous question to a Treasurer.

Paul Kelly: No, it is a very pertinent question to a Treasurer.

Treasurer: My view is you would have to question whether in 30 or 40 years' time taxes like the GST or company tax will be around.

Peter Van Onselen: How do you mean?

Treasurer: Well, because capital is more mobile than ever before. Companies are no longer particularly wedded to individual countries, they will move around the world. There is intense competition between jurisdictions. I mean forget the fact there are some jurisdictions, which we are cracking down on through our work on the G20, we led it in cracking down on countries that provide tax havens but there is still intense competition in relation to tax rates from the UK, New Zealand, Singapore, Hong Kong and others to Australia.

Peter Van Onselen: See, it is a really interesting question, what do we do then? I mean if for various reasons as you are discussing things like the GST, consumption tax or company taxes can either be legally avoided or simply become null and void because of change, what does a government that needs revenue do?

Treasurer: That's the issue. That's what we do need to discuss because ultimately, the influence of government is going to be less into the future than it is today, as the influence of government today on economies is less than it was thirty, 40 years ago."

Source: 'Interview with Peter Van Onselen and Paul Kelly, Australian Agenda, Sky', Treasurer of the Commonwealth of Australia transcripts, 8 March 2015 <<http://jbh.ministers.treasury.gov.au/transcript/049-2015>>

"Politicians spend a lot of time dancing around the tricky issue of how on earth it is we're going to pay for a future of bingo and hip replacements.

We need a 'mature debate' about tax, we're often told (though rarely by oppositions). Meanwhile, last week's Intergenerational Report was a lengthy exercise in softening us up for belt-tightening and personal sacrifice ahead.

But it turns out that voters have a clear view about how to fix the budget bottom line and who should fix it.

Even for those who have never attended an earnest left-wing discussion group or occupied anything in their lives, Australians agree on the three best targets for raising tax revenue. In reverse order, they can be summed up as The Rich, Rich Companies and Rich Multinational Companies."

Source: Lewis, Peter and Woods, Jackie 'Googling a solution for raising tax revenue', Opinion, ABC The Drum, 10 March 2015 <<http://www.abc.net.au/news/2015-03-10/lewis-and-woods-googling-a-solution-for-raising-tax-revenue/6294922>>

ATTA News April 2015

<https://www.business.unsw.edu.au/about/schools/taxation-business-law/australasian-tax-teachers-association/newsletters>

Editor: Colin Fong, Faculty of Law, University of New South Wales, Sydney
c.fong@unsw.edu.au

ATTA website: <https://www.business.unsw.edu.au/about/schools/taxation-business-law/australasian-tax-teachers-association>

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1 Presidential column

As I write this column winter seems to have arrived early in Christchurch with snow on the hills. While the snow did not last long, this is a sharp reminder that summer has well and truly gone, at least in New Zealand! While for many this is the break in the semester, for me it means needing to finish marking assignments and setting a test.

The ATTA Executive met (virtually) on 13 April and made progress on a number of matters. At this time I am delighted to be able to advise that we have almost finalised an agreement with Oxford University Press to continue on from CCH to sponsor the ATTA Doctorial Series, for at least the next two years, after which it will review its involvement. Further details, plus an invitation for submissions from members who have recently completed their doctorate will be made. You can also expect to hear more about the 2106 ATTA Conference to be hosted by the University of NSW, with Victoria University of Wellington anticipating finalising dates for 2017. Submissions have closed for the next issue of JATTA; your ongoing support of JATTA is critical to ATTA's success, and I would like to thank everyone who has submitted a paper and would also like to thank in advance everyone who will be reviewing these submissions.

I would like to personally congratulate Professor Dale Pinto who has received Honorary Life Member of the Tax Institute in recognition of his outstanding contribution to the Institute. Congratulations also go to Justice Michelle Gordon who has been appointed a justice of the High Court of Australia. Justice Gordon was a key note speaker at the 23rd Annual ATTA Conference, and will be sworn in on 9 June 2015.

On the tax policy front, the New Zealand Minister of revenue released two papers signalling that the business transformation project of Inland Revenue is well underway. Making Tax Simpler: A green paper on tax administration and Making Tax Simpler: Better digital services for a better tax system, are important reading if you have an interest in tax policy. I would commend to you Lisa Marriott's commentary on these developments.

The long awaited Rethink: Tax discussion paper, was released by the Australian Treasurer on 30 March 2015. At around 200 pages, there is plenty of reading, with 66 specific questions asked. This is the first of at least two papers, with solutions to be started to be considered as part of the options (green) paper in the second half of 2015. I would encourage all those interested in the future of the tax system to review this paper, and consider joining the debate. I do not intend to coordinate a submission on behalf of ATTA but would encourage members to make their own submissions.

Adrian Sawyer

2 Call for Articles: 2015 edition of JATTA – Extended submission date

The closing date for submissions to the next edition of the Journal of the Australasian Tax Teachers' Association (JATTA) has been extended to Friday 29 May 2015.

All papers on taxation will be considered for publication. In particular, JATTA welcomes submissions from authors of the 2015 ATTA conference papers and other papers on the theme of this year's ATTA conference: Tax – "It's time" for change. JATTA can provide a forum for publication of the many excellent papers presented at the conference.

Submissions should be presented in MS Word format using double spaced 12 point Times New Roman font. For the purposes of ensuring that the refereeing process is anonymous, please ensure that your name does not appear anywhere on the paper (including in the headers or footers, or the MS Word document information) and also ensure that the footnotes do not reveal your identity. Furthermore, papers should conform to the 3rd edition of the *Australian Guide to Legal Citation* produced by the Melbourne University Law Review: see <http://www.law.unimelb.edu.au/mulr/aglc>.

An abstract of approximately 100 words is also required. A document separate to this should also be submitted with the author's/authors' details (eg, name/s, position/s, institution/s, contact email address/es, etc).

All submissions to JATTA are subject to double blind peer review by appropriate specialists in the particular field of taxation. JATTA satisfies the description of a refereed journal and was included in the ERA 2012 Journal List.

Please submit your papers by email to John Tretola at john.tretola@adelaide.edu.au no later than 29 May 2015.

3 Arrivals, departures and honours

The University of Notre Dame Australia has recently made the following tax-related appointments:

1. Professor **John Prebble** (Victoria University of Wellington) has been appointed an Adjunct Professor with the School of Law, Sydney;
2. Dr **Holger Sorensen** (Barrister, Ground Floor Wentworth Chambers) has been appointed an Adjunct Professor with the School of Law, Sydney;
3. **George Syrota** (formerly with the University of Western Australia) has been appointed a Sessional Lecturer/Tutor with the School of Law, Fremantle; and
4. **Nicholas Augustinos** has been promoted to the position of Senior Lecturer with the School of Law, Sydney.

Professor **Margaret McKerchar** will retire from UNSW effective 30 April 2015 and has been appointed as an Emeritus Professor of UNSW. Margaret is well known to ATTA members as a former President of ATTA and as a leading tax researcher and mentor to other researchers and students. Margaret was President of ATTA from 2001 to 2003, initiated JATTA, and initiated the Tax History Chapter of ATTA in 2013. Margaret was Head of School of the Australian School of Taxation (Atax, Faculty of Law) from 1 July 2009 until 31 December 2010 and was instrumental in the move of Atax to the UNSW Business School (and merger with the then School of Business Law and Taxation). She has devoted over 20 years voluntary service to CPA Australia and was President of the NSW Division of CPA Australia in 2009.

Margaret was awarded the Graham Hill Medal by her ATTA peers in 2009 in recognition of her outstanding contribution to tax teaching and policy. Margaret is recognised both nationally and internationally as a leading expert in taxpayer compliance behaviour; tax administration; and in the design and conduct of tax research. She has been a pioneer of advances in online education through the use of webinars, online marking and the use of Moodle learning communities as delivery strategies.

As an Emeritus Professor at UNSW she will, so far as time and circumstances permit, continue to mentor staff, provide advice on research and program design, supervise HDR students, and contribute to grants and publications.

John Taylor

Congratulations to **Dale Pinto** who has been honoured by being made an Honorary Life Member of the Tax Institute, in recognition of his outstanding contribution to the Institute. The award was announced in front of 450 delegates. Dale is currently Chair of the Taxation Institute's Education Quality Assurance Board, a member of TEQSA's Expert Panel in Accounting and Taxation as well as the Board of Taxation's Advisory Panel and the ATO's Tax Technical Panel (Superannuation).

Justice **Michelle Gordon** has been appointed a justice of the High Court of Australia and will be sworn in on 9 June 2015. Justice Gordon was a key note speaker at the 23rd Annual Conference of the Australasian Tax Teachers Association, co-hosted by the Melbourne Law School and the Monash University Taxation Law and Policy Research Institute during January 2011. Her ATTA paper 'Tax is more than numbers - but it is also more than tax: the interrelationship between tax law and other areas of law, and the consequences on teaching, drafting and interpreting tax laws' can be viewed at

<<http://www.fedcourt.gov.au/publications/judges-speeches/justice-gordon>> or

<<http://pandora.nla.gov.au/pan/23524/20111116-1504/www.atta.law.unimelb.edu.au/download7213.pdf?downloadfile=CA2F1571-5056-B405-51E16D72E8DA466C&typename=dmFile&fieldname=filename>>

<<http://pandora.nla.gov.au/pan/23524/20111116-1504/www.atta.law.unimelb.edu.au/download7213.pdf?downloadfile=CA2F1571-5056-B405-51E16D72E8DA466C&typename=dmFile&fieldname=filename>>

4 Tax and Transfer Policy Institute invitation

The Tax and Transfer policy institute would like to invite all ATTA members to our conference in April 2015. ATTA members will receive free registration.

LOOKING FORWARD AT 100 YEARS: WHERE NEXT FOR THE INCOME TAX?

The Tax and Transfer Policy Institute will present a landmark research and policy conference on the future of the income tax, to be held at Crawford School of Public Policy, The Australian National University, Canberra, from Monday 27 to Tuesday 28 April 2015. As the Federal Government prepares its White Paper on Tax Reform during 2015, our income tax has reached its first century. The personal and company income tax has shown remarkable resilience as together, these tax bases have come to provide the lion's share of tax revenues in Australia in the last 100 years. Today, the income tax faces new stresses from social and economic changes in the way that we work, save and invest and from the globalisation and digitisation of Australia's economy.

What role should the income tax play in Australia's future tax system? What can we learn from the past or from new research in reforming the policy, law and administration design of our income tax for the future? Papers are invited on any aspect of theory or practice of the income tax including personal and company tax, from diverse disciplinary perspectives in public economics, law, accounting, political science or public policy disciplines.

Confirmed international academic keynote speaker at this conference will be Professor Michael Graetz, of Columbia University, in the United States. Presenters include:

- Patricia Apps
- Siobhan Austen
- Valerie Braithwaite
- Rob Bray
- Geoffrey Brennan
- Graeme Cooper
- Richard Eccleston
- Chris Evans
- Youngdeok Lim
- John Minas
- Mark Bowler Smith
- Julie Smith
- Antony Ting
- Richard Vann
- Neil Warren

The conference will run from 9am on Monday 27 April to 2pm on Tuesday 28 April 2015. A program will be available shortly on our website taxpolicy.crawford.anu.edu.au/ This event is by invite only with a limited number of places available to the public. Please register your interest to attend the conference with diane.paul@anu.edu.au.

5 New Zealand developments

Developments in New Zealand over the last month include:

- Extension of the drought relief / income equalisation scheme to farmers in the Canterbury and Marlborough regions (as well as Central and North Otago).
- A change in the 'use of money' interest rates from 8th May 2015. The rates will increase from 8.4% to 9.21% (charged by Inland Revenue) on underpaid tax and from 1.75% to 2.63% (paid by Inland Revenue) on overpaid tax.
- Publication of an Officials' Issues Paper on simplifying the tax treatment of employee share schemes. At the present time, employees must file an IR 3 return where they have received benefits under an employee share scheme (as the benefits are not taxed at source). The proposal is that the Income Tax Act 2007 is amended to allow for employers to account for such benefits – potentially through the PAYE system.

- A consultation campaign on tax administration was released by the Minister of Revenue, Todd McClay, on 31st March. The campaign is known as Making Tax Simpler and started with the release of two consultation papers. The papers are titled:
 - Making Tax Simpler: A green paper on tax administration. This paper outlines some of the areas targeted for possible improvements, including the collection and calculation of PAYE, GST and related information; using existing business processes and technology to calculate provisional tax; helping smaller businesses with their taxes; and reviewing withholding tax rules.
 - Making Tax Simpler: Better digital services for a better tax system. This paper outlines options to make better use of digital technology both for paying taxes and receiving entitlements. Options include working with third parties such as banks and software developers; providing assistance to those who have limited access to, or skills with, digital technology; and expansion of digital services.
- The Taxation (KiwiSaver HomeStart and Remedial Matters) Bill was passed on 31st March. The changes in this Bill will allow some KiwiSaver (retirement savings scheme) members to withdraw more of their savings in order to purchase their first home. Members may now withdraw the annual member tax credit (paid by the Government), along with their own contributions and the contributions made by employers.

Lisa Marriott

6 Recent Federal Court of Australia tax cases

Recent Federal Court of Australia cases, (from 3 March to 7 April 2015), with the catchwords taken from the Federal Court website. For the full cases check the FCA website search engine here (<http://www.fedcourt.gov.au/publications/judgments/search#legislation>) or Google the case names.

Commissioner of Taxation v Moignard [2015] FCA 143

White J, 3 March 2015

Catchwords

Taxation: appeal from decision of Administrative Appeals Tribunal (AAT) that trust income was not part of taxpayer's assessable income pursuant to ss 97 and 101 of Income Tax Assessment Act 1936 (Cth) because taxpayer had not been presently entitled to that income – whether AAT misconstrued or misapplied ss 97 and 101 – whether AAT failed to address issues or make necessary findings of fact in determining present entitlement – whether AAT erred in having reliance on subsequent conduct of trustee – whether AAT misapplied or reversed onus of proof imposed on taxpayer by s 14ZZK of Taxation Administration Act 1953 (Cth) – whether taxpayer bore burden of establishing actual tax liability before AAT.

Donoghue v Commissioner of Taxation [2015] FCA 235

Logan J, 17 March 2015

Catchwords:

Income Tax – notices of assessment issued to applicant pursuant to audit conducted by respondent – application under s 39B of the Judiciary Act 1903 (Cth) for orders declaring assessments invalid and quashing them – injunction – source of information – where audit performed and assessments made with the benefit of material provided by third party individual without applicant's permission – whether third party material subject to legal professional privilege – state of knowledge of respondent – whether there was conscious misuse of privileged material

Held: third party worked to or for law firm with which the applicant had a retainer – alternatively third party acted as applicant's agent for the purposes of applicant's dealing with law firm – communications and documents made for dominant purpose of obtaining legal

advice or for use in litigation and were therefore subject to legal professional privilege – respondent held apprehension that this was the case – material assisted respondent’s train of inquiry and in process of making assessments – no right given by s 166 or s 263 of the Income Tax Assessment Act 1936 (Cth) to Commissioner to use material which is subject to legal professional privilege – element of recklessness in process of assessment sufficient to amount to conscious maladministration as described in *Federal Commissioner of Taxation v Futuris Corporation Ltd* (2008) 237 CLR 146 – assessment quashed – respondent restrained from using third party material.

Donoghue v Commissioner of Taxation [2015] FCA 291

Logan J, 17 March 2015

Catchwords

Income Tax: orders made in separate judicial review proceedings quashing assessments – effect of those orders on related recovery proceedings based on debt created by those assessments instituted by the Deputy Commissioner of Taxation against tax payer and appeal proceedings under Part IVC of the Taxation Administration Act 1953 (Cth) challenging those assessment – request by Deputy Commissioner of Taxation that recovery proceedings be adjourned

Held: an adjournment of the recovery proceedings would deny tax payer the fruit of forensic success in the judicial review proceedings – recovery proceedings dismissed – tax appeals adjourned for further directions as dismissal could prevent tax payer from challenging taxation liability under Part IVC if any appeal against the quashing of the assessments was upheld.

Tax Practitioners Board v Li [2015] FCA 233

Edmonds J, 17 March 2015

Catchwords

Civil Penalties – quantum – applicant contravened Tax Agent Services Act 2009 (Cth) s 50-20 by recklessly making false, incorrect or misleading statements to Commissioner of Taxation – relevant considerations in fixing appropriate penalty – statements not deliberately or knowingly false – no intention to mislead Commissioner – tax agent registration terminated as result of conduct – loss caused to Commonwealth – inconvenience to taxpayers – specific deterrence – general deterrence – admission of contraventions prior to hearing – totality principle – proportionality of penalty to objective seriousness of contravening conduct – parity principle

Donoghue v Commissioner of Taxation [2015] FCA 301;

Logan J, 24 March 2015

Catchwords

Income Tax – application for orders consequential to judgment in judicial review proceedings quashing tax assessments and restraining further use by respondent of material used in making those assessments but subject to legal professional privilege – respondent required to deliver up to the applicant or destroyed privileged material and withdraw caveat and garnishee notices issued in respect of tax assessments

COSTS – indemnity costs sought against Commissioner of Taxation (Commissioner) in judicial review proceedings and Deputy Commissioner of Taxation (Deputy Commissioner) in related recovery proceedings – whether Deputy Commissioner acted in wilful disregard of a known fact – whether Commissioner’s submissions were unmeritorious to the point of unnecessarily prolonging proceedings – conscious maladministration in exercise of Commissioner’s assessment-making duty a developing area of law – Deputy Commissioner and Commissioner’s costs conduct not unreasonable – costs to follow the event in respect of both the judicial review and recovery proceedings

Smith v Boné, in the matter of ACN 002 864 002 Pty Ltd (in liq) [2015] FCA 319

Gleeson J, 7 April 2015

Catchwords

Bankruptcy and Insolvency – whether director caused company to trade while insolvent – whether reasonable grounds for suspecting company was insolvent – whether director failed to prevent company from incurring debts when aware of reasonable grounds to suspect company was insolvent – whether reasonable person in director’s position would have been aware of reasonable grounds for suspecting company was insolvent – where company made payment arrangements to repay tax debts – whether director acted honestly and ought fairly to be excused for contravention of civil penalty provision or breach of duty – amount of recoverable compensation – whether director entitled to set off – whether preferential payment made – Corporations Act 2001 (Cth), ss 588M, 588FF, 1317S, 1318

John Passant

7 Call for papers

The 6th Queensland Tax Researchers’ Symposium (QTRS) AND the 3rd Meeting of the Australasian Tax History Chapter (THC)

Griffith University Business School will host the 3rd meeting of the Australasian Tax History Chapter (THC) on Thursday, 2 July and the 6th Queensland Tax Researchers Symposium (QTRS) on Friday, 3 July 2015.

These two events bring together tax academics and research higher degree students to discuss and present their current research interests. This is a joint initiative between academics from various universities with Griffith University, QUT, James Cook University and UNSW also sponsoring the event. These events build on the success of the annual symposium, which has been held since 2010.

The 2015 Symposium will be held at Griffith University’s South Bank campus (Brisbane) located on the fringe of Brisbane’s central business district.

Registration is open to academics with a research interest in tax, as well as research higher degree students who are currently undertaking an honours, Masters or PhD dissertation in a tax related topic. While registration is free, numbers are limited and attendees will need to register by Friday 15 May 2015. Attendees may register for one or both days.

Those interested in presenting a paper (including research higher degree students) are encouraged to submit a short abstract of their work by 30 April 2015 (500 words) indicating whether they wish their paper to be part of the THC meeting on 2 July or the QTRS on 3 July. Authors will be notified of their acceptance by 11 May 2015. Note it is possible for tax academics to attend without presenting.

General enquiries about both the THC and QTRS (including paper submissions and registration) should be directed to:

Anna Mortimore

Lecturer- Taxation

Griffith Business School, Griffith University

Email: a.mortimore@griffith.edu.au

Ph: +61 7 555 28082

The **Global Conference on Environmental Taxation** is the leading global forum for exchanges on the principles and practices of environmental taxation and other market-based instruments relevant for greening of the economy and progressing sustainable development. Research presented at the previous fifteen conferences has helped provide a much stronger theoretical and empirical underpinning of the legal, economic and behavioural issues in this area. These conferences are intended to advance knowledge, understanding and debate rather than any particular environmental agenda.

The **theme** for the Conference is **Green Fiscal Reform: Protecting our Natural Resources for a Sustainable Future**. The theme is designed to place greater focus on natural resource protection, a theme that has received less explicit attention in past conferences. It also emphasises an area of great concern to the host country, Australia.

We invite the submission of abstracts for the 16th Global Conference on Environmental Taxation (GCET16), to be held in Sydney at the UTS Haymarket campus, Australia from 23-26 September 2015.

Topics can extend from climate change and other sustainability related policies; biodiversity protection; environmental stewardship; pollution control; water conservation; land degradation; renewable energy and innovation such as wind, solar, geothermal, biogas; mining and rehabilitation; wildlife protection and feral animal treatment; while encompassing market instruments such as carbon pricing, emissions trading schemes, other environmental taxes, subsidies, direct action or spending programs and tax concessions both positive and perverse.

Note:

Wednesday 23 September 2015 will be an afternoon session open to everyone with PhD candidate presentations only.

Saturday 26 September 2015 will be a morning session open to everyone that will focus on evaluation frameworks for environmental taxes and concessions.

Abstracts should not exceed 400 words. No figures, tables, footnotes, endnotes or other references should be included in the abstract.

Final acceptance of any contribution requires registration of an author.

Important dates:

Deadline for submission of abstracts: 30th April 2015

Notification of acceptance of abstracts: 28th May 2015

Deadline for submission of papers: 24th August 2015

For further information and to submit your Abstract please visit:

<<http://www.uts.edu.au/research-and-teaching/our-research/law-research-centre-p2/resources/upcoming-academic-conferences-1>>

We look forward to welcoming you to Sydney.

Professor Natalie Stoianoff

Conference Chair

Faculty of Law, University of Technology Sydney

Australian GST Journal

The *Australian GST Journal* is a quarterly journal which has been published by Thomson Reuters since 1998. Papers between 3,000-8,000 words are encouraged. AGSTJ is subject to double blind peer review, and is listed on the ABDC Journal Quality List.

Papers for issue 2 are invited now. Papers for Issue 3 are due around June, and papers for issue 4 are due around August.

Please submit your papers to the General Editor Christine Peacock at peacock.c.a@gmail.com

International Conference of Chinese Tax and Policy

The organising committee of the *International Conference of Chinese Tax and Policy* is pleased to announce this call for papers for the 2015 conference. The conference is to be held at Xiamen University, Xiamen, China on December 12-13, 2015.

The conference is jointly organised by The University of Sydney Business School (<http://sydney.edu.au/business>), the *Journal of Chinese Tax and Policy* (<http://sydney.edu.au/business/research/journals/jctp>), the Department of Public Economics of Xiamen University (<http://czx.xmu.edu.cn/user/index.asp>) and the Taxation Law and Policy Research Institute of Monash University (<http://www.buseco.monash.edu.au/blt/tlpri/>).

The organising committee welcomes any paper dealing with the conference theme: ***Individual Income Tax Reform in China***. All accepted papers have the priority to be selected for publication in the *Journal of Chinese Tax and Policy*, subject to an international blind peer-review process.

Submission Guidelines

- Please submit an abstract in English of 300 words.
- Please provide the final paper in English, and please provide the Chinese original if the work has been translated.
- If translation is needed for the paper, it can be applied with the *Journal of Chinese Tax and Policy*
- Please send all submissions to business.jctp@sydney.edu.au.

Key Dates

May 9, 2015	Final date for submission of Abstracts. Acceptance will be notified by the end of June, 2015.
September 26, 2015	Final date for submission of written conference papers if assistance is required for the translated document.
November 14, 2015	Final date for submission of written conference paper for inclusion in full conference papers made available to conference attendees on the conference website.
November 28, 2015	Final date for submission of PowerPoint presentations for conference speakers.

8 Tax and related meetings

Local

Tax and Transfer Policy Institute, Crawford School of Public Policy, Australian National University *Looking Forward at 100 years: Where Next for the Income Tax?* 27-28 April 2015. As the White Paper tax reform process kicks off with release of the Issues Paper in the new year, Australia's income tax reaches 100 years of age. The keynote speaker is Professor Michael Graetz of Columbia University. The conference will address key topics of future of the personal income tax, company tax and income tax in the federation. Confirmed speakers include Professor Geoffrey Brennan, Richard Vann, Chris Evans, Neil Warren and Richard

Eccleston. More information and program for this invitation conference will be available soon. Free registration for ATTA members. See further
<<https://taxpolicy.crawford.anu.edu.au/department-news/5149/call-papers-looking-forward-100-years-where-next-income-tax>>

Associate Professor Antony Ting, University of Sydney will be presenting a tax research seminar titled: ‘**General anti-Base Erosion and Profit Shifting (BEPS) rule: a second best solution to BEPS?**’ School of Taxation and Business Law, UNSW, Kensington Campus, Room 2055, 4 May 2015– Monday, 12.30-2.00pm. A light lunch will be provided. Please RSVP to Associate Professor Fiona Martin on f.martin@unsw.edu.au

Tax and Transfer Policy Institute, Crawford School of Public Policy, Australian National University **Seminar Series**. Christian Gillitzer, Senior Research Economist from the Reserve Bank of Australia will present our next seminar in the TTPI series. Tuesday 19 May 2015, 1-2pm. Further details and registration for the event will be available at
<<https://taxpolicy.crawford.anu.edu.au/events/current>>

The **6th Queensland Tax Researchers’ Symposium (QTRS) AND the 3rd Meeting of the Australasian Tax History Chapter (THC)**, Griffith University Business School, South Bank campus, Brisbane, 2-3 July 2015. This is a joint initiative between academics from various universities with Griffith University, QUT, James Cook University and UNSW also sponsoring the event. While registration is free, numbers are limited and attendees will need to register by Friday 15 May 2015. Attendees may register for one or both days. Note it is possible for tax academics to attend without presenting. General enquiries about both the THC and QTRS (including paper submissions and registration) should be directed to:
Anna Mortimore, Lecturer- Taxation
Griffith Business School, Griffith University
Email: a.mortimore@griffith.edu.au
Ph: +61 7 555 28082

The **Global Conference on Environmental Taxation**, University of Technology, Sydney, Sydney, Australia 23-26 September 2015. Theme for the Conference is *Green Fiscal Reform: Protecting our Natural Resources for a Sustainable Future*. Note:
Wednesday 23 September 2015 will be an afternoon session open to everyone with PhD candidate presentations only.
Saturday 26 September 2015 will be a morning session open to everyone that will focus on evaluation frameworks for environmental taxes and concessions.
<<http://www.uts.edu.au/research-and-teaching/our-research/law-research-centre-p2/resources/upcoming-academic-conferences-1>>

ATTA’s **28th Annual Conference** will be hosted by the University of New South Wales School of Taxation & Business Law January 2016 (dates to be confirmed). The theme of the conference is *Tax and time travel: looking forward and looking back*. The conference will celebrate 28 years of ATTA in Australasia. Further information about the conference is included above in this newsletter. If you have any questions please contact John Taylor at c.taylor@unsw.edu.au

The **Tax Institute’s** website www.taxinstitute.com.au lists many conferences, conventions, seminars, and breakfast clubs. For further enquiries, contact Phillipa Cardigan (02) 8223 0045 or email phillipacardigan@taxinstitute.com.au or register online at www.taxinstitute.com.au Call the National Events team on 1300 733 842 for more details.

Please contact the National Events Team on 1300 733 842 or by email, nationalevents@taxinstitute.com.au Follow us on Twitter @TaxInstituteOz. Danielle Thurston, Event and Member Services Executive The Tax Institute Phone: 02 8223 0000; Direct: 02 8223 0014 Fax: 02 8223 0077 daniellethurston@taxinstitute.com.au

Overseas

3rd Annual Bentham House Conference, **The Philosophical Foundations of Tax Law**, UCL Faculty of Laws, Bentham House, Endsleigh Gardens, WC1H 0EG London, Friday 8th & Saturday 9th May 2015. There is currently very little literature considering the philosophical aspect of tax law. Yet given the controversy that surrounds tax, particularly in a turbulent economic environment, it is an excellent time to explore tax from a philosophical perspective. It is essential that we have a complete understanding of the answers to some of the seemingly basic questions which surround tax, before we can begin to think about what a tax system should look like. Questions such as what in fact is a tax? Why should we tax? How much should we tax and on whom should tax be levied? What should taxes be used for? How do ideas of fairness and justice tie in with the tax system? The consideration of all these questions is crucial to a complete understanding of the tax system and the future of the tax system. This symposium brings together those with a shared interest in legal philosophy and tax law, as well as perspectives from economics and political philosophy, in order to give a comprehensive and unique perspective to a complex issue. The papers and presentations given over the course of the symposium will culminate in book of essays edited by Monica Bhandari. <<http://www.ucl.ac.uk/laws/conferences/tax-law>> Registration details <<http://www.eventbrite.co.uk/e/philosophical-foundations-of-tax-law-registration-12462526753>>

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

Canadian Tax Foundation <http://www.ctf.ca/ctfweb/en>

Institute for Fiscal Studies Conferences and seminars
<http://www1.ifs.org.uk/conferences/index.shtml>

Institute for Austrian and International Tax Law 2015 events:

May 18, 2015 – Panel discussion with tax lawyers (in German)
June 1, 2015 – PwC-WU-Seminar: “Current Developments in European and International Tax Law” (German/English): Aline Kapp/Claudine Devillet
June 11-13, 2015 – Conference: “Tax Treaty Case Law around the Globe”
June 19, 2015 – 22nd Symposium on International Tax Law: “BEPS and Tax Treaties”
June 25, 2015 – Semester closing
July 30/1, 2015 – Second EU-China Tax Summit
July 2-4, 2015 – Conference: “The Impact of Bilateral Investment Treaties on Taxation” (Rust, Burgenland)
July 13-17, 2015 – CEE Vienna International Tax Law Summer School
The topics of the seminar sessions and other events can always be found at www.wu.ac.at/taxlaw. Please feel cordially invited to visit our website again regularly. Additionally, there will again be a huge number of other technical seminars and conferences. Please see our website for most up-to-date information on them.

International Bureau of Fiscal Documentation inaugural Africa Tax Symposium, *Trends in International Taxation: An African Perspective*, 18-19 June 2015, Livingstone, Zambia. Set in the stunning Victoria Falls surroundings of the Sun International Hotel, Livingstone, this two-day event will feature prominent speakers, including IBFD tax experts on Africa, and eminent tax practitioners from Africa and Europe. Speakers will lecture on the current trends in international taxation, addressing these from an African perspective. Topics will cover:

- Current trends in international tax planning: BEPS and the African experience
- Transfer pricing: issues, challenges, and a possible way forward
- Taxation of natural resources: lessons from Africa and beyond

View the full programme <http://www.ibfd.org/IBFD-Tax-Portal/Events/Trends-International-Taxation-African-Perspective#tab_program>

To register for one of the limited places, please complete the online form before 30 April 2015. < http://fd7.formdesk.com/ibfd/Trends-in-International-Taxation?utm_source=africa-conference-2015&utm_medium=email&utm_campaign=EV26-03-2015&utm_content=Trends-in-International-Taxation>

Please note that a contribution fee of USD 83.00 is applicable.

If you have any questions, please do not hesitate to contact our Head of Marketing, Sorrel Hidding, either by email at S.Hidding@ibfd.org or by telephone at +31 20 554 0142.

International Bureau of Fiscal Documentation. Various courses in Amsterdam, the Netherlands or in Malaysia. 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

For courses go to <http://www.ibfd.org/Training>

IBFD International Tax Courses - A selection of related courses in 2015

Treaty Aspects of International Tax Planning 26 - 28 November, Sao Paulo

VAT Considerations in M&A Transactions 28 - 29 May 2015, Amsterdam

Doctoral Meeting of Researchers in International Taxation (DocMIT) and Postdoctoral International Tax Forum (PITF), 21-22 May 2015, IBFD Head Office, Amsterdam, The Netherlands. In 2015, IBFD will organize the 13th edition of the meeting for doctoral researchers and the 4th edition of its postdoctoral (early career scholars) meeting. The purpose of these meetings is to provide the researchers with an opportunity to discuss their current research projects with leading academics and a select circle of colleagues. Participants benefit from tailored coaching provided by our panel of international tax professors, as well as from the feedback provided by peers from various parts of the world. Our aim is to provide researchers with a forum to further their research in the field of taxation.

<http://www.ibfd.org/IBFD-Tax-Portal/Events/Doctoral-Meeting-Researchers-International-Taxation-DocMIT-and-Postdoctoral-0?utm_source=Asia-Pacific%20newsletter%20September&utm_medium=email&utm_campaign=AP30-09-2014&utm_content=IBFD-Tax-Portal/Events/Doctoral-Meeting-Researchers-International-Taxation-DocMIT-and-Postdoctoral-0>

International Fiscal Association Congresses <http://www.ifa.nl/pages/default.aspx>

2015 **Basel, Switzerland** (30 August 2015 - 4 September 2015) www.ifabasel2015.com

Topics under consideration as Subjects 1 and 2 of the Congress are "The use of tax measures in the area of research and development (R & D)" and "Taxation and fundamental rights: taxpayers' procedural rights in a globalised world"

2016 **Madrid, Spain**

2017 **Rio de Janeiro, Brazil**

2018 **Seoul, Korea, Rep of**

2019 **London, United Kingdom**

International Atlantic Economic Society (IAES) conference 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

International Tax Planning Association Forthcoming meetings

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

Other useful tax and law related conference websites include the

International Bar Association:

http://www.ibanet.org/Conferences/conferences_home.aspx

IBFD Course calendar

<http://www.ibfd.org/portal/app?bookmarkablePage=org.ibfd.portal.presentation.TaxCourses>

International Events and Law Conferences

<http://internationaleventsandlawconferences.yolasite.com>

Conferences in Australia <http://www.conferencealerts.com/country-listing.php?page=1&ipp=All&country=Australia>

New South Wales Bar Association

http://www.nswbar.asn.au/docs/professional/prof_dev/CPD/programme/index.php

Law Council of Australia <http://www.lawcouncil.asn.au/lawcouncil/index.php/conferences>

Practising Law Institute <http://www.pli.edu/>

New York County Lawyers Association <http://www.nycla.org>

American Bar Association Taxation CLE topics

http://www.americanbar.org/cle/cle_courses_by_topic/taxation.html

New York Bar Association <http://www.nysba.org/>

Hieros Gamos Worldwide Law Events Calendar <http://www.hg.org/legal-events.asp>

For Australian ones <http://www.hg.org/legal-events-australia.asp>

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 ATTA people in the media

Eccleston, Richard & Stewart, Miranda

'Do we need tax reform?' ABC Radio National Late Night Live 12 March 2015, 10:05-10:20 pm <<http://www.abc.net.au/radionational/programs/latenightlive/do-we-need-tax-reform3f/6309570>>

Passant, John

Refugee Action Committee member John Passant said he attended the counter rally to send a message Muslims were welcome in Australia. "I'm disappointed that people turn out under the banner of Reclaim Australia, which is basically a racist banner, to push Islamophobia," he said. "I think it's an abuse of the Australian flag to use it for what is essentially a racist purpose, to ignite hate against Muslim people."

<<http://www.canberratimes.com.au/act-news/antireclaim-australia-protesters-send-proislamic-message-at-parliament-house-standoff-20150404-1mejjt.html>>

Ting, Antony

ABC TV 7:30 Report, 8 April 2015 <<http://iview.abc.net.au/programs/7-30/NC1505H048S00#playing>>

Ting, Antony; Sadiq, Kerrie & Vann, Richard

Mather, Joanna 'Google tax not a silver bullet, say experts', *Australian Financial Review* 9 April 2015 p 7.

See also Australia Proof Committee Hansard Senate Economics References Committee Corporate tax avoidance, (Public) Wednesday, 8 April 2015 pp 9-18

< http://parlinfo.aph.gov.au/parlInfo/download/committees/commsen/b59a2852-c505-4494-b974-d5972c67447f/toc_pdf/Economics%20References%20Committee_2015_04_08_3366.pdf;fileType=application%2Fpdf#search=%22committees/commsen/b59a2852-c505-4494-b974-d5972c67447f/0000%22>

Vann, Richard

Glenday, James ‘West should tackle corporate tax avoidance the way it has Islamic State, Senator Bill Heffernan says’, *ABC News* 8 April 2015 <<http://www.abc.net.au/news/2015-04-08/west-should-tackle-tax-cheats-like-it-has-islamic-state-senator/6376076>>

Hewett, Jennifer ‘No easy answers in tech tax games’, *Australian Financial Review* 9 April 2015 p 2

Mather, Joanna ‘Treasury may go alone on ‘Google tax’’, *Australian Financial Review* 10 April 2015 p 9

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

Amos, Cameron ‘Australia's Tobin tax: arguments and evidence’, Canberra, The Australia Institute, 2015 < <http://www.tai.org.au/content/australia%E2%80%99s-tobin-tax-arguments-and-evidence>>

Australia. Commonwealth Grants Commission. *2015 Review Report*. This reviewed the methods used to calculate the relativities for distributing the pool of Goods and Services Tax (GST) among the States and Territories, to apply from 2015-16.
<https://www.cgc.gov.au/index.php?option=com_content&view=article&id=207&catid=50&Itemid=142>

Australia. *Re-think* (Tax white paper), Canberra, 2015 <<http://bettertax.gov.au>>;
< <http://bettertax.gov.au/publications/discussion-paper>>

Australia. Treasurer (Joe Hockey) ‘Revenue system needs a refresh’, *The Australian* 7 April 2015 <<http://jbh.ministers.treasury.gov.au/media-release/025-2015>>

Australia. Treasury. *Understanding the economy-wide efficiency and incidence of major Australian taxes*, Working Paper 2015–01, 2015. Prepared by Liangyue Cao, Amanda Hosking, Michael Kouparitsas, Damian Mullaly, Xavier Rimmer, Qun Shi, Wallace Stark, and Sebastian Wende.
<<http://treasury.gov.au/PublicationsAndMedia/Publications/2015/working-paper-2015-01>>

Brenton, Scott ‘Time for states to change the script over GST gains’, *The Conversation* 20 April 2015 < <http://theconversation.com/time-for-states-to-change-the-script-over-gst-gains-40309>>

Carling, Robert ‘Right or rort? Dissecting Australia’s tax concessions’, St Leonards, NSW, Centre for Independent Studies, 8 April 2015 <<http://cis.org.au/publications/research-reports/article/5534-right-or-rort-dissecting-australias-tax-concessions>>

Fenna, Alan 'Federalism the loser as Hockey ransoms GST to push WA reforms', *The Conversation* 14 April 2015 <<http://theconversation.com/federalism-the-loser-as-hockey-ransoms-gst-to-push-wa-reforms-40085>>

Freebairn, John 'Explainer: COAG and the 'GST carve-up'', *The Conversation* 17 April 2015 <<http://theconversation.com/explainer-coag-and-the-gst-carve-up-40323>>

(2014) 16 (1) *Journal of Australian Taxation* <<http://69.195.124.80/~jausttax/current-issue/volume-16-issue-1>>

- A proposal to address the impact of fraudulent phoenix activities on unremitted superannuation guarantee contributions in Australia - Anna Giardina and **Dale Pinto**
- Powering innovation through tax concessions: the changing research & development tax incentives - **Kerrie Sadiq**
- Dissent in High Court revenue decisions: changing jurisprudence and the incidence of dissent - **Rodney Fisher**

(2014) 16 (2) *Journal of Australian Taxation* <<http://69.195.124.80/~jausttax/volume-16-issue-2>>

- Tackling base erosion and profit shifting through enhanced information exchange - Katie Webster and **Nicholas Augustinos**

KPMG submission to Senate Inquiry on Corporate Tax Avoidance and Aggressive Minimisation, 26 March 2015

<<http://www.kpmg.com.au/newsletters/Tax/2015/Mar/27/DailyTaxNews27Mar15.html#n1>>

McConnell, Pat 'Stopping corporate tax avoidance in a house of smoke and mirrors', *The Conversation* 8 April 2015 <<http://theconversation.com/stopping-corporate-tax-avoidance-in-a-house-of-smoke-and-mirrors-39779>>

Passant, John 'Stop the cuts: Tax the rich', *Independent Australia* 13 April 2015 <<https://independentaustralia.net/politics/politics-display/stop-the-cuts-tax-the-rich,7579>>

Sarre, Rick; Carrington, Kerry & Walters, Reece 'Outdated journal rankings and the ERA exercise', 23 March 2014, Forthcoming *PacifiCrim*, *ANZSOC Newsletter*, May 2015 <<https://blogs.qut.edu.au/crime-and-justice-research-centre/2015/03/23/out-dated-journal-rankings-and-the-era-exercise>>

(2015) 82 *Taxation Today* – (April)

- Supreme Court Looks at Jennings and Bradbury - James Coleman
- The National Council of Women Litigation [Part 2] - Susan Barker

The Tax Institute publications

(2015) 49 (9) *Taxation in Australia* April 2015

- Australian TOFA implications for insurers from the NZ Sovereign Assurance case - Joanne Dunne and James Hamblin
- Enforcement of tax liabilities and solvency - Nishad Kulkarni
- Limiting abuse of administrative power and enhancing economic welfare - **John Azzi**
- Tax cases: An unintended waiver of legal professional privilege - Michael Norbury
- Alternative assets insights: The Sojitz case: Implications for landholder duty and TARP - Costa Koutsis and Rachael Cullen
- Superannuation: Temporary incapacity can provide welcome relief - Daniel Butler
- Accounting for tax: A tale of two rulings or: How I learned to stop worrying and love uncertainty - Arthur Athanasiou
- Property development: Property becoming trading stock - Amy Wark and Josh Chye

- Director's breach of fiduciary duties results in a clawback of super contributions - Melissa Brazzale and Philip Broderick
- Tax counsel's report: Immediate opportunities for tax system improvement - Stephanie Caredes

(2015) 30 (1) *Australian Tax Forum* – April 2015

- The abandoned education cap policy: public participation in tax reform consultation - **Patricia O'Keefe, Bernadette Smith, Sonia Shimeld and John Minas**
- Back to the future and beyond - **Stephen Barkoczy**
- Has the Charities Act 2013 changed the common law concept of charitable "public benefit" and, if so, how? - **Fiona Martin**
- Not so guaranteed: superannuation guarantee and Australian small businesses - **Brett Freudenberg** and Scott Sargent
- The costs of compliance and associated benefits for small and medium enterprises in New Zealand: some recent findings - **Ranjana Gupta and Adrian Sawyer**
- Applying the Delphi method as a research technique in tax law and policy - **Evgeny Guglyuvatyy and Natalie P Stoianoff**
- A case study of the ACT's reformed vehicle stamp duty - **Anna Mortimore**

Papers published in March/April

National Division:

- Are tax havens dead? - David Russell
- The Board of Tax Review of the debt/equity rules - Teresa Dyson
- Tax issues in structuring an effective executive package - Andy Hutt
- Tax risk management - Alison Feather and Peter Nearhos
- Recent cases - Philip Bender
- Issues facing parents and subsidiaries in the current international tax climate - Peter Mccullough
- Small business CGT case study - Brian J Richards
- Deceased estates: A practical perspective - Loreena Gillon
- Tax effective extraction of retained earnings from "dormant" private companies: Case studies - Paul Hockridge
- The Income Tax Assessment Acts: Statutes in senescence - AH (Tony) Slater
- Practical management of Division 7A - Adele Townsend
- Win your privatisation bid for infrastructure assets by optimising capital allowances - Chris McLean and Hayden Scott
- Solving inherited problems - Andrew Noolan
- The latest on the ATO's management of tax audits and disputes - Damien Browne and Ashley King
- Practical realities of being a tax advisor - Scott Treatt
- Grouping for payroll tax - Philip Magoffin
- Prior to being bankrupt, superannuation is a claimable asset - Peter Bobbin
- Professional practice structures - Ash Chotai
- Vesting trust deeds - Michael Butler
- Tax mistakes - The tax practitioner obligation - Mark Bird

Wallis, Chris G 'Tax paper an exercise in stalling' (Letter to the editor), *Australian Financial Review* 10 April 2015 p 35

Wright, Danika 'Killing off stamp duty: a good policy that no politician supports', *The Conversation* 10 March 2015 <<http://theconversation.com/killing-off-stamp-duty-a-good-policy-that-no-politician-supports-38536>>

Overseas

Bakker, Anuschka; van den Berg, Tjeerd & Janssen, Bart (eds) *Tax accounting: unravelling the mystery of income taxes*, Amsterdam, International Bureau of Fiscal Documentation, 2015, ISBN: 978-90-8722-306-9; 438 pp.

Brauner, Yariv 'BEPS: an interim evaluation' (2015) 7 *World Tax Journal* 10-39
< <http://www.ibfd.org/sites/ibfd.org/files/content/pdf/WTJ-Free-Article-March-2015-Newsletter.pdf>>

European Taxation Number 4 - 2015

Luxembourg Reshapes Its Transfer Pricing Landscape - Oliver R Hoor
Secondary Establishments in EU VAT and Treaty Law - Aleksandra Bal
BEPS Impact on EU Law: Hybrid Payments and Abusive Tax Behaviour - Evgenia Kokolia and Evgenia Chatziioakeimidou
EU update – Commission - Laura Ambagtsheer-Pakarinen; Council - Laura Ambagtsheer-Pakarinen; Court of Justice - Laura Ambagtsheer-Pakarinen
CFE news: Opinion Statement FC 15/2014 on Developing a Multilateral Instrument to Modify Bilateral Tax Treaties (BEPS Action 15)
Has the Pension Reform in Armenia Solved the Existing Problems or Merely Created a New, Bigger One? Mesrop Manukyan
Belgian Ruling Commission' s Opinion on the Concept of "Employer" within the Meaning of Article 15 of the OECD Model - Andy Cools
Bulgaria - Corporate Income Tax Act Changes - Lubka Tzenova
Greece - New CFC Rules - Katerina Perrou

Fris, Prim; Gonnet, Sébastien & Meghames, Ralph 'Understanding risk in the enterprise: the key to transfer pricing for today' s business models' (2014) No 6 *International Transfer Pricing Journal* 395-401 <<http://www.ibfd.org/sites/ibfd.org/files/content/pdf/ITPJ-Free-Article-March-2015-Newsletter.pdf>>

International VAT Monitor Number 2 - 2015

What is a supply for VAT purposes? Reflections on Qantas Airways Ltd - Alan Schenk
VAT Grouping Schemes – Standpoint - Claudia Dias Soares and Afonso Arnaldo
Split-Payment Mechanism for Public Bodies - Simonetta La Grutta
Tax offence of failure to pay VAT - Patrick Hartevelde and Andrea Scotto d'Abusco
VAT Committee – Guidelines 2014 - Fabiola Annacondia
Overview of General Turnover Taxes and Tax Rates - Fabiola Annacondia
VAT news - Reports from: Albania, Argentina, Bahamas, Belarus, Belgium, Botswana, Brazil, China (People's Rep.), Colombia, Costa Rica, Czech Republic, European Union, Finland, Germany, Hungary, India, Italy, Luxembourg, Macedonia (FYR), Mexico, Norway, Pakistan, Paraguay, Peru, Poland, Portugal, Puerto Rico, Romania, Singapore, South Africa and United States.
VAT case notes - Case notes from: Australia, Austria, Brazil, Canada, Finland, Poland, United Kingdom and United States.

11 Quotable quotes

"That consumers have suffered a doubling in energy prices in the past five years, and that large profits have gone overseas, is bad enough. That the beneficiaries have dodged paying tax on these profits is especially repugnant."

Source: West, Michael 'Tax strategies may distort power sales', *Sydney Morning Herald* 23 March 2015 <<http://www.smh.com.au/business/comment-and-analysis/tax-strategies-may-distort-power-sales-20150322-1m4w52.html>>

“I have already found, for reasons set out above, that the process of assessment included Mr Main’s acting in wilful disregard of a right which Mr Donoghue had to claim legal professional privilege in respect of the material supplied to the Australian Taxation Office by Simeon Moore and which Mr Main always believed might be privileged. That was not a proper purpose. Recklessness was regarded in *Futuris* as sufficient to establish the element of consciousness in conscious maladministration. In turn, what amounted to the requisite recklessness was regarded as being informed by that sufficient in respect of the tort of misfeasance in public office, as explained in *Three Rivers District Council v Bank of England* [No 3] and *Northern Territory v Mengel*. On the findings which I have made, Mr Main was reckless in the sense described in these cases. The Commissioner’s process of assessment was, therefore, affected by conscious maladministration. As was stated in *Futuris* at [25] in the passage I have emphasised, conscious maladministration in the process of assessment does not produce an assessment to which s 175 of the ITAA36 applies. That is this case. The assessments concerned must therefore be quashed. It necessarily follows that separate penalty assessment dependent upon the primary tax assessments must also be quashed. In the absence of any income or penalty tax liability, no general interest charge would, as a matter of law, be payable. As that result necessarily follows, I do not, as presently advised, see any need for separate declaratory relief to that effect.”

Source: Logan, J in: *Donoghue v Commissioner of Taxation* [2015] FCA 235, [145]
<<http://www.austlii.edu.au/au/cases/cth/FCA/2015/235.html>>

“People and companies charged with tax fraud or tax evasion should be granted the presumption of innocence in court, according to a new parliamentary inquiry that pushes the federal government to radically overhaul current rules.

At the moment, a taxpayer accused of tax evasion is deemed guilty and must prove their innocence, and the Standing Committee on Tax and Revenue inquiry has recommended that change after hearing that the Tax Office often goes on "fishing expeditions" and uses its extraordinary powers to gather information that it then uses against the taxpayer.

House tax committee chairman Bert van Manen said that if the allegation of fraud and evasion was being made, and the ATO was seeking to hit people with a tax bill dating back beyond five years, then all taxpayers – from small-business people to big companies such as Glencore and Commonwealth Bank – should be given the benefit of doubt.

The committee recommended the onus should be on the ATO to prove the accused taxpayer was guilty and that findings or allegations of fraud or evasion should only be made by an SES officer.”

Source: Khadem, Nassim ‘Committee calls for rethink on ATO powers to fight tax evasion’, *Sydney Morning Herald*, 26 March 2015 < <http://www.smh.com.au/business/committee-calls-for-rethink-on-ato-powers-to-fight-tax-evasion-20150326-1m8ef4.html>>

“Australia's federal politicians have been outed as the country's most eager property investors, casting doubt on their willingness to rein in negative gearing.

The controversial practice allows taxpayers to use tax losses from rental properties to cut their taxable income. Critics argue it contributes to Australia's house affordability crisis.

Around one in seven Australian taxpayers own rental properties, but among federal politicians it is at least one in three.

Figures compiled by property authors Lindsay David, Paul Egan and Philip Soos show federal politicians own an average 2.4 properties each, including their family homes.

Collectively they own a portfolio of 541 properties, conservatively estimated to be worth \$350 million.

...

But of the 226 members of Parliament, 84 of them hold at least one investment property and at least one mortgage or investment loan, meaning they are possibly negative gearing.

Parliament's register of members' interest does not disclose if its members who hold a loan against their investment properties are negatively geared.

But as one federal politician told Fairfax Media, after admitting he negatively geared a second property: "If someone has more than one mortgage of course they're negatively gearing. You'd be an idiot not to."

Economists like Saul Eslake from Bank of America Merrill Lynch, and John Daley from the Grattan Institute – who recently took on Treasurer Joe Hockey on Q&A – say negative gearing and the capital gains tax discount should be wound back because they are inflating house prices and accelerating falling rates of home ownership among the young.”

Source: Hunter, Fergus and Hutchens, Gareth ‘How property investing politicians have skin in the game on the negative gearing debate’, *Sydney Morning Herald* 27 March 2015 <<http://www.smh.com.au/federal-politics/political-news/how-property-investing-politicians-have-skin-in-the-game-on-the-negative-gearing-debate-20150327-1m8s36.html>>

“Land tax is one of the most efficient taxes for precisely the reason it is unpopular: it is hard to dodge. They know where you live. You can hire as many accountants as you want, but it is difficult to hide that mansion in Point Piper.”

Source: Irvine, Jessica ‘Land tax often overlooked in the tax debate’, *Sydney Morning Herald* 8 April 2015 <<http://www.smh.com.au/comment/land-tax-often-overlooked-in-the-tax-debate-20150407-1mfro2.html>>

“But maybe if we talked first about defining our sense of self, it might ennoble our conversation on the administrative tools to take us there. Tax after all is simply a means to an end. And it's that end - the Australia we might aspire to - that might make a logical starting point for a conversation that might end in tax.

We might surprise ourselves. We might find a way to nudge our national dialogue away from the stultifying limiter of individual interest to a more elevated sense of shared conviction and belief.

We might even agree that this shared vision is worth an extra contribution, from each according to their means. From each according to their capacity to pay. To each according to their need.

Dealing with tax in isolation seems to be cutting the ends adrift from the means. When we do that we let the conversation reduce, we let it narrow to a cynical play of self against self.

If we could agree that housing the homeless, empowering the first Australians, and building a better class of submarine made sense as a set of shared national goals, we might also be more disposed to raising the GST, company tax, land tax or whatever else seemed necessary to make it happen.

We might yet discover that there is no I in country.”

Source: Green, Jonathan ‘Have we got this tax debate completely backwards?’ *ABC The Drum Opinion*, 2 April 2015 <<http://www.abc.net.au/news/2015-04-02/green-have-we-got-this-tax-debate-completely-backwards/6365458>>

“The Corporate Tax Association has vehemently rejected the claim big business tries to inappropriately minimise tax but some of its own executives work for companies that have had legal clashes with the Australian Tax Office.

In its submission to the Senate inquiry into tax avoidance the association “objects to views that paint a picture that the Australian corporate tax system is fundamentally flawed and that corporate taxpayers in Australia are inappropriately minimising their tax bills”.

...

While neither the vice-president nor the treasurer are known to have been directly involved in the tax disputes, the United Voice union questioned how the association could insist Australian businesses were “highly compliant with the tax laws” and that the “vast majority are transparent in their management of their tax affairs” when the tax practices of its own members had been challenged by the ATO.”

Source: Taylor, Lenore ‘Corporate tax chiefs who defend level of compliance are linked to legal disputes’, *The Guardian Australia Edition* 8 April 2015 <<http://www.theguardian.com/australia-news/2015/apr/08/corporate-tax-chiefs-who-defend-level-of-compliance-are-linked-to-legal-disputes>>

“Sydney University's Professor Richard Vann, who will also give evidence to the Senate inquiry, said new laws could add billions of dollars to the budget bottom line.

"You would be talking in the billions, but I think the low billions," he said.

"The companies seem to say, whenever asked to appear, that what they do is legal.

"But particularly, so far as their intellectual property is concerned, it seems to be largely located in tax havens, where nothing happens, and that must be a defect in the rules.””

Source: Glenday, James ‘West should tackle corporate tax avoidance the way it has Islamic State, Senator Bill Heffernan says’, *ABC News* 8 April 2015 <<http://www.abc.net.au/news/2015-04-08/west-should-tackle-tax-cheats-like-it-has-islamic-state-senator/6376076>>

Senator Xenophon: What were your revenues last year in Australia? Can you tell us that?

Ms Carnegie: I am sorry; we do not disclose those.

Senator Xenophon: And you do not disclose those either, do you, Mr King?

Mr King: We do disclose those. We reported revenues last year in Australia of \$6 billion.

Senator Xenophon: How much of that went overseas?

Mr King: We reported all of our revenue and all of our costs, and we—

Senator Xenophon: No. I asked you how much of that went overseas.

Mr King: Our net profit was \$250 million.

Senator Xenophon: How much of the money went overseas? How much of that \$6 billion paid by Australian consumers went overseas? Can you please tell us that?

Mr King: I will take that question on notice to give you a specific number.

Senator Xenophon: Are you serious? You have come to this inquiry on tax minimisation and aggressive tax minimisation and you were not expecting a question like that?

Mr King: We pay using the 'arms-length' basis, which I have been into several times before. It is an established tax principle for the cost basis of all of the products that we bring into the country. All of this is clearly worked and disclosed with the ATO. It is very transparent in advance pricing agreement discussions with the ATO

....

Senator Xenophon: You are not a novice in such things. You have appeared before Senate inquiries, a United States Senate inquiry where Microsoft was slammed for its behaviour. Yet Microsoft has not changed its practices since that 2012 Senate committee report with the findings made against Microsoft. Are still doing things as you were doing them three years ago?

Mr Sample: That is correct, Senator. Senator Levin did point out that everything we were doing was legal and in full compliance with the US tax—

Senator Xenophon: It was just a 'dubious validity' and 'egregious'.

Mr Sample: That was the senator's opinion.

Senator Xenophon: How much revenue do you take from Australia?

Mr Sample: Two billion dollars.

Senator Xenophon: How much of that goes overseas?

Mr Sample: The revenue is in payment for products and services provided—

Senator Xenophon: No, please answer the question. Please do not do this to me. How much of the \$2 billion goes overseas?

Mr Sample: The \$2 billion is billed by the Singapore group and it is paid to the Singapore group.

Senator Xenophon: So all of it goes to Singapore?

Mr Sample: Of that \$2 billion, that is correct, Senator.

Senator Xenophon: Thank you for your direct answer.

Source: Australia Parliament Proof Committee Hansard Senate Economics References Committee *Corporate tax avoidance*, 8 April 2015, Sydney, pp 53; 55
<http://parlinfo.aph.gov.au/parlInfo/download/committees/commsen/b59a2852-c505-4494-b974-d5972c67447f/toc_pdf/Economics%20References%20Committee_2015_04_08_3366.pdf;fileType=application%2Fpdf#search=%22corporate%20tax%20evasion%22>

"We as a society have essentially decided to spend quite a lot more money on health. It's good news, it's keeping people alive for a lot longer. The bad news is someone's got to pay for it. We've agreed as a society to have an national disability insurance scheme, that's terrific but somebody's got to pay for it."

"So far we've had relatively little discussion about the fact that taxes will probably have to go up, and of course no politician wants to talk about that."

Source: Daley, John on *Q & A*, ABC TV 16 March 2015, cited in *Sydney Morning Herald* 17 March 2015 <<http://www.smh.com.au/federal-politics/political-news/joe-hockey-outclassed-on-qa-by-an-economist-20150316-1m0nrs.html>>

"When the government released its discussion paper on tax it said "lower, simpler, fairer". Ever since we have been flooded with demands for taxes that are higher, more complicated, and less economic.

Treasurer Hockey has foreshadowed a new bank tax. Assistant Treasurer Frydenberg wants more tax from multinationals. Labor's Senator Dastayari wants more tax from the miners. The Greens' Senator Milne wants more tax from News Corporation. Labor wants higher tax on superannuation. Possibly, so too, does the Liberal Party.

The Treasury wants to cut franking credits to raise tax on Australian investors (including superannuation funds). The left-wing think-tanks like the Australia Institute and the Grattan Institute want higher taxes on property investment and capital gains.

"Lower, simpler, fairer" is looking like some kind of morbid joke.

None of the above proposals is for lower tax. None would make our tax system simpler."

Source: Costello, Peter 'Taxation: Death by a thousand (non) cuts', *The Daily Telegraph* 14 April 2015, p 13 <<http://www.dailytelegraph.com.au/news/opinion/taxation-death-by-a-thousand-non-cuts/story-fni0cw15-1227302248447>>

ATTA News May 2015

<https://www.business.unsw.edu.au/about/schools/taxation-business-law/australasian-tax-teachers-association/newsletters>

Editor: Colin Fong, Faculty of Law, University of New South Wales, Sydney
c.fong@unsw.edu.au

ATTA website: <https://www.business.unsw.edu.au/about/schools/taxation-business-law/australasian-tax-teachers-association>

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1 Presidential column

Time seems to fly with the semester fast disappearing as the deadlines for writing final exams loom large. There seems so much to do with so little time, made that much more challenging as I make final preparations for travel overseas to speak at a Symposium in Turkey. After a number of days of wonderfully warm weather we have winter upon us in most of New Zealand, with parts of the country experiencing gales and heavy rain.

I am delighted to be able to advise that the ATTA Executive, in conjunction with the ATTA Doctoral Series Board, have finalised an agreement with Oxford University Press to continue on from CCH to sponsor the ATTA Doctoral Series for the next two years, after which OUP will review its involvement. This is great news with the call for 2015 submissions due shortly. At the 2015 ATTA AGM Prof Chris Evans announced that the winner of the fifth award was made to Theuns Steyn from the University of Pretoria, with the book to be published later this year.

Of immediate importance to ATTA members is the announcement that the submission date for JATTA 2015 has been extended to 31 May 2015, so if you are contemplating making a submission I would encourage you to do so quickly. I know that the 2016 ATTA Conference Organising Committee's planning is well underway for next year's conference which has been confirmed to run from 20-22 January 2016. Further details appear later in this newsletter.

Details of the programme for the 6th Queensland Tax Researchers' Symposium and the Third Meeting of the Australasian Tax History Chapter are being finalised as I write this column; further details are included later in this newsletter. I hope that many of you will be able to attend these meetings.

I would like to congratulate Dr Diane Kraal of Monash University who will be the first funded Tax and Transfer Policy Institute Crawford School of Public Policy (TTPI) Australian

Visiting Fellow. Diane will be researching the impact of resource commodity prices on tax revenues.

Following on from last month, some members may be finalising their submissions to the major tax policy reform documents recently released by both the Australian Treasurer and New Zealand Minister of Revenue. We await with interest the responses to the submissions from the various officials and Ministers.

Adrian Sawyer

2 Call for Articles: 2015 edition of JATTA – Extended submission date

The closing date for submissions to the next edition of the Journal of the Australasian Tax Teachers' Association (JATTA) has been extended to Friday 29 May 2015.

All papers on taxation will be considered for publication. In particular, JATTA welcomes submissions from authors of the 2015 ATTA conference papers and other papers on the theme of this year's ATTA conference: Tax – "It's time" for change. JATTA can provide a forum for publication of the many excellent papers presented at the conference.

Submissions should be presented in MS Word format using double spaced 12 point Times New Roman font. For the purposes of ensuring that the refereeing process is anonymous, please ensure that your name does not appear anywhere on the paper (including in the headers or footers, or the MS Word document information) and also ensure that the footnotes do not reveal your identity. Furthermore, papers should conform to the 3rd edition of the *Australian Guide to Legal Citation* produced by the Melbourne University Law Review: see <http://www.law.unimelb.edu.au/mulr/aglc>.

An abstract of approximately 100 words is also required. A document separate to this should also be submitted with the author's/authors' details (eg, name/s, position/s, institution/s, contact email address/es, etc).

All submissions to JATTA are subject to double blind peer review by appropriate specialists in the particular field of taxation. JATTA satisfies the description of a refereed journal and was included in the ERA 2012 Journal List.

Please submit your papers by email to John Tretola at john.tretola@adelaide.edu.au no later than 29 May 2015.

3 Arrivals, departures and honours

Carla Cross has moved from the New Zealand Institute of Chartered Accountants and is now Senior Manager, Tax – Private Client Services with Ernst & Young Limited, Auckland.

Ken Henry, former secretary of the Department of Treasury, will become the chairman of National Australia Bank, from December 2015.

The first funded Tax and Transfer Policy Institute Crawford School of Public Policy (TTPI) Australian Visiting Fellow will be Dr **Diane Kraal** of Monash University who will be researching the impact of resource commodity prices on tax revenues. If you are interested in being a Visiting Fellow in future, please look at <https://taxpolicy.crawford.anu.edu.au/taxpolicy-grants> and get in touch with them.

Professors Kerrie Sadiq and Dale Pinto join Australian Tax Review

Thomson Reuters are pleased to announce the appointments of Professors Kerrie Sadiq and Dale Pinto as Associate Editors of Australian Tax Review. They will join General Editor Chris Evans with the management of the Journal with effect from 1 July 2015. Their appointment will coincide with the re-introduction of dedicated case notes and book reviews sections in the journal, to supplement the existing articles that provide in-depth analysis of current tax issues in the Australian tax environment in all areas of tax law, recent cases and legislative developments. Australian Tax Review is an “A” ranked journal, and has a national and international reputation as the pre-eminent refereed Australian tax law journal. It services both the tax academic and tax law and accounting professional market. Tax academics and professionals are encouraged to submit journal articles (up to 15,000 words), case notes (up to 3,000 words) and book reviews (up to 3,000 words) to any of the three Editors or to LTA.atrev@thomsonreuters.com.

4 Register for the July Tax Symposium in Queensland

It is not too late to register and attend the July Tax Symposium in Queensland for the 2nd and 3rd of July 2015. Registration is open those interested in leading tax research and is free.

The July Tax Symposium is a two day event consisting of the 3rd Meeting of the Australasian Tax History Chapter (THC) on Thursday, 2 July, 6th Queensland and or the Queensland Tax Researchers’ Symposium (QTRS) on Friday, 3 July 2015.

These two events bring together leading tax academics from Australia and New Zealand, as well as research higher degree students to discuss and present their current research interests. There will be 21 technical papers presented over the two days, which will examine current tax issues and the history of taxation ranging from the history of Poll tax; anti-profit shifting and tax literacy.

Our Keynote speaker, Lisa Marriott, Associate Professor of Taxation from Victoria University, will examine “tax research writing for excellence from two dimensions: writing for excellence; and tax research for excellence.” Lisa will share her ideas on the research and writing process.

This is a joint initiative between academics from various universities with Griffith University, QUT, James Cook University and UNSW also sponsoring the event. It is also being sponsored by, the Tax Institute and leading publishing companies Thomson Reuters and CCH Australia International.

The 2015 Symposium will be held at Griffith University’s South Bank campus (Brisbane) located on the fringe of Brisbane’s central business district. Those interested in attending are encouraged to register by Friday 19 June 2015. You can register for both days – or just one day for either the THC and or the QTRS to. To register please contact

Anna Mortimore
Lecturer- Taxation
Griffith Business School, Griffith University
Email: a.mortimore@griffith.edu.au
Ph: +61 7 555 28082

5 High Court of Australia judgments

The Court's decisions from 2000 onwards are now available on the Court's website:
<http://eresources.hcourt.gov.au/>

The aim of the project was to ensure immediate, continuous and efficient availability of the Court's judgments for all Australian and international users.

The project was initiated and undertaken by staff of the Library and included the sourcing of judgments and preparation and linking of metadata.

The database was developed using the open source software, DSpace.

BarNet - JADE made additional major enhancements through customisation of the interface and search engine.

In due course further content such as the Unreported Judgments will be added to the Court's Judgments Database.

To subscribe to email alerts for advance notice of judgment delivery click on the 'Subscribe to Judgment Alerts' on the Home page.

Petal Kinder
Court Librarian, High Court of Australia

Source: Email from Petal Kinder, 14 May 2015

6 New Zealand developments

This month, Inland Revenue have clarified three general issues under their 'Questions We've Been Asked' (QB) forum. The first relates to what is 'significant expenditure' for the purposes of s CB 13 *Income Tax Act 2007* (ITA 2007) (land sales). The legislation already provides examples of certain expenditure that will be considered to be significant. The clarification outlines other expenditures that will and will not be taken into account for the purposes of s CB 13 ITA 2007. For example, 'other physical development work that is customarily found in major projects' is taken into account, while 'the value of a person's time, effort or use of their machinery or other equipment in undertaking the development work' is not taken into account. Whether expenditure is 'significant' will remain a matter of fact and degree taking into the circumstances of a particular case. For more information see: QB 15/02, Income Tax – Major Development or Division – What is “Significant Expenditure” for section CB 13 Purposes, Available at: <https://www.ird.govt.nz/technical-tax/questions/questions-general/>.

The second clarification relates to changing depreciation rates for depreciable property. Specifically, the clarification addresses the question of whether a depreciation rate used by a taxpayer can change. Advice from Inland Revenue is that the rate may change, but in limited circumstances. These circumstances are when the depreciation rate used is no longer the rate applicable to that particular item of depreciable property. This may result from a change in legislation; changing from a special rate to the economic or provisional rate for an item; a new rate being set by the Commissioner of Inland Revenue: where an incorrect rate has been used; or when the rate used is no longer applicable due to a change in circumstances (such as a changed use of the depreciable property). For further information see: QB 15/03, Income Tax – Changing to a Different Depreciation Rate for an Item of Depreciable Property, Available at: <https://www.ird.govt.nz/technical-tax/questions/questions-general/>.

The third clarification also relates to land sales - this time for ss CB 12 and CB 13 ITA 2007 (land sales). This clarifies if it is possible for amounts derived on disposal of land to not give rise to income, even when none of the statutory exclusions apply, where there is an undertaking or scheme, which involves the development or division of the land. Guidance is provided that it is possible for such a situation to not give rise to income, such as when the taxpayer can provide evidence that the undertaking or scheme was not carried on with the aim of disposing of the land. For more information see: QB 15/04, Income Tax – Whether it is Possible that the Disposal of Land that is Part of an Undertaking or Scheme Involving Development or Division Will Not Give Rise to Income, Even if no Exclusion Applies, Available at: <https://www.ird.govt.nz/technical-tax/questions/questions-general/>.

Lisa Marriott

7 Recent Federal Court of Australia tax cases

Recent Federal Court of Australia cases, (from 14 April to 7 May 2015), with the catchwords taken from the Federal Court website. For the full cases check the FCA website search engine here (<http://www.fedcourt.gov.au/publications/judgments/search#legislation>) or Google the case names.

Commissioner of Taxation v Donoghue [2015] FCA 337

Edmonds J 14 April 2015

Catchwords:

PRACTICE AND PROCEDURE – applications for stay of judgments appealed from under r 36.08 Federal Court Rules 2011 – where order to quash income tax assessments – where order to quash Departure Prohibition Order – where order for costs – where order dismissing consequential debt recovery proceedings – where order for removal of caveat – whether appeals rendered nugatory if orders not stayed – where appeals reasonably arguable – whether prejudice in granting stay

Hii v Commissioner of Taxation [2015] FCA 375

Collier J 23 April 2015

INCOME TAX – application for summary judgment – substantive proceedings appeal against decision of Commissioner pursuant to s 14ZZ Taxation Administration Act 1953 (Cth) – applicant claimed to be a non-resident for taxation purposes – Commissioner formed opinion following audit that applicant’s conduct in avoiding tax constituted evasion – Commissioner issued first amended assessments and applicant filed objection – Commissioner allowed objection in part and issued second amended assessments – whether in determining objection

Commissioner required to re-form opinion of whether conduct was fraud or evasion – whether errors of law in the reasoning of the Commissioner’s decision on the formation of the opinion – whether Commissioner erred in respect of whether there had been evasion – whether irrationality in the decision-making process of Commissioner – whether second amended assessment can be set aside as excessive – complexity of issues such that “reasonable prospects of success” cannot be easily determined

QUD 622 of 2014

INCOME TAX – Administrative Law – s 39B Judiciary Act 1903 (Cth) – amended originating application for relief seeking declarations and writs of certiorari, prohibition and mandamus – substantive issues listed for hearing at same time as application for summary judgment – interpretation and application of ss 170, 175 and 177 Income Tax Assessment Act 1936 (Cth) – whether the Commissioner, as part of determining an objection to an assessment, required to re-form the opinion that there has been an avoidance of tax due to fraud or evasion – whether the Commissioner engaged in acts constituting “conscious maladministration” as that phrase is explained by High Court in *Commissioner of Taxation v Futuris Corp Ltd* (2008) 237 CLR 146 – significant movement in case by applicant up until first day of the trial – summary judgment application dismissed based on complexity of substantive matter – common ground that Commissioner did not form an opinion that there had been fraud or evasion after the objection decision – whether insufficient for Commissioner to rely upon opinion formed at earlier stage – whether the failure to form an opinion after the objection decision a jurisdictional fact upon which the power to amend depends – whether a failure of the Commissioner to form an opinion at the objection stage is sufficient to render the purported second amended assessments liable to be set aside – combined effect of s 175 and s 177 ITAA 36 – failure by the Commissioner to comply with a provision of legislation when issuing assessments does not render the assessment invalid – whether principles in *Futuris* are closed or are illustrative of general principles to be developed by future case law – s 175 and s 177 ITAA 36 make clear that the basis for review under s 39B Judiciary Act is limited to where the assessment is tentative or provisional and where conscious maladministration has occurred – no allegation of bad faith in this case

Deputy Commissioner of Taxation v Vasiliades [2015] FCA 412

Pagone J 5 May 2015

EQUITY – Whether first respondent has equitable interest in proceeds of sale of property by virtue of presumed or resulting trust – declarations of equitable interest sought to aid enforcement of tax debt owed by first respondent.

HIGH COURT AND FEDERAL COURT – Whether claim for tax debt within original jurisdiction of Court – whether matter arising under a law of the Commonwealth – whether claim for tax debt within accrued jurisdiction of Court.

INCOME TAX – Claim for tax debt owing by first respondent – debt comprising unpaid income tax, administrative penalties, general interest charges and shortfall interest charges – certificates stating amount due and payable prima facie evidence of tax debt.

PRACTICE AND PROCEDURE – Declarations – whether appropriate to make declarations based on admissions deemed to have been made by respondents’ failure to deny facts pleaded by applicant – where evidence in support of deemed admissions.

PRACTICE AND PROCEDURE – Default judgment – where respondents failed to comply with orders made by Court – where respondents failed to attend a hearing in the proceeding – whether respondents in default.

PRACTICE AND PROCEDURE – Summary judgment – whether respondent has no reasonable prospect of successfully defending the proceeding or part of the proceeding.

Commissioner of Taxation v AusNet Transmission Group Pty Ltd [2015] FCAFC 60

Kenny, Edmonds and Greenwood JJ 6 May 2015

INCOME TAX – purchase of assets of existing business, including assets in which copyright subsisted, for a fixed price – no allocation of purchase price amongst different assets – operation of Div 10B of Pt 3 of Income Tax Assessment Act 1936 (Cth) (repealed), in

particular s 124R(5) – whether determination of Commissioner of amount of a capital nature incurred on the purchase of the copyright can be challenged otherwise than on grounds denying the power to make the determination were enlivened
INCOME TAX – owner of relevant assets becoming member of consolidated group – application of tax cost setting rules in Div 705 of Pt 3-90 of the Income Tax Assessment Act 1997 (Cth) to owner’s assets, including assets in which copyright subsisted – valuation of all assets at joining date – refusal to admit expert valuation reports into evidence notwithstanding undoubted relevance and admissibility – diversity of view as to whether it was possible and appropriate to value the copyright as an asset separate from the value of the asset in which it subsisted in the circumstances of a notional acquisition of all assets of the owner on it becoming a member of the consolidated group

Channel Pastoral Holdings Pty Ltd v Commissioner of Taxation [2015]
Allsop CJ, Edmonds, Gordon, Pagone & Davies JJ 7 May 2015
INCOME TAX – special case stated pursuant to Pt 38 of the Federal Court Rules 2011 – three reserved questions concerning the intersection and interaction of Pt IVA of the Income Tax Assessment Act 1936 (Cth) and Pt 3-90 of the Income Tax Assessment Act 1997 (Cth) – raising issues whether the Commissioner is authorised to make determinations under s 177F(1)(a) and issue assessments to give effect to those determinations to the head company of a consolidated group or to a subsidiary member of the group – in the context of a scheme identified as involving the sale of the subsidiary member’s assets after joining the group rather than, on the postulate of the determinations, their sale by the subsidiary member as a stand-alone entity before joining the group

John Passant

8 Call for papers

Curtin Law and Taxation Review (CLTR) - Call for Contributions – 2015 Issue

The Editorial Board of the Curtin Law and Taxation Review (CLTR) invites contributions from academic staff, legal scholars, practitioners, justice professionals and postgraduate researchers for possible publication in the 2015 issue of the CLTR.

The CLTR is a general law journal which also publishes articles that deal with taxation law and practice. It is planned to publish between 8 and 10 articles and book reviews in the 2015 issue. A competitive editorial policy will apply to the selection of articles.

The CLTR satisfies the requirements to be regarded as peer reviewed as contained in current Higher Education Research Data Collection (HERDC) Specifications (C1 Category).

Articles should be up to 10,000 words in length (maximum) including footnotes, and authors should refer to the CLTR 2015 Author Guidelines document which is downloadable from the ‘CLTR Author Guidelines’ link on the CLTR website at:

<http://business.curtin.edu.au/research/publications/journals/law-tax/index.cfm>

In particular, authors should note that CLTR has adopted the Australian Guide to Legal Citation (<http://www.law.unimelb.edu.au/mulr/aglc>) as its style guide for referencing.

Please submit articles for this issue via email to Professor Dale Pinto, Associate and Academic Editor of the CLTR at Dale.Pinto@cbs.curtin.edu.au by **Tuesday 30th June 2015**.

Australian GST Journal

The *Australian GST Journal* is a quarterly journal which has been published by Thomson Reuters since 1998. Papers between 3,000-8,000 words are encouraged. AGSTJ is subject to double blind peer review, and is listed on the ABDC Journal Quality List.

Papers for issue 2 are invited now. Papers for Issue 3 are due around June, and papers for issue 4 are due around August.

Please submit your papers to the General Editor Christine Peacock at peacock.c.a@gmail.com

Global Science and Technology Forum (GSTF) is pleased to invite you to submit your research paper for review and publication in the *GSTF Journal of Law and Social Sciences (JLSS)* Volume 4 Number 2 (Print ISSN: 2251-2853, E-periodical: 2251-2861). The GSTF JLSS welcomes research submissions from all areas of Law and Social Science. Submission can also be in a variety of forms (e.g. research reports, theoretical presentations, literature reviews and opinion pieces, etc.).

The JLSS Editor-in-Chief, Dr. **Edward P Wolfers** of University of Wollongong, Australia will head a distinguished team of associate editors to referee your paper for publication. <<http://www.globalstf.org/publications/jlss/editorialboard>>.

GSTF JLSS is hosted and published on Springer's Open Access platform – Global Science Journals (GSJ). In addition, it is indexed by Journals Seek, EBSCO, CrossRef, Cabell's Directories, Index Copernicus, Ulrichsweb and Proquest. JLSS will also be submitted to Scopus, and ScienceDirect, amongst others where applicable. Furthermore, JLSS will also be available in the GSTF Digital Library, a repository of proceedings and journals managed by the Global Science and Technology Forum.

A print version of the JLSS issue that carries your published paper will be mailed to your mailing address.

Your submission to GSTF Journal of Law and Social Sciences (JLSS) must be original, unpublished and cannot be under review for publication elsewhere during the time it is being considered in JLSS. Furthermore, after you submit a paper to GSTF Journal of Law and Social Sciences (JLSS), you must await the response from GSTF Journal of Law and Social Sciences (JLSS) and only resubmit elsewhere if your paper is rejected or withdrawn at your request.

The submission deadline for JLSS Volume 4, Number 2 is 5th June 2015.

Authors must consult i) Guideline to Paper submission / Formatting and ii) Submitting your paper on the JLSS (Vol.4 No.2) Journal Webpage

<<http://www.globalstf.org/publications/jlss>>

We look forward to hearing from you soon about publishing in the jlss Vol. 4, No. 2. Please do not hesitate to contact us at jlss@globalstf.org for further queries. GSTF Journal of Law and Social Sciences requires an ' Article Processing Fee - USD 350 (print) / USD 275 (PDF version) for publishing an accepted manuscript. See <<http://www.globalstf.org/publications/jlss/submit>>

9 Tax and related meetings

Local

UNSW Business School, School of Taxation & Business Law research seminar will be presented by Amor Sexton and Reuben Bramanathan, Adroit Lawyers. Amor is a lawyer with Adroit and provides advice on topics ranging from commercial contracts to corporate restructuring, capital raising and bitcoin regulation. She is the leading digital currency lawyer in Australia, with hands on experience advising businesses that are commercialising bitcoin and blockchain technology. She also advises the Bitcoin industry groups on regulatory issues. Reuben is also a lawyer with expertise in taxation and aspects of digital currency. He has presented on this area for The Tax Institute and is currently teaching at an overseas university. Reuben has represented a range of clients including individuals, SMEs and a number of listed and international companies, but his passion is helping start-ups and small businesses to grow. Monday 1 June 2015, 12.30-2.00pm, Room 2055, Level 2 Quadrangle Building South wing, UNSW Sydney 2052. Topic: **Taxation and digital currency**. A light lunch will be provided. Please send RSVP to A/Prof Fiona Martin at f.martin@unsw.edu.au

Festival of Outrageous Tax Ideas, 18-19 June 2015. The UNSW Business School will be holding a “Festival of Outrageous Tax Ideas” on 18-19 June 2015, where key but controversial reform options will be discussed and debated. Structured around provocative position papers and panel debates, the Festival will come up with “outrageous” ideas for input into the Tax White Paper process. The event will be focussed around 4 “outrageous” proposals under the following banners: (1) Making global corporates pay; (2) Rebasing consumption taxes; (3) Life, the universe and income tax - CGT reform as 42; and (4) Rebooting funding in the Australian federation. A key element will be audience participation in the Festival debate.

The dinner speaker at the Festival on 18 June will be Dr John Hewson, an economic and financial expert with experience in academia, business, government, media and the financial system, and one who has in the past, been a proponent of big tax ideas.

Details of the program and registration are available at:

<https://www.business.unsw.edu.au/news-events/events/atax-2015-foti>

Date: Thursday 18 June - Friday 19 June, 2015, 9am - 5pm (both days), UNSW CBD Campus, Level 6, 1 O'Connell Street, Sydney NSW, 2000, Conference Fee - \$250, Conference+Dinner Fee - \$350. Contact: Maree Magafas <m.magafas@unsw.edu.au> UNSW Business School, School of Taxation & Business Law.

The 6th Queensland Tax Researchers' Symposium (QTRS) AND the 3rd Meeting of the Australasian Tax History Chapter (THC), Griffith University Business School, South Bank campus, Brisbane, 2-3 July 2015. This is a joint initiative between academics from various universities with Griffith University, QUT, James Cook University and UNSW also sponsoring the event. While registration is free, numbers are limited and attendees will need to register by Friday 15 May 2015. Attendees may register for one or both days. Note it is possible for tax academics to attend without presenting. General enquiries about both the THC and QTRS (including paper submissions and registration) should be directed to: Anna Mortimore, Lecturer- Taxation
Griffith Business School, Griffith University
Email: a.mortimore@griffith.edu.au
Ph: +61 7 555 28082

The Global Conference on Environmental Taxation, University of Technology, Sydney, Sydney, Australia 23-26 September 2015. Theme for the Conference is *Green Fiscal Reform: Protecting our Natural Resources for a Sustainable Future*. Note:

Wednesday 23 September 2015 will be an afternoon session open to everyone with PhD candidate presentations only.

Saturday 26 September 2015 will be a morning session open to everyone that will focus on evaluation frameworks for environmental taxes and concessions.

<<http://www.uts.edu.au/research-and-teaching/our-research/law-research-centre-p2/resources/upcoming-academic-conferences-1>>

ATTA's **28th Annual Conference** will be hosted by the University of New South Wales School of Taxation & Business Law, 20th to 22nd January 2016. The theme of the conference is *Tax and Time Travel: Looking Backwards and Looking Forwards*. The conference will celebrate 28 years of ATTA in Australasia. Further information about the conference is included above in this newsletter. If you have any questions please contact John Taylor at c.taylor@unsw.edu.au

The **Tax Institute's** website www.taxinstitute.com.au lists many conferences, conventions, seminars, and breakfast clubs. For further enquiries, contact Phillipa Cardigan (02) 8223 0045 or email phillipacardigan@taxinstitute.com.au or register online at www.taxinstitute.com.au Call the National Events team on 1300 733 842 for more details. Please contact the National Events Team on 1300 733 842 or by email, nationalevents@taxinstitute.com.au Follow us on Twitter @TaxInstituteOz. Danielle Thurston, Event and Member Services Executive The Tax Institute Phone: 02 8223 0000; Direct: 02 8223 0014 Fax: 02 8223 0077 daniellethurston@taxinstitute.com.au

Overseas

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

Canadian Tax Foundation <http://www.ctf.ca/ctfweb/en>

Institute for Fiscal Studies Conferences and seminars
<http://www1.ifs.org.uk/conferences/index.shtml>

Institute for Austrian and International Tax Law 2015 events:

June 1, 2015 – PwC-WU-Seminar: “Current Developments in European and International Tax Law” (German/English): Aline Kapp/Claudine Devillet

June 11-13, 2015 – Conference: “Tax Treaty Case Law around the Globe”

June 19, 2015 – 22nd Symposium on International Tax Law: “BEPS and Tax Treaties”

June 25, 2015 – Semester closing

July 30/1, 2015 – Second EU-China Tax Summit

July 2-4, 2015 – Conference: “The Impact of Bilateral Investment Treaties on Taxation” (Rust, Burgenland)

July 13-17, 2015 – CEE Vienna International Tax Law Summer School

The topics of the seminar sessions and other events can always be found at www.wu.ac.at/taxlaw. Please feel cordially invited to visit our website again regularly.

Additionally, there will again be a huge number of other technical seminars and conferences. Please see our website for most up-to-date information on them.

IBFD Special Celebratory Summer Conference: Generation 2030 – Tax in the Public Eye, 11 - 12 June 2015, Geneva, Switzerland. IBFD is a proud sponsor of the 2-day TEI EMEA conference. TEI welcomes in-house tax specialists and invites members, potential new members and former members to join the conference and encourages tax knowledge sharing as well as cross-border networking. Given the advanced stage of the OECD's BEPS project and other EU and national initiatives, the discussions will no doubt be particularly pointed. The agenda is being developed with a selection of the best advisors that presented to TEI over the past 15 years, alongside high profile representatives from the OECD, UN, EU, government and tax administrations. While some sessions will be formal, the conference will allow plenty of opportunities to network with your peers across Europe, speakers and special guests. In outline, the Conference will cover:

Thursday 11 June, from 13:30, after an informal lunch

- International tax policy development, no longer the exclusive remit for each country alone
 - The changing priorities for and shape of the tax function, what our companies should expect
- Friday 12 June, 09:00 to 16:00

- Reassessing supply chain dynamics, how we as in-house practitioners manage the new approach, and what our focus areas are likely to be in 2016 and 2017
- Perspectives on tax reform after BEPS, for the US, the EU and Switzerland.

In addition, on Thursday, from 09:00 to 12:00 and by popular demand, TEI is offering (basic to intermediate) training on US taxes which will be moderated by US tax specialists.

View the full programme <http://www.ibfd.org/IBFD-Tax-Portal/Events/Generation-2030-Tax-Public-Eye#tab_program%20?utm_source=TEI-EMEA&utm_medium=email&utm_campaign=EV07-05-2015&utm_content=Events/Generation-2030-Tax-Public-Eye#tab_program>

How to register <<http://www.tei-europe.org/events/event.php>>

To register, please complete the online form.

Please note that a contribution fee of €200 is applicable for members and €300 for non-members.

International Bureau of Fiscal Documentation inaugural Africa Tax Symposium, *Trends in International Taxation: An African Perspective*, 18-19 June 2015, Livingstone, Zambia. Set in the stunning Victoria Falls surroundings of the Sun International Hotel, Livingstone, this two-day event will feature prominent speakers, including IBFD tax experts on Africa, and eminent tax practitioners from Africa and Europe. Speakers will lecture on the current trends in international taxation, addressing these from an African perspective. Topics will cover:

- Current trends in international tax planning: BEPS and the African experience
- Transfer pricing: issues, challenges, and a possible way forward
- Taxation of natural resources: lessons from Africa and beyond

View the full programme <http://www.ibfd.org/IBFD-Tax-Portal/Events/Trends-International-Taxation-African-Perspective#tab_program>

To register for one of the limited places, please complete the online form before 30 April 2015. <http://fd7.formdesk.com/ibfd/Trends-in-International-Taxation?utm_source=africa-conference-2015&utm_medium=email&utm_campaign=EV26-03-2015&utm_content=Trends-in-International-Taxation>

Please note that a contribution fee of USD 83.00 is applicable.

If you have any questions, please do not hesitate to contact our Head of Marketing, Sorrel Hidding, either by email at S.Hidding@ibfd.org or by telephone at +31 20 554 0142.

International Bureau of Fiscal Documentation. Various courses in Amsterdam, the Netherlands or in Malaysia or elsewhere. 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

For courses go to <http://www.ibfd.org/Training>

IBFD International Tax Courses - A selection of related courses in 2015

VAT Considerations in M&A Transactions 28 - 29 May 2015, Amsterdam

Principles of Transfer Pricing 27-31 July 2015, Kuala Lumpur

Base Erosion and Profit Shifting OECD Action Plan (BEPS) 14-16 October 2015, Johannesburg

International Taxation of Oil and Gas and Other Mining Activities 20-23 October 2015, Singapore

Base Erosion and Profit Shifting – Selected Issues 9-11 November 2015, Amsterdam

Principles of Transfer Pricing 15-17 November 2015, Dubai

Principles of International Taxation 16-20 November 2015, Kuala Lumpur

Treaty Aspects of International Tax Planning 26 - 28 November, Sao Paulo

For entire course portfolio, see < http://www.ibfd.org/Training/Find-course?utm_source=course-promo-april&utm_medium=email&utm_campaign=ITA0520-04-2015&utm_content=Course-finder>

International Conference of Chinese Tax and Policy, Xiamen University, Xiamen, China 12-13 December 2015 and jointly organised by The University of Sydney Business School (<http://sydney.edu.au/business>), the Journal of Chinese Tax and Policy (<http://sydney.edu.au/business/research/journals/jctp>), the Department of Public Economics of Xiamen University (<http://czx.xmu.edu.cn/user/index.asp>) and the Taxation Law and Policy Research Institute of Monash University (<http://www.buseco.monash.edu.au/blt/tlpri/>). The conference theme: Individual Income Tax Reform in China. All accepted papers have the priority to be selected for publication in the *Journal of Chinese Tax and Policy*, subject to an international blind peer-review process.

International Fiscal Association Congresses <http://www.ifa.nl/pages/default.aspx>
2015 **Basel, Switzerland** (30 August 2015 - 4 September 2015) www.ifabasel2015.com
Topics under consideration as Subjects 1 and 2 of the Congress are "The use of tax measures in the area of research and development (R & D)" and "Taxation and fundamental rights: taxpayers' procedural rights in a globalised world"
2016 **Madrid, Spain**
2017 **Rio de Janeiro, Brazil**
2018 **Seoul, Korea, Rep of**
2019 **London, United Kingdom**

International Atlantic Economic Society (IAES) conference 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

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

Other useful tax and law related conference websites include the International Bar Association:
http://www.ibanet.org/Conferences/conferences_home.aspx
IBFD Course calendar
<http://www.ibfd.org/portal/app?bookmarkablePage=org.ibfd.portal.presentation.TaxCourses>
International Events and Law Conferences
<http://internationaleventsandlawconferences.yolasite.com>
Conferences in Australia <http://www.conferencealerts.com/country-listing.php?page=1&ipp=All&country=Australia>
New South Wales Bar Association
http://www.nswbar.asn.au/docs/professional/prof_dev/CPD/programme/index.php
Law Council of Australia <http://www.lawcouncil.asn.au/lawcouncil/index.php/conferences>
Practising Law Institute <http://www.pli.edu/>
New York County Lawyers Association <http://www.nycla.org>
American Bar Association Taxation CLE topics
http://www.americanbar.org/cle/cle_courses_by_topic/taxation.html
New York Bar Association <http://www.nysba.org/>
Hieros Gamos Worldwide Law Events Calendar <http://www.hg.org/legal-events.asp>
For Australian ones <http://www.hg.org/legal-events-australia.asp>
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 ATTA people in the media

Stewart, Miranda

Mather, Joanna ‘Trim negative gearing and ‘go Reagan way’’, *Australian Financial Review* 26 April 2015 p 4; online as ‘Dump negative gearing in favour of Reagan-style tax cuts, says professor’ <<http://www.afr.com/news/policy/tax/dump-negative-gearing-in-favour-of-reaganstyle-tax-cuts-says-professor-20150426-1mtd8f>>

Eyers, James ‘APRA will act soon on capital rules’, *Australian Financial Review* 30 April 2015 p 10. “Women benefit much less from the current tax concession on super. If we’re talking about [fairness], I think reining back the concessional treatment is important.”

Ting, Antony

Mather, Joanna ‘Defacto diverted-profits tax’ takes on dodgers’, *Australian Financial Review* 11 May 2015 p 5

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

Grudnoff, Matt ‘Background briefing on franking credits’, Canberra, The Australia Institute, 21 April 2015 <<http://www.tai.org.au/content/franking-credits-briefing-paper>>

Grudnoff, Matt ‘Top gears: how negative gearing and the capital gains tax discount benefit the top 10 per cent and drive up house prices’, Canberra, The Australia Institute, 28 April 2015 <<http://www.tai.org.au/content/top-gears>>

Grudnoff, Matt ‘A super waste of money: redesigning super tax concessions’, The Australia Institute, 4 May 2015 <<http://www.tai.org.au/content/super-waste-money-redesigning-super-tax-concessions>>

Morabito, Vince ‘Replacing inadequate class representatives in federal class actions: *Quo Vadis?* (2015) 38 *University of New South Wales Law Journal* 146-178

Murray, Ian ‘Native title tax reforms: bull’s eye or wide of the mark? (2013) *Federal Law Review* 497-524

(2014) 20:4 *New Zealand Journal of Taxation Law and Policy*

Adrian Sawyer & Lin Mei Tan, Editorial

Alistair Hodson, Book Review: *Sham Transactions*, edited by Edwin Simpson and Miranda Stewart, Oxford University Press, Oxford, 2013, p 314

Andrew Maples, Comment: *HMRC Wins the Race: Commissioners for Her Majesty’s Revenue and Customs v McLaren Racing Ltd*, p 318

Michael Gousmett, Comment: *Greenpeace and Political Activity: A Commentary*, p 330

Chris Evans and Binh Tran Nam, *Tax Compliance Costs in New Zealand: An International Comparative Evaluation*, p339

Ben Alarie, **Kalmen Datt**, Greg Weeks and **Adrian Sawyer**, Advance Tax Rulings in Perspective: A Theoretical and Comparative Analysis, p 362

Dale Pinto, Jeff Pope and John Raig, Determinants of Effective Tax Investigations in Malaysia, p 390

Szalek, Timothy 'Recent changes to the research and development tax incentive and what they mean for you' (2015) 28 (3) *Australian Intellectual Property Law Bulletin* 86-88

(2015) 83 *Taxation Today* – (May)

- End-of-year GST adjustments - Shelley-Ann Brinkley
- Advance Tax Rulings in Perspective: A Theoretical and Comparative Analysis [Part 1] - Benjamin Alarie, **Kalmen Datt**, **Adrian Sawyer** and Greg Weeks

(2015) 84 *Taxation Today* – (June)

- Long-awaited R&D initiatives included in latest tax Bill - Barney Cumberland and Stuart Hutchinson
- Advance Tax Rulings in Perspective: A Theoretical and Comparative Analysis [Part 2] - Benjamin Alarie, **Kalmen Datt**, **Adrian Sawyer** and Greg Weeks

Ting, Antony 'Marketing hubs are a hard tax nut to crack', *Australian Financial Review* 6 April 2015 <<http://www.afr.com/opinion/marketing-hubs-are-a-hard-tax-nut-to-crack-20150406-1mf8jg#>>

Overseas

Asia-Pacific Tax Bulletin Number 2 - 2015

Australia - Partnerships – Are We There Yet? John Walker

New Caledonia - Decentralization of the Tax Legislation Process in New Caledonia – Originality, Impact and Limitations - Guillaume P Blanc

Taiwan – Partnerships - Yishian Lin

Indian case law monitor - The Limited Force of Attraction Rule - Amar Mehta

Singapore - Issuance of the 2015 Singapore Transfer Pricing Guidelines - Luis Coronado, Henry Syrett and Viknesh Danabalan

The comparative survey articles are based on selected papers presented at the Baker & McKenzie 30th Annual Asia-Pacific Tax Conference held in Hong Kong from 13-14 November 2014.

Australia - The Cloud, E-Commerce and Taxable Presence - John Walker and Tom Roth

Japan - The Cloud, E-Commerce and Taxable Presence - Ryutaro Oka

Korea (Rep) - The Cloud, E-Commerce and Taxable Presence - Kyu-Dong Kim

Singapore - The Cloud, E-Commerce and Taxable Presence – Allen Tan, Lee Shih Hui & Tiffany Toh

Hong Kong - Loss Utilization - Alex Yang

Japan - Loss Utilization - Ryutaro Oka

Malaysia - Loss Utilization - Adeline Wong and Tan Yi Lyn

Philippines - Loss Utilization - Ronald Bernas

Singapore - Loss Utilization - Lee Shih Hui

Vietnam - Loss Utilization - Thanh Vinh Hguyen

(2014) 62 (4) *Canadian Tax Journal*

The Role of Intention in Distinguishing Employees from Independent Contractors — Tamara Larre

Rethinking RRIF Withdrawals: New Rates and Methodologies for New Realities — Moshe A. Milevsky

Policy Preferences and Expertise in Canadian Tax Adjudication — Benjamin Alarie and Andrew J Green

Policy Forum: Piecemeal Tax Reform Ideas for Canada — Lessons from Principles and Practice — Robin Boadway
International Tax Planning: Treaty Shopping and Base Erosion and Profit Shifting Action 6
Personal Tax Planning: Marriage Breakdown: A Practical Review of Income Tax Considerations
Planification fiscale personnelle: Échec du mariage: Un aperçu pratique des considérations fiscales
Corporate Tax Planning: The Corporate Capital Structure: Thin Capitalization and the “Recharacterization” Rules in Paragraphs 247(2)(b) and (d)
Selected US Tax Developments: Update on US Corporate Inversions
Current Tax Reading

Douglas, Heather; Bartlett, Francesca; Luker, Trish & Hunter, Rosemary (ed) *Australian feminist judgments: righting and rewriting law*, Oxford, Hart Publishing, 2014. This book brings together feminist academics and lawyers to present an impressive collection of alternative judgments in a series of Australian legal cases. Includes Chapter 6 Tax law – *Lodge v Commissioner of Taxation* – **Ann O’Connell**: Commentary; **Kerrie Sadiq**: Judgment, pp 85-100

World Tax Journal Number 1 - 2015

Innovation through R&D Tax Incentives: Some Ideas for a Fair and Transparent Tax Policy - Paolo Arginelli
Tax Treaty Override and the Need for Coordination between Legal Systems: Safeguarding the Effectiveness of International Law - Carla De Pietro
Exposing Unaddressed Issues in the OECD’s BEPS Project: What About the Roles and Implications of Contract Interpretation Law and Private International Law in the Transfer Pricing Arm’s Length Comparability Analysis? Amir Pichhadze

12 Quotable quotes

“Precision welders and robotic mechanics will be more useful in the growing advanced manufacturing sector than yet more law graduates for whom there are no jobs.”

Source: Attributed to Catherine Livingstone, Business Council of Australia president, in: Walsh, Katie & Papadakis, Marianna ‘Women who are lawyers seem still cast as women lawyers,’ *Australian Financial Review* 1 May 2015 p 32

“More than \$100 billion was shuffled through Singapore in 2013 with 1,470 companies involved - a 50 per cent lift on the previous year, according to Neil Chenoweth in the *Australian Financial Review*.

Our two big miners earn \$2.6 billion in profits in Singapore each year; not bad for an island that doesn’t boast much in the way of natural resources or have facilities to load or store iron ore and coal.

What Singapore does offer is a tax rate of 2.5 per cent and the new formula being developed by the ATO attempts to remedy this for the benefit of Australian taxpayers.

If you’re big enough, say the size of BHP, you can negotiate a tax rate in Singapore as low as 0.002 per cent, selling your iron ore cheaply to a virtual marketing company which then on-sells it to China for a big mark up. What a lurk!

The revelations about BHP and Rio Tinto's Singapore adventures have left the business world dumbfounded, or just plain dumb.

Not a word has emanated from the Business Council of Australia on the issue. While for years it has been trumpeting tax reform - a euphemism for paying less tax - it has been strangely silent on the issue that some big corporations are leaners on the tax front, leaving the heavy lifting to its other members.”

Source: Verrender, Ian ‘Document reveals tax multinationals should pay’, *The Drum* ABC TV website, 4 May 2015 <<http://www.abc.net.au/news/2015-05-04/verrender-document-reveals-tax-multinationals-should-pay/6441558>>

Thanks to Chris Wallis for alerting me to the following quote:

“I also note that, on 18 October 2010, the Commissioner issued to HWBB an “Offshore Information Notice” under s 264A of the Income Tax Assessment Act 1936 (the 1936 Act) requiring, among other things, “[a]ll of HWBB’s financial statements, including its balance sheets, profit and loss and cash flow statements for the relevant period” (which was identified as the period 1 July 1999 to 30 June 2007)[28]. The balance sheet as at 30 June 2004[29] provided to the Commissioner in response to the Notice differs markedly from the document now produced by the taxpayers to the Tribunal as Tab 5 of Exhibit A5. “Cash at Bank” in the response to the Notice is shown as \$991,302; in Tab 5 it is said to be \$4,624,164. The balance sheet provided as part of the response to the Notice has no entry at all for “Customer loans”, while Tab 5 shows a whopping \$95,966,198. There is no explanation for the discrepancy.

These are precisely the types of record-keeping shortcomings and inconsistencies that one is likely to see when people are trying to record transactions and financial outcomes that are not real.”

Source: Deputy President S E Frost, in *Morrison and Commissioner of Taxation* [2015] AATA 114 (27 February 2015) [44-45]
< <http://www.austlii.edu.au/au/cases/cth/AATA/2015/114.html>>

“More and more sets of law reports have adopted the practice of printing a headnote that extends over two or more pages. The 2015 All England Reports is the latest to join this undistinguished band.

One needs to ask, "What is the purpose of the headnote?" The traditional answer to this is that the reader should be able to tell at a quick perusal whether the case would assist in preparing the advice or submissions which the reader was writing.

When legal research relied more heavily on digests by the early 1960s, it became important to ensure that important dicta also were referred to in the headnote so that the dicta were referred to in the digest.

However, the trend thereafter was to set out the facts extensively in the headnote. Usually this is of little help as, if one can see that the case is relevant for one's current purpose, one will have to read the facts in the judgment not just the reporter's summary of them. Further, the purpose of the report should be to highlight the development of the law which the case represents or, in specialist law reports, to produce a good example of the application of ruling principles. The exact facts for this purpose do not matter.

It would certainly assist those of us who need to read hundreds of law reports each year if the editors would keep the headnotes short and sweet.”

Young, Peter ‘Law reports: Headnotes’, in: Current issues (2015) 89 *Australian Law Journal* 215 at 216

An online petition started by Sydney University student Subeta Vimalarajah has reignited debate over the 10 percent GST on sanitary products, gathering more than 34,000 signatures so far.

The petition, titled, 'Stop Taxing My Period', was launched on campaign website CommunityRun last week.

... Introduced by the Howard Government in 2000, the GST slapped a 10 percent levy on all goods and services. All goods and services, that is, bar necessities like groceries and essential health products: sunscreen, condoms, IUDs, lubricants, incontinence pads, iron tablets, nicotine patches. Viagra. Tea. Malt extract.

Yet sanitary items like Tampons, pads and moon cups were classified by then Health Minister Michael Wooldridge as 'personal hygiene products' rather than health goods, and thus were not — and are not — exempt. As reports say, sanitary products are considered a luxury. Apparently menstruating is a lifestyle choice, too?

"It's great that condoms, nicotine patches and sunscreen make the list, but I can't see any difference between them and sanitary products," says Vimalarajah.

"Of course, people could choose not to leave the house when they have their period or bear the discomfort with other solutions, but the government doesn't make us do that in the case of other essential health goods. We're not expected to stay indoors when the sun is out."

Fifteen years on — or 3,600 tampons later, for the average woman — nothing has been done. It's the political tampon that just won't flush.

... When a politician resigns over a gifted, blood-soaked tampon, rather than a \$3,000 bottle of Grange, I'll call tampons a luxury.”

Eddie, Rachel ‘Joe Hockey needs to stop taxing our periods’ 11 May 2015

<<http://www.dailylife.com.au/news-and-views/dl-opinion/joe-hockey-needs-to-stop-taxing-our-periods-20150510-ggyjao.html>>

Emma Alberici (EA) So tell us, how much money will you get back from the 30 companies identified by the Treasurer that he says don't pay tax in Australia?

Mathias Cormann (MC) As the Treasurer indicated yesterday we've been very cautious in not putting a revenue figure on it, we're committed to ensuring these 30 companies have paid their fair tax in Australia, that they pay the tax that is owed to Australia. Now the Labor Party, when they come up with a new tax or tax measure not only do they exaggerate the revenue they think it will raise, they spend all the money they think it will raise before they actually collect it.

EA Let's talk about your government rather than the previous ones.

MC I'm just comparing and contrasting.

EA After all the discussion about reigning in this money that wasn't being paid you can't give us a figure of how much tax you will make these multinationals pay in Australia?

MC We will get as much as we need to get in order to ensure these companies pay their fair share of tax. There's a body of work to be done, we are committed to doing it, and we will not put a figure on it at this point in time, that is a deliberate decision that we've made because

unlike Labor we're being very cautious and very considered in the way we approach these things.

Source: 'Federal Budget 2015: ABC Lateline host Emma Alberici fires up in interview with Finance Mathias Cormann', news.com.au 13 May 2015
<<http://www.news.com.au/finance/economy/federal-budget-2015-abc-lateline-host-emma-alberici-fires-up-in-interview-with-finance-mathias-cormann/story-fn84fgcm-1227352758789>>

"*The Australian* understands the government has agreed, as a result of high-level lobbying to lower Federal Court fees for tax cases.

The ATO had threatened to take its litigation to the state courts because fee increases introduced by Labor had made it too costly to run its matters in the Federal Court. If the tax office had removed even half of its debt-related actions, the Federal Court could have been deprived of 30 per cent of its caseload and the commonwealth of millions of dollars worth of court fees."

Source: Berkovic, Nicola 'Court revenue protected as divorcees hit', *The Australian Legal Affairs* 15 May 2015 p 27

"My own experience in tax teaching and research shows an academy scared to challenge the status quo and accepting of the neoliberal prescriptions that laughingly pass as tax reform. The debates are over the detail of neoliberal tax reform not over grand alternative visions.

I am sure if you scratched the surface of academia you'd find an often cowed workforce afraid to speak out and working long, long hours on narrow but system acceptable research just to survive the rapacious demands senior management make on them."

Source: Passant, John 'Letter to the editor', *Canberra Times* 15 May 2015

"The Australian Taxation Office hopes friendly reminders to its workers might be the key to busting its "high levels of workplace absence".

But the plan already faces opposition, with one workplace union ridiculing the proposal as bosses planning to email their workers "back to health".

The ATO says it will trial a scheme where each of its 20,000 workers will get a regular email reminding them of their recent absenteeism record and how it compares against their colleagues.

The ATO has been encouraging its managers for several years to tackle the agency's sickie problem, with the Tax Office still among the worst performers of the big Commonwealth departments."

Source: Towell, Noel 'ATO to fight sickies by staying in touch', *Canberra Times* 17 May 2015 <<http://www.canberratimes.com.au/act-news/canberra-life/ato-to-fight-sickies-by-staying-in-touch-20150517-gh285t>>

“In the early days of the colony of New South Wales, no taxes existed because there was nothing to tax. At the start of the 19th century, duties surfaced, imposed on wharfage and, in a sin-tax vein, wine, spirits and beer.

Duties remained the basis of Australian taxation until the First World War. Then, federal income tax was introduced to fund hostilities, just as Britain invented income tax to finance the Napoleonic Wars, showing that the levy has its roots in state-sponsored violence.

A year after Britain's 1815 triumph over Napoleon at Waterloo, income tax was repealed "with a thundering peal of applause" — all related documentation had to be shredded and pulped, but the idea stuck.

Here, income tax has remained since 1915. Personal income tax makes up no less than 49 per cent of tax revenue, with almost 10 million citizens paying it, screened by the ATO's 20-terabyte data warehouse.

The rub, critics say, is that, eventually, any income tax system becomes compromised by avoidance strategies and loopholes. Lawmakers then close the loopholes. Cue a vicious cycle of increasingly fraught evasion tactics and legislation.

The winners in the warped fiscal arms race are corporations and tycoons who can pay the professional fees that increasingly advanced tax planning involves. The unfairness fuels debate about whether Australia should just have a goods and services tax and a carbon tax.”

Source: Wilson, David ‘Death of the tax return?’ *Sydney Morning Herald* 7 May 2015
< <http://www.smh.com.au/money/tax/death-of-the-tax-return-20150507-ggw66h.html> >

ATTA News June 2015

<https://www.business.unsw.edu.au/about/schools/taxation-business-law/australasian-tax-teachers-association/newsletters>

Editor: Colin Fong, Faculty of Law, University of New South Wales, Sydney
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ATTA website: <https://www.business.unsw.edu.au/about/schools/taxation-business-law/australasian-tax-teachers-association>

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1 Presidential column

It is June already – where has the year gone to? The reality of last minute student queries and exam marking will be upon many ATTA members, although I hope you will be able to ‘surface for air’ from time to time. Even after being an academic for more years than I wish to remember, it seems I have yet to appreciate that having deadlines for delivery of manuscripts, along with completing an external report during June, adds additional pressures at this time which I could do without.

What I am looking forward to next month is attending the Sixth Queensland Tax Researchers’ Symposium and the Third Meeting of the Australasian Tax History Chapter scheduled for 2-3 July, hosted by Griffiths University. I would encourage members to attend what is an academic highlight of the mid-winter period, to facilitate the sharing of research and to network with colleagues. The organisers of these events have put together a programme with 21 technical papers to be presented over the two days, which will examine current tax issues, and the history of taxation ranging from the history of Poll tax; anti-profit shifting and tax literacy. Of particular importance to all are our research and writing skills, and thus I am keen to hear from Lisa Marriott when she delivers the keynote address entitled: “Tax research writing for excellence from two dimensions: writing for excellence; and tax research for excellence.” I would encourage everyone to review the upcoming conferences and seminars detailed elsewhere in the newsletter, with the view of potentially contributing a paper and/or supporting the organisers through your attendance.

Congratulations go to Richard Eccleston who was awarded a Fulbright Senior Fellowship to study in the United States for three months last year in Fall 2014. Richard was based at George Mason University’s Arlington Campus in Washington DC, where his research is anticipated to provide valuable input into the current Australian debate on federalism reform.

Finally, I would like to draw members’ attention to the call for nominations for 2016 Hill ATTA Medal set out later in this newsletter. The Hill ATTA Medal was first introduced in 2000 and is awarded in recognition of outstanding contribution to Australasian tax teaching and policy.

Adrian Sawyer

2 Arrivals, departures and honours

Richard Eccleston was awarded a Fulbright Senior Fellowship to study in the United States for three months in fall 2014. He was based at George Mason University's Arlington Campus on the doorstep of DC and given his Fulbright research focussed on the impact of the Financial Crisis on US federalism (and lessons for Australia) he travelled widely within the US to get a range of regional perspectives on these issues. This research project is extremely relevant to the current Australian debate on federalism reform, especially since the Commonwealth's Commission of Audit recommended adopting the US practice of the State sharing federal income taxes.

“Chris Evans to replace Jeremy Clarkson as Top Gear presenter” was a media headline proclaimed last week. ATTA member **Chris Evans** has many namesakes but is very pleased to confirm that he is not the Chris Evans replacing Jeremy Clarkson. Moreover he is not the Chris Evans who was a Senator (and government minister) from 1993 to 2013, representing the Australian Labor Party. But he is the Chris Evans who once gave an after dinner speech to a Tax Discussion Group about all the Chris Evans' he is not. (There is another Chris Evans who is the world's foremost expert on a particular sort of worm.) As to our own Chris Evans' future, we may have something to say in a future ATTA News.

3 Hill ATTA Medal

Nominations for 2015 are now called for. Nominators should include a paragraph in support of the application for consideration by the ATTA Executive. Nominations are to be forwarded to the president of ATTA: <adrian.sawyer@canterbury.ac.nz> by 10 July 2015. Previous recipients may be found at <http://www.asb.unsw.edu.au/schools/taxationandbusinesslaw/atta/Pages/medal.aspx>

4 New Zealand developments

The recent (May) budget introduced some significant changes from a tax perspective, including:

- The removal of the \$1,000 government contribution to new KiwiSaver (retirement savings) accounts. What was known as the 'kick start' is no longer available for members joining after 21st May 2015.
- Greater resources to address child poverty – one of the more serious issues in New Zealand at the present time. The budget included \$790 million to help address the long-term drivers of deprivation. For families with children, welfare benefits will increase by \$25 per week (the first increase in core benefit payments since 1972). For low-income families not receiving other welfare benefits, Working for Families tax credits will increase. However, alongside the increases in payments, come increased obligations. Most sole parents will need to be available for part-time work once their youngest child turns three (currently this is the case when the youngest child turns five). Beneficiaries who have part-time work obligations will now be expected to find 20 hours/week of work, rather than the current 15 hours/week at the present time.
- An overhaul of the penalty regime for child support payments. Penalties will be reduced and the introduction of a test (referred to as the 'fair and reasonable test')

whereby penalty relief may be applied. Child support debt in NZ is currently \$3.2 billion, of which \$700 million relates to unpaid child support, and the remaining \$2.5 billion relates to penalties.

- Changes to tax rules for property. This is the change that has generated the most interest among the tax community in New Zealand. See Mark Keating's article in the *New Zealand Herald* for a more detailed discussion (http://www.nzherald.co.nz/business/news/article.cfm?c_id=3&objectid=11450227). The main change is the introduction of a bright-line test for taxing residential property. Where property is sold within two years of purchase, unless it is the seller's main home (or it has been inherited), it will be subject to tax. This clarifies the current legislation where a buyer's purpose or intention is a factor in determining whether the property is taxable. These changes will take effect on 1 October 2015.

Lisa Marriott

5 Recent Federal Court of Australia tax cases

Recent Federal Court of Australia cases, (from 13 May to 11 June 2015), with the catchwords taken from the Federal Court website. For the full cases check the FCA website search engine here (<http://www.fedcourt.gov.au/publications/judgments/search#legislation>) or Google the case names.

ElecNet (Aust) Pty Ltd (Trustee) v Commissioner of Taxation [2015] FCA 456

Davies J 13 May 2015

TAXATION – appeal against disallowance of objection to private ruling – whether the Electrical Industry Severance Scheme is a “unit trust” for the purposes of the Income Tax Assessment Act 1936 (Cth) Part III Division 6C – meaning of “unit trust” in the Income Tax Assessment Act 1936 (Cth) Part III Division 6C – whether workers had a “beneficial interest” in the property of the trust for the purposes of the Income Tax Assessment Act 1936 (Cth) Part III Division 6C

Tax Practitioners Board v HP Kolya Pty Ltd [2015] FCA 472

Foster J 14 May 2015

STATUTORY INTERPRETATION – whether a registered migration agent who is not a qualified lawyer entitled to practise as such can provide a tax agent service or BAS agent service as a legal service within the meaning of subss 50-5(1)(e), 50-5(2)(d), 50-10(1)(d) or 50-10(2)(c) of the Tax Agent Services Act 2009 (Cth) – whether a donee of a general power of attorney can be a legal personal representative within the meaning of subss 50-5(3), 50-5(4), 50-10(3) and 50-10(4) of that Act

TAXATION – tax agent services and BAS agent services – whether the respondents provided such services and advertised the provision of such services in contravention of subs 50-5 and subs 50-10 of the Tax Agent Services Act 2009 (Cth) – if so, what relief should be granted by way of civil pecuniary penalties, declarations and injunctions

Hua Wang Bank Berhad v Commissioner of Taxation (No 19) [2015] FCA 454

Perrem J 15 May 2015

TAXATION – Div 70 of the Income Tax Assessment Act 1997 (Cth) – trading stock – what does it mean to take value into account in s 70-40

John Holland Group Pty Ltd v Commissioner of Taxation [2015] FCAFC 82

Edmonds, Logan and Pagone JJ 11 June 2015

TAXATION – fringe benefits tax – residual fringe benefits – “otherwise deductible” rule – cost of flights paid by employer for employees to travel to remote project location – “fly in, fly out” employees – employees commenced “rostered on” employment duties upon arrival at

airport – employees required to act in accordance with employer’s directions and observe codes of conduct during travel to project location – whether employees would be entitled to deduction for cost of flights upon hypothesis that employees had paid for the flights – whether travel to project location occurred “in” the employment of the employees – whether employee would not be entitled to deduction by reason that travel to project location was travel from home to work – whether travel to project location within scope of employees’ employment and productive of assessable income

John Passant

6 Call for papers

Curtin Law and Taxation Review (CLTR) - Call for Contributions – 2015 Issue

The Editorial Board of the Curtin Law and Taxation Review (CLTR) invites contributions from academic staff, legal scholars, practitioners, justice professionals and postgraduate researchers for possible publication in the 2015 issue of the CLTR.

The CLTR is a general law journal which also publishes articles that deal with taxation law and practice. It is planned to publish between 8 and 10 articles and book reviews in the 2015 issue. A competitive editorial policy will apply to the selection of articles.

The CLTR satisfies the requirements to be regarded as peer reviewed as contained in current Higher Education Research Data Collection (HERDC) Specifications (C1 Category).

Articles should be up to 10,000 words in length (maximum) including footnotes, and authors should refer to the CLTR 2015 Author Guidelines document which is downloadable from the ‘CLTR Author Guidelines’ link on the CLTR website at:

<http://business.curtin.edu.au/research/publications/journals/law-tax/index.cfm>

In particular, authors should note that CLTR has adopted the Australian Guide to Legal Citation (<http://www.law.unimelb.edu.au/multr/aglc>) as its style guide for referencing.

Please submit articles for this issue via email to Professor Dale Pinto, Associate and Academic Editor of the CLTR at Dale.Pinto@cbs.curtin.edu.au by **Tuesday 30th June 2015**.

7 Tax and related meetings

Local

The **6th Queensland Tax Researchers’ Symposium (QTRS)** AND the **3rd Meeting of the Australasian Tax History Chapter (THC)**, Griffith University Business School, South Bank campus, Brisbane, 2-3 July 2015. This is a joint initiative between academics from various universities with Griffith University, QUT, James Cook University and UNSW also sponsoring the event. General enquiries about both the THC and QTRS should be directed to: Anna Mortimore, Lecturer- Taxation
Griffith Business School, Griffith University
Email: a.mortimore@griffith.edu.au
Ph: +61 7 555 28082

The **Global Conference on Environmental Taxation**, University of Technology, Sydney, Sydney, Australia 23-26 September 2015. Theme for the Conference is *Green Fiscal Reform: Protecting our Natural Resources for a Sustainable Future*. Note:

Wednesday 23 September 2015 will be an afternoon session open to everyone with PhD candidate presentations only.

Saturday 26 September 2015 will be a morning session open to everyone that will focus on evaluation frameworks for environmental taxes and concessions.

<<http://www.uts.edu.au/research-and-teaching/our-research/law-research-centre-p2/resources/upcoming-academic-conferences-1>>

ATTA's **28th Annual Conference** will be hosted by the University of New South Wales School of Taxation & Business Law, 20th to 22nd January 2016. The theme of the conference is *Tax and Time Travel: Looking Backwards and Looking Forwards*. The conference will celebrate 28 years of ATTA in Australasia. Further information about the conference is included above in this newsletter. If you have any questions please contact John Taylor at c.taylor@unsw.edu.au

The **Tax Institute's** website www.taxinstitute.com.au lists many conferences, conventions, seminars, and breakfast clubs. For further enquiries, contact Phillipa Cardigan (02) 8223 0045 or email phillipacardigan@taxinstitute.com.au or register online at www.taxinstitute.com.au Call the National Events team on 1300 733 842 for more details.

Please contact the National Events Team on 1300 733 842 or by email, nationalevents@taxinstitute.com.au Follow us on Twitter @TaxInstituteOz.

Danielle Thurston, Event and Member Services Executive The Tax Institute Phone: 02 8223 0000; Direct: 02 8223 0014 Fax: 02 8223 0077 daniellethurston@taxinstitute.com.au

Overseas

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

Canadian Tax Foundation <http://www.ctf.ca/ctfweb/en>

Institute for Fiscal Studies Conferences and seminars

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

Institute for Austrian and International Tax Law 2015 events:

July 30/1, 2015 – Second EU-China Tax Summit

July 2-4, 2015 – Conference: “The Impact of Bilateral Investment Treaties on Taxation” (Rust, Burgenland)

July 13-17, 2015 – CEE Vienna International Tax Law Summer School

The topics of the seminar sessions and other events can always be found at

www.wu.ac.at/taxlaw. Please feel cordially invited to visit our website again regularly.

Additionally, there will again be a huge number of other technical seminars and conferences.

Please see our website for most up-to-date information on them.

International Bureau of Fiscal Documentation. Various courses in Amsterdam, the Netherlands or in Malaysia or elsewhere. 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

For courses go to <http://www.ibfd.org/Training>

IBFD International Tax Courses - A selection of related courses in 2015
Principles of Transfer Pricing 27-31 July 2015, Kuala Lumpur
Base Erosion and Profit Shifting OECD Action Plan (BEPS) 14-16 October 2015,
Johannesburg
International Taxation of Oil and Gas and Other Mining Activities 20-23 October 2015,
Singapore
Base Erosion and Profit Shifting – Selected Issues 9-11 November 2015, Amsterdam
Principles of Transfer Pricing 15-17 November 2015, Dubai
Principles of International Taxation 16-20 November 2015, Kuala Lumpur
Treaty Aspects of International Tax Planning 26 - 28 November, Sao Paulo
For entire course portfolio, see < [http://www.ibfd.org/Training/Find-
course?utm_source=course-promo-april&utm_medium=email&utm_campaign=ITA0520-04-
2015&utm_content=Course-finder](http://www.ibfd.org/Training/Find-course?utm_source=course-promo-april&utm_medium=email&utm_campaign=ITA0520-04-2015&utm_content=Course-finder)>

IBFD and GTS **4th International Tax Conference**, 10 and 11 September 2015, Beijing,
China <[http://www.ibfd.org/IBFD-Tax-Portal/Events/4th-International-Tax-
Conference?utm_source=may-newsletter&utm_medium=email&utm_campaign=AP28-05-
2015%20&utm_content=4th-International-Tax-Conference](http://www.ibfd.org/IBFD-Tax-Portal/Events/4th-International-Tax-Conference?utm_source=may-newsletter&utm_medium=email&utm_campaign=AP28-05-2015%20&utm_content=4th-International-Tax-Conference)>

International Conference of Chinese Tax and Policy, Xiamen University, Xiamen, China
12-13 December 2015 and jointly organised by The University of Sydney Business School
(<http://sydney.edu.au/business>), the Journal of Chinese Tax and Policy
(<http://sydney.edu.au/business/research/journals/jctp>), the Department of Public Economics of
Xiamen University (<http://czx.xmu.edu.cn/user/index.asp>) and the Taxation Law and Policy
Research Institute of Monash University (<http://www.buseco.monash.edu.au/blt/tlpri/>).
The conference theme: Individual Income Tax Reform in China. All accepted papers have the
priority to be selected for publication in the *Journal of Chinese Tax and Policy*, subject to an
international blind peer-review process.

International Fiscal Association Congresses <http://www.ifa.nl/pages/default.aspx>
2015 **Basel, Switzerland** (30 August 2015 - 4 September 2015) www.ifabasel2015.com
Topics under consideration as Subjects 1 and 2 of the Congress are "The use of tax measures
in the area of research and development (R & D)" and "Taxation and fundamental rights:
taxpayers' procedural rights in a globalised world"
2016 **Madrid, Spain**
2017 **Rio de Janeiro, Brazil**
2018 **Seoul, Korea, Rep of**
2019 **London, United Kingdom**

International Atlantic Economic Society (IAES) conference 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

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

Other useful tax and law related conference websites include the
International Bar Association:
http://www.ibanet.org/Conferences/conferences_home.aspx
IBFD Course calendar
<http://www.ibfd.org/portal/app?bookmarkablePage=org.ibfd.portal.presentation.TaxCourses>
International Events and Law Conferences
<http://internationaleventsandlawconferences.yolasite.com>

Conferences in Australia <http://www.conferencealerts.com/country-listing.php?page=1&ipp=All&country=Australia>
New South Wales Bar Association
http://www.nswbar.asn.au/docs/professional/prof_dev/CPD/programme/index.php
Law Council of Australia <http://www.lawcouncil.asn.au/lawcouncil/index.php/conferences>
Practising Law Institute <http://www.pli.edu/>
New York County Lawyers Association <http://www.nycla.org>
American Bar Association Taxation CLE topics
http://www.americanbar.org/cle/cle_courses_by_topic/taxation.html
New York Bar Association <http://www.nysba.org/>
Hieros Gamos Worldwide Law Events Calendar <http://www.hg.org/legal-events.asp>
For Australian ones <http://www.hg.org/legal-events-australia.asp>
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.

8 ATTA people in the media

Boccabella, Dale

'Help for business and parents in the budget', 18 May 2015
<<https://www.business.unsw.edu.au/news-events/news/help-for-business-and-parents-in-the-budget>>

Eccleston, Richard

Uren, David 'PM finds change just a bit taxing' *The Australian* 28 May 2015 p 12

Warren, Neil

'Help for business and parents in the budget', 18 May 2015
<<https://www.business.unsw.edu.au/news-events/news/help-for-business-and-parents-in-the-budget>>
Uren, David 'PM finds change just a bit taxing' *The Australian* 28 May 2015 p 12

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

Berg, Chris & Roskam, John with Stephanie Forrest *Magna Carta: the tax revolt that gave us liberty*, Melbourne, Institute of Public Affairs, 2015; ISBN: 9780909536794 (ebook) US\$9.99

On 4 June 2015, the Government announced the release of three Board of Taxation (BoT) reports, including:

- Debt and Equity Tax Rules
- Review of the thin capitalisation arm's length debt test
- Post-implementation review of Division 7A of Part III of the Income Tax Assessment Act 1936

See <http://www.taxboard.gov.au>

Eccleston, Richard and Woolley, T, 'From Calgary to Canberra: Resource taxation and fiscal federalism in Canada and Australia', *Publius* pp. 1-28. ISSN 1747-7107 (2014)

Eccleston, Richard and Gray, F, "Foreign Accounts Tax Compliance Act and American leadership in the campaign against international tax evasion: Revolution or false dawn?", *Global Policy* pp. 321-333. doi:10.1111/1758-5899.12122 (2014)

Elliffe, Craig *International and cross-border taxation in New Zealand*, Wellington, Brookers, 2015, \$227.00; eBook - ProView \$192.95

Ey, Carol 'How much income tax do we really pay? An analysis of 2011–12 individual income tax data', Parliamentary Library (Australia) Research paper, 10 June 2015
<http://apo.org.au/files/Resource/parliamentarylibrary_howmuchincometaxdowereallypay_jun_2015.pdf>

Hetherington, David 'Per Capita tax survey 2015: public attitudes towards taxation and government expenditure', Canberra, Per Capita, 9 June 2015 < <http://percapita.org.au/wp-content/uploads/2015/06/2015-Tax-Survey.pdf>>

Holden, Richard *Switching gears: reforming negative gearing to solve our housing affordability crisis*, Sydney, McKell Institute, 10 June 2015
<http://mckellinstitute.org.au/wp-content/uploads/pdf/McKell_Negative-Gearing_A4_WEB.pdf>

Keating, Mark 'New property rules too little too late', *New Zealand Herald* 18 May 2015
<http://www.nzherald.co.nz/business/news/article.cfm?c_id=3&objectid=11450227>

Kingston, Geoff *Dividend imputation or low company tax*, Sydney, Centre for International Finance and Regulation, Research Working Paper Series No 59, May 2015
< <http://www.cifr.edu.au/assets/document/WP059-2015%20Geoffrey%20Kingston%20T022%20Dividend%20Imputation%20or%20Low%20Company%20Tax.pdf>>

McLaren, John (ed) *Advanced taxation law*, Sydney, Lawbook Co, 2015, \$144.00; eBook - ProView \$144.00

Passant, John 'Fewer cowpats, more action on tax', Letter to the Editor, *Australian Financial Review* 3 June 2015 p 41

(2015) 85 *Taxation Today* (July)

- Proposed Reforms to Collection of Tax on Employee Share Scheme Benefits - Jarrod Walker and Caleb Saunders
- The Distinction between Tax Avoidance and Tax Evasion [Part 1] - James Mullineux

Ting, Antony 'Explainer: the ATO plan to deter corporate tax avoidance', *The Conversation* 6 May 2015 <<https://theconversation.com/explainer-the-ato-plan-to-deter-corporate-tax-avoidance-41183>>

Ting, Antony 'Close look at tax avoidance laws shows they lack teeth', *The Conversation* 21 May 2015 <<https://theconversation.com/close-look-at-tax-avoidance-laws-shows-they-lack-teeth-41887>>

Overseas

British Tax Review Number 2 2015

Editorial - The lull before the storm—the Finance Act 2015 (No.1) - Gary Richards

Current Notes

The diverted profits tax: flawed by design? Dan Neidle

Diverted profits tax: a partial response - Philip Baker

Case Notes

Spritebeam Ltd v HMRC: debunking a few myths? Tim Crosley

Morrison v HMRC: contingent liabilities for capital gains tax—does the hat matter? Sandra Eden

Articles

The Birth of UK Corporation Tax—The Official View - David Stopforth and Alan Goodacre

Provisions in Accounting Practice and Tax Law - Eli Gilbai

Wittgenstein on Why Tax Law is Comprehensible - Bret N Bogenschneider

Book Reviews

Endres, Dieter & Christoph Spengel, Christoph *International company taxation and tax planning*, Alphen aan den Rijn, The Netherlands, Kluwer, 2015, ISBN 9041145567; ISBN 13: 9789041145567, 592 pp. Hardcover USD price: \$216.00

European Taxation Number 6 - 2015

European Union - The General Anti-Abuse Rule of the Parent-Subsidiary Directive - Filip Debelva and Joris Luts

Denmark/Sweden - Reflections on the Scandinavian Model: Some Insights into Energy-Related Taxes in Denmark and Sweden - Mikael Skou Andersen

European Union/United States - Taxation of Digital Supplies in the European Union and United States – What Can They Learn from Each Other? Aleksandra Bal

EU update – Commission; Court of Justice

What's going on in ...

European Union - CFE Forum 2015: Tax Governance and Tax Risk Management in a Post-BEPS World - Khadija Baggerman, Ivana Kireta and Oana Popa

Germany - The Tax Treatment of Hybrid Financial Instruments - Christian Kahlenberg

International - King' s College London International Tax Conference - Jivaan Bennett, Matteo

Calizzi, Carolina Hayashi Descio, Laura Duran, Anna Fass, Gabrielle Galdino, Moustapha

Hammoud, Alessandro Liotta, Romain Massobre and

Francisco Alvarez Silva

Italy - New Italian Tax Regime for Non-Commercial Trusts and Foundations - Samuele Cammilleri

Guest blogger 'Transfer Pricing: An insight into how it leads to tax avoidance', Justis website, 18 May 2015 <http://blog.justis.com/when-transfer-pricing-leads-to-tax-avoidance?utm_campaign=Blog+conversions&utm_source=hs_email&utm_medium=email&utm_content=17877027&_hsenc=p2ANqtz-9Y0tqFJ_8W3T7FY9d-jtG0Ni98CeOxMx3mzW0yCLdr9kqamhMxF-Rv3dNTiPDnv_7vutovIg3Qm1aNFRKSOv5D6oXpbQ&_hsmi=17877027>

International VAT Monitor Number 3 - 2015

Supplies for EU VAT Purposes: Reflections on Air France – KLM and Vouchers - Jeroen Bijl

The VAT Treatment of Holding Companies – German and EU VAT Practice Perspective -

Joachim Eggers and Björn Ahrens

Combating Carousel Fraud: The General Reverse Charge VAT - Robert F van Brederode and

Sebastian Pfeiffer

Asymmetrically Relying on the EU VAT Directive – Is VAT a Picnic? Sebastian Pfeiffer

Reports from: Armenia, Australia, Austria, Barbados, Belarus, Belgium, Benin, Bosnia and

Herzegovina, Brazil, Burkina Faso, Canada, Colombia, Congo (Rep.), Costa Rica, Czech

Republic, Denmark, European Union, Finland, France, Greece, India, Israel, Italy,

Kyrgyzstan, Macedonia (FYR), Mauritius, Mexico, Moldova, Montenegro, Morocco, Netherlands, New Zealand, Norway, Pakistan, Panama, Peru, Russia, Slovenia, South Africa, St. Kitts and Nevis, Swaziland, United Kingdom, United States, Vanuatu and Vietnam.
VAT case notes - Case notes from: Austria, Canada, Denmark, Finland, Norway, United Kingdom and United States.

Thuronyi, Victor & Michielse, Geerten (ed) *Tax design issues worldwide*, Alphen aan den Rijn, The Netherlands, Kluwer, 2015, 328 pp. Hardcover ISBN: 9789041156105, Price: EUR 140.00 / USD 189.00 / GBP 112.00

PART I Income Tax.

Chapter 1 A Supplemental Expenditure Tax - Victor Thuronyi

PART II Corporate Tax.

Chapter 2 IFRS and the Structural Features of an Income Tax Law - **Peter Harris**

Chapter 3 IFRS Any Good for Tax? Milena Hrdinkova.

Chapter 4 Allowances for Corporate Equity - Geerten MM Michielse, Ruud de Mooij & Charlotte Van Peteghem

Chapter 5 Designing Anti-Base-Erosion Rules for Developing Countries: Challenges and Solutions - Thomas Dubut

PART III International Coordination.

Chapter 6 The Troubling Role of Tax Treaties - Kim Brooks & **Richard Krever**

Chapter 7 International Standards, Base Erosion and Developing Countries - Ana Paula Dourado

Chapter 8 Exchange of Information in Developing Countries - Wendela van den Brink

PART IV Value Added Tax.

Chapter 9 The VAT and Customs Treatment of the Mining Industry in Sub-Saharan Africa - Alain Charlet

Chapter 10 VAT Design and Some Lessons from Victor Alan Schenk

PART V Anti-Money Laundering.

Chapter 11 Using Anti-Money Laundering Measures to Improve Tax Compliance - Emmanuel Mathias & Gianluca Esposito.

10 Quotable quotes

“Asked on Q&A whether sanitary products were essential, Mr Hockey replied he thought they were. Asked whether this meant the 10 per cent goods and services tax should be taken off them he replied: "It probably should, yes. The answer is yes."

Their inclusion in the GST by the Howard government in the late 1990s was the fault of the Australian Democrats which "had a list of things they wanted excluded and they didn't have sanitary products on it".

It was an oversight he was happy to attempt to repair.

"I am more than happy to. I need the agreement of the states. I will give you this undertaking: I will raise it with the states at the next meeting of the treasurers in July."

A petition started by Sydney University student Subeta Vimalarajah calling for the removal of the GST has gathered 86,000 signatures and sparked 11,000 submissions to the government's tax review.

The then Prime Minister John Howard opposed the exemption when the GST was introduced in 2000 telling the ABC's 730 Report: "Of course if you look at tampons in isolation - just as you look at something else in isolation - you can mount an argument to take the tax off it. I

could mount an argument to take the tax off children's clothes, I could mount an argument to take the tax off old people's clothes, I could mount an argument for a whole lot of things.

"But we've had that argument and if you start doing that, you will have no GST in the end, and the whole system will begin to unravel."

Source: Martin, Peter 'Q&A: Policy on the run as Joe Hockey puts tampons, super tax concessions on the agenda', *Sydney Morning Herald* 26 May 2015
<<http://www.smh.com.au/federal-politics/political-news/qa-policy-on-the-run-as-joe-hockey-puts-tampons-super-tax-concessions-on-the-agenda-20150525-gh9g53.html>>

"Obviously I've got no choice but to resign from the position and actively counter the tripe dished out by a whole bunch of rich lobbyists who just talk and do nothing."

Source: 'Sunrise host David Koch quits government post amid claims he wasn't informed of budget cuts', *The New Daily* email 28 May 2015

"If you want to understand the Magna Carta, you need to understand that it is about tax.

In 1215, Magna Carta set limits to the power of the king and granted some legal rights to the people of England. It also regulated everything from fish traps in the Thames to "evil forest customs". A lot has changed in the 800 years since, so what would you add to a new Magna Carta?

Most commentary on the document is written by lawyers looking for the origins of the English common law and rights like habeas corpus. This means delving through the complexities of medieval land law and legal systems.

Yet the vast majority of the provisions of the Magna Carta are specifically designed to limit how much tax the king can take from his subjects. As the historian David Carpenter writes, the document was "above all about money."

If our liberties can be traced back to the Magna Carta, then it is in resistance to tax that they were forged.

...

So to celebrate the Magna Carta is to celebrate 800 years of its history, not the specific rules it imposed about, for instance, the receipts of an estate's earnings while it was held in wardship.

It is to celebrate how this strange, failed peace treaty established a permanent relationship between tax resistance and political freedom in the English-speaking world."

Source: Berg, Chris 'Magna Carta: archaic tax document and icon of liberty', *The Drum* ABC TV 9 June 2015 < <http://www.abc.net.au/news/2015-06-09/berg-magna-carta-anniversary/6529966>>

"Gordon might be someone who saves puppies in her spare time, but on the bench she is also in the "firm but fair" category. It has even been said that her assertive style has driven some big players, such as the Tax Office, away from the federal court into other forums."

Source: Pelly, Michael ‘Gordon fits Hayne’s ‘firm but fair’ model’, *The Australian* 12 June 2015 p 27. Referring to Justice Michelle Gordon’s swearing in ceremony at the High Court of Australia.

“Go figure. They make their living cooking up new ways to minimise tax by punching holes in the rules so successfully that our economy bleeds billions of dollars a year.

Chart the economic challenges besetting Australia - from the property bubble to the budget deficit - and there's a direct line to the work of accountants.

Yet when we line up the professions and ask the public their levels of trust, accountants rate only behind doctors (who save lives) and engineers (who build things that don't fall down).

...

As this week's Essential Report shows, we actually blame the government for the failure to enforce our tax laws, rather than the corporations and their advisors who spend millions finding a way through the cracks.

But tax laws around the globe have become living legislative bandaids, attempting to suture the latest wound inflicted on it by the very accountants it seeks to tame. Australia's tax legislation runs to thousands of pages and copious regulations, all of them a potential new loophole waiting to be discovered by the accountants.

The defenders of accountants will no doubt be offended by this argument: This is just capitalism/business/life. We are merely responding to the primal need of every individual/company to maximise their wealth/profits within the limits of the law.

This is all accurate so far as it goes, until you consider that if everyone takes that attitude then we won't have the funds to run a functioning government, one that can fund our services and manage a stable property market.

As long as there are laws there will be loopholes, and as long as there are loopholes there will be accountants. Even if there were law against accountants, they would find the way through. That's not surprising. That's what accountants do.”

Source: Lewis, Peter ‘Why is it socially acceptable to be an accountant?’ *The Drum* ABC TV 17 June 2015 <<http://www.abc.net.au/news/2015-06-16/lewis-why-is-it-socially-acceptable-to-be-an-accountant/6549994>>

From Chris Wallis

“As a general proposition, there are more psychological disorders in the public sector than in the private sector”, he said. “There is what is called ‘adjustment disorder’, which has become a much more prevalent claim.

Source: Mather, Joanna ‘ATO workers’ compo bill ‘14 times what most pay’’, *Australian Financial Review* 5 June 2015 p 10, citing Chris Jordan, Commissioner of Taxation.

ATTA News July 2015

<https://www.business.unsw.edu.au/about/schools/taxation-business-law/australasian-tax-teachers-association/newsletters>

Editor: Colin Fong, Faculty of Law, University of New South Wales, Sydney
c.fong@unsw.edu.au

ATTA website: <https://www.business.unsw.edu.au/about/schools/taxation-business-law/australasian-tax-teachers-association>

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5 New Zealand developments	4
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1 Presidential column

As I write, it would appear that Greece has successfully secured a further reprieve with its debt crisis with a further EU debt package. While most of us are distant observers, the events have drawn us in partly through fascination but also with concern over the potential wider implications of this Greek tragedy, as it has charted its course in a very public forum.

Turning the spotlight on to events closer to home, with July well underway now, I am sure that for most of you the second semester of teaching is now your focus. I have been fortunate to not start teaching in the first week so have been able to have a week's leave which coincides with the last week of the school holidays, enabling me to spend time with my family. However, as I write this column, my week of leave is sadly drawing to an end.

While teaching is now our main focus, following completing my first semester exam marking during the break, I was able to turn my thoughts to emerging issues in tax research. A highlight was the opportunity to attend the 3rd Tax History Chapter and the 6th Queensland Tax Researchers Symposium held in Brisbane in early July. I found the two days to be both stimulating and highly engaging, and enjoyed, in particular, the roundtable discussion time that followed each group of presentations. I congratulate the organising team led by Anna Mortimore, and commend to your reading Anna's report later in the newsletter.

Just last week I was fortunate to be able to attend Richard Vann's seminar at the University of Auckland entitled: "Failure at the Heart of BEPS?". Richard's seminar certainly left the audience, which comprised academics and practitioners, with much 'food for thought' over the chances of BEPS meeting its objectives, given that it appears to have at least three major failings namely: information asymmetries; an over emphasis on risk; and not addressing a number of transfer pricing issues (including focussing on transactions and not activities, and not adequately addressing the theory of the firm, rents and methodologies).

John Taylor and his team at the UNSW continue with their planning for the 2016 ATTA Conference. Later in this newsletter are details about the registration fees for the conference. If you have not done so already I would encourage you to mark the dates in your diaries and look out for the call for papers.

Adrian Sawyer

2 ATTA's 28th Annual Conference call for papers

Papers are invited to be submitted to the upcoming Australasian Tax Teachers' Association's 28th Annual Conference. The theme of the conference is "Tax and Time Travel: Looking Backwards and Looking Forwards" and papers are invited to be submitted that explore the future of tax law and policy in the light its development to date.

The conference will be hosted by the UNSW School of Taxation and Business Law and will be held at UNSW Kensington Campus from 20th to 22nd January 2016.

Papers on the conference theme are strongly encouraged; although the submission of papers on any aspect of taxation is welcome. Also, papers that explore the scholarship of tax teaching and learning are invited. Current PhD students are encouraged to submit an abstract as there will be special mentoring workshops for them. There will be prizes for best tax research paper, best tax teaching presentation and best PhD student paper.

The template for abstracts can be found at:

www.business.unsw.edu.au/2016atta

Abstracts of no more than 500 words should be emailed to Maree Magafas at m.magafas@unsw.edu.au by Friday 25th September 2015.

Registration will open soon and there are a number registration options including:

- Super Early Bird: \$460 (3 day conference attendance with welcome drinks and dinner) Registration and payment due by 30 Sept 2015
- Early Bird: \$510 (3 day conference attendance with welcome drinks and dinner) Registration and payment due by 13 December 2015
- Full Fee (after 13 December 2015): \$560 (3 day conference attendance with welcome drinks and dinner)
- PhD Students (Full time): \$360 (3 day conference and dinner attendance)
- ATO rate: \$360 (Days 2 and 3 conference attendance)
- Industry: \$175 (Day 2 conference attendance with morning and lunch)
- Dinner only: \$160 (Day 2 conference dinner)

If you have any questions please contact Maree Magafas at m.magafas@unsw.edu.au, +61 (2) 9385 9549 or visit the conference website at: www.business.unsw.edu.au/2016atta

3 Arrivals, departures and honours

Diane Kraal is researching the impact of resource commodity prices on tax revenues during her visit to the Tax and Transfer Policy Institute (TTPI), based at the Crawford School of Public Policy, ANU. In June 2015, Diane and Dr Craig Emerson (former Labor Minister for Trade) presented a seminar on '*Current tax reform in Papua New Guinea for mining.*'

Doreen Qiu, Dongmei finished her appointment as at Post Doctoral Fellow (PDF) within the Taxation Law Research Programme (TLRP) in the Faculty of Law at the Hong Kong University in early July, 2015. Doreen is returning to Xiamen University (XMU) in China from where HKU recruited her for the PDF appointment. As it happens, she is returning one year earlier than planned but she leaves with our very best wishes. The significant pace of developments in Tax Law in Mainland China - and the Chinese interaction with International Tax Law – has meant that the need within China for very high quality Tax Academics has grown rapidly. XMU was very keen for Doreen to return. We are very sorry, at HKU, to see her leave - but she goes with our very best wishes. Doreen has been an outstanding PDF within the TLRP (following in the fine footsteps of Xu, Yan (now at the Chinese University of Hong Kong)).

The reality looks to be that, over coming years, the opportunities for high calibre Tax Law academics within the best Mainland Universities will notably increase. XMU has been for a key centre for Tax Law research in China for a considerable time. We look forward to increased and ongoing collaboration between the TLRP and the Tax Programme at XMU in the future. From the TLRP / HKU point of view, it is excellent to see that our PDFs in PRC Tax Law are moving on to first rate appointments. Though we are sorry to lose people like Yan and Doreen, in this sense (as our former Dean, Johannes Chan noted recently) the Faculty and the TLRP are providing the right sort of experience and opportunities, in the PDF programme, to support the best sort of Hong Kong – Mainland interaction.

Richard Cullen, Taxation Law Research Programme, Co-Director

James Cook University to host Japan Tax Institute

From September 19 to 25 the College of Business, Law and Governance of James Cook University will be hosting the President of the Japan Tax Institute and 16 members. Highlights of the visit will be presentations by JCU tax experts on the Australian tax system, by representatives of the Australian Tax Office and by members of accountancy firm Crowe Horwarth. The Japanese professionals will also visit an ATO shopfront help facility. A particular focus of the mission will be to investigate how Australian tax practitioners engage with the ATO through digital media and the progress on digital lodging, especially the pre-filing of tax returns. Australian tax practice is leading edge in this regard with further innovations foreshadowed.

4 2015 Queensland Tax Researchers' Symposium

Overall 51 attendees enjoyed the 2015 Qld Tax Symposium hosted by Griffith University. The symposium consisted of the **3rd Australian Tax History Chapter** and the **6th Qld Tax Researchers' Symposium** on 2nd and 3rd July.

There were 8 presentations in the 3rd Australian Tax History Chapter, with David Smith starting the session by looking back 30 years in teaching the first tax law course at Griffith University. We were then enlightened with other presentations by Rob Vosslander (Chinese Poll Tax); Nikki Teo (development of international tax law); John Taylor (taxation treaty policy); Fiona Martin (history of deductible gift); Catherine Brown (ATO's loss of priority in insolvency); Moira Saccasan (technology in the ATO) and John Passant (class struggle and tax history).

There were 14 presentations in the 6th Qld Tax Researchers' Symposium concerning research projects currently being undertaken, under the broad themes of 'Tax Policy', 'Administration, Tax Compliance and Anti-Avoidance', 'Superannuation', 'International' and 'Reform'. The day started off with Associate Professor Lisa Marriott giving an insightful keynote address on '*Tax Research Writing for Excellence*'. This was followed by the 1st panel session with presentations by Andrew Smith (social security burdens between NZ-AUS), Alex Robson (bracket creep), and Sally-Ann Joseph (sovereign wealth funds).

The 2nd and 3rd panel sessions commenced with presentations from Tom Delany (tax expenditures), followed by Toni Chardon (tax literacy), Mark Keating (tax assessment) Lisa Samarkovski (superannuation), and Brett Freudenberg (SMSF). This was then followed by the 4th and 5th panel sessions from Nahida Faridy (VAT in Bangladesh), Will Battaglone (thin capitalisation), Andrew Maples (reality shows), Anna Mortimore (Luxury Car Tax), Anthony Ting (GAAR), Colin Anderson and Catherine Brown (anti-phoenix activity).

Taking advantage of the Queensland weather in July, attendees enjoyed their tea breaks, lunch and refreshments on the veranda of the Ship Inn at Griffith University – basking in the Queensland sun, chatting about their research projects, networking and catching up with colleagues. The day was concluded with Brett Freudenberg presenting on behalf of Professor John Taylor (judge), the Award winners for the Best Presentations (including highly commended):

1. **Winner: Lisa Samarkovski** for Funding Retirement from Superannuation in Australia: Will we have enough under current taxation arrangements?
2. **Highly Commended: Dr Toni Chardon** for Tax Literacy in Australia: Not knowing your deduction from your offset?
3. **Highly Commended: Nikki Teo** for The United Nations' historical contribution to the development of international tax law and coordination.

There was much excitement and enthusiasm at the end of the day, with much talk about next year's symposium. Thank you to our principal sponsor – the *Griffith Business School* – and our supporting sponsors: Socio-Legal Research Centre Griffith Law School, Thomson Reuters, Oxford University Press, University of New South Wales, Queensland University of Technology, and James Cook University – their generosity is greatly appreciated.

Anna Mortimore – Symposium organiser

5 New Zealand developments

Tax developments in New Zealand over the past month include:

- Elaboration of the child support penalty debt reduction initiative. The proposed changes will mean that customers who comply with a new payment arrangement will receive a 26-week penalty write-off. Moving forward, a new test – called the 'fair and reasonable test' will replace the current test (the 'uneconomic to pursue test') for child support debt.
- Detail of the increase in the in-work tax credit announced in the May budget. This will see an increase in the in-work tax credit by \$12.50 per week (to \$72.50 per week – for up to three children). There will also be an increase in the abatement rate from 21.25% to 22.5% from 1 April 2016.
- Along with the proposed introduction of a two-year bright-line capital gains tax test for property in New Zealand, non-NZ resident buyers and sellers must now hold a NZ Inland Revenue number and provide this as part of the land transfer process when

buying or selling property in NZ. Moreover, non-NZ residents will need a NZ bank account before they can obtain the Inland Revenue number. This practice is aimed at increasing tax compliance.

- A new DTA agreement between NZ and Canada is in force, with new withholding tax rates applying from 1 August 2015. The new DTA will result in lower withholding taxes on dividends, interest and royalties between Canada and NZ.
- Publication of a public ruling made under the Tax Administration Act 1994. This ruling (BR Pub 15/10) clarifies that where a registered person acts as a director in carrying on a taxable activity, any fees received for services provided are subject to GST.
- Introduction of a tax bill aimed at simplifying tax administration (the *Taxation (Transformation: First Phase Simplification and Other Measures) Bill*). One of the changes is that from 1 July 2015, taxpayers who use the pooling method of depreciation will be able to include assets valued up to \$5,000 in the pool (the previous asset threshold was \$2,000).
- An Order in Council was made on 29th June to assist taxpayers affected by recent flooding in the lower North Island. The Order in Council will allow the Commissioner of Inland Revenue flexibility to remit: interest payable on late tax payments; late filing penalties; and late payment penalties. Income equalisation discretion for farmers was also activated.

Lisa Marriott

6 Research in Fiscal Accountability PhD Scholarship

This scholarship is for PhD studies in the field of fiscal accountability within a human rights framework. We're looking for an outstanding student to undertake a PhD in the field of accounting and auditing for corporates during social change.

Available for

You have to be applying for a QUT course to apply for this scholarship.

Student type: Future domestic research students

Future international research students

Study type: Postgraduate research

Faculty/area: Business

Eligible courses: IF49

Application dates Open date: 15 July 2015

Eligibility details

You must:

meet the entry criteria for our PhD

- be planning to research in the field of fiscal accountability within a human rights framework
- have an outstanding academic record
- have a background in accounting or business law
- demonstrate good communication skills and leadership potential.

What you receive

You'll receive:

a tax-free scholarship of \$26,000 a year for 3 years, paid as a fortnightly stipend up to \$6,000 for research costs such as conferences, overseas study and minor expenses over the course of your degree.

How to apply

You must apply for a PhD at QUT and indicate on your course application that you want to be considered for this scholarship. Your PhD application will include a research proposal, which we'll review when we assess applications.

How to apply for a research degree

You must apply by:

31 October 2015 for domestic students

31 August 2015 for international students.

What happens next

We'll assess applications based on the research proposal you've submitted as part of your application, looking for potential benefits of your research to industry.

You may be invited to attend an interview with our selection panel. You can do a telephone or video conference interview if you live overseas.

We'll select the successful applicant based on the outcome of the interview and the strength of their proposed research. If there are no suitable applicants, we reserve the right to not award the scholarship.

If you're awarded the scholarship, you'll be an ambassador for QUT, and you may be required to give presentations to industry.

Background

The Research in Fiscal Accountability PhD Scholarship has been established as a result of the internationally recognised research being undertaken by a group of leading researchers in this area.

This scholarship is for PhD studies in the field of fiscal accountability within a human rights framework.

Tax revenue is an essential element for developing countries to attain self-reliance and provide sufficient funds for public services like health and education. Tax plays a fundamental role in addressing inequality and shaping accountability of governments. It's been acknowledged that while tax can build accountability, its exploitation can foster widespread human rights abuses.

Using a human rights framework, and examining the relationship of citizens (rights-holders) and government (duty-bearers), your thesis will consider the interaction between human rights and government accountability and responsiveness in matters of fiscal policy.

<<https://www.qut.edu.au/study/fees-and-scholarships/scholarships-and-prizes/research-in-fiscal-accountability-phd-scholarship>>

For further details please contact:

Professor Kerrie Sadiq

School of Accountancy | Queensland University of Technology | www.bus.qut.edu.au

Phone: 07 3138 4236| Fax: 07 3138 1812|Email: kerrie.sadiq@qut.edu.au|

7 Vacancies

Lecturer/Senior Lecturer in Accounting

Specialising in any area of Accounting (Accounting Information Systems, Auditing, Financial Accounting, Management Accounting, Financial Management for Accountants, and Taxation)

Auckland University of Technology

Business School

Permanent

Closing Date: 14 August 2015

Located in Auckland, New Zealand's commercial capital and largest city, Auckland University of Technology's Business School is committed to rigorous, relevant and engaging education, research that matters and being locally grounded and globally connected. Our

programmes include a Bachelor of Business, research and professional masters' degrees as well as doctoral education through our PhD degree.

Our AACSB accredited Business School's Department of Accounting is looking to appoint two new academics to join its team in 2015/2016. With a focus on any area of Accounting, these positions support the growth of programmes and research in accounting. In addition to your specialist research focus in accounting, you will bring a passion for research-informed teaching in programmes at undergraduate and postgraduate levels.

Possessing excellent communication skills, and preferably holding a PhD qualification allied to accounting, you will also contribute towards supervision of research students. Therefore, experience of supervising postgraduate students would be an advantage, as would a track record of publications and orientation towards quality service.

To apply for this position please click "Apply Now" below to be redirected to our careers site. You can also visit <http://careers.aut.ac.nz> to see our other vacancies.

Enquiries regarding any of the above may be made by contacting Professor Asheq Rahman, Head of Department Accounting, asheq.rahman@aut.ac.nz or +64 9 921 9999 or Barry Brunette, Deputy Head of Department Accounting, barry.brunette@aut.ac.nz or +64 9 921 9999.

More information about the Department of Accounting is available from <http://www.aut.ac.nz/study-at-aut/study-areas/business/research/research-areas/accounting>.

**Taxation and Business Law, UNSW Business School, UNSW Australia
Lecturer/Senior Lecturer (REF: 10908)**

Lecturer: A\$95K - A\$112K per year (plus 17% superannuation and leave loading)

Senior Lecturer: A\$116K - \$133K (plus 17% superannuation and leave loading) &

Associate Professor/Professor (REF: 10909)

Associate Professor: A\$138K – A\$152K per year (plus 17% superannuation and leave loading)

Professor: A\$177K per year (plus 17% superannuation and leave loading)

Salary supplementation may be negotiated with the successful candidate.

The School of Taxation and Business Law in the UNSW Business School is seeking academics with expertise in taxation or business law. The School of Taxation & Business Law, UNSW Australia Business School is an independent academic unit engaged in quality research and teaching of law that is relevant to business. At the undergraduate level the School of Taxation & Business Law offers a major, double major and honours program in taxation and a double major in business law.

At the graduate level our programs include the Doctor of Philosophy (PhD), the Master of Philosophy (MPhil), the Master of Applied Taxation (MAppTax) and the Master of Taxation (MTax). In conjunction with the Faculty of Law we offer courses in the graduate coursework program Master of Business Law (MBL) and the Juris Doctor programs.

About you

The successful candidate will be expected to develop an internationally recognised research program and to participate in the teaching and service missions of the School and Business School. To be successful in this role you will have qualifications in Taxation and /or Business Law or equivalent. Previous teaching experience in relevant areas will be considered an asset,

together with a strong research record in the identified, or related, fields. Women and EEO groups are encouraged to apply. The University reserves the right to fill any position by invitation or not fill a particular position. You may be required to undergo pre-employment checks prior to appointment to this role.

For more information on the Lecturer/Senior Lecturer position, please visit:

<http://www.jobs.unsw.edu.au/lecturersenior-lecturer-6>

For more information on the Associate Professor/ Professor position, please visit:

<http://jobs.unsw.edu.au/associate-professorprofessor>

Applications close: 31 July 2015

8 Recent Federal Court of Australia tax cases

The last month of Federal Court cases on tax and related matters, from 15 June to 17 July, with the catchwords taken from the Federal Court website. For the full cases check the FCA website search engine here

(<http://www.fedcourt.gov.au/publications/judgments/search#legislation>) or Google the case names.

Agius v Commissioner of Taxation [2015] FCA 707, Griffiths J 14 July 2015

Taxation - Appeal from the Administrative Appeals Tribunal ('Tribunal') – where the appellant had lodged objections to default assessments under s 167 of the Income Tax Assessment Act 1936 (Cth) – whether the Tribunal failed to apply the relevant tests in concluding that the appellant's income had an Australian source – whether there was evidence to support the Tribunal's findings that the appellant received amounts other than in the categories identified by the appellant – whether the Tribunal misconstrued the appellant's burden of proof under s 14ZZK of the Tax Administration Act 1953.

BCI Finances Pty Limited (in liq) v Commissioner of Taxation [2015] FCA 679, Jagot J 7 July

Evidence - whether leave should be granted to release parties from implied undertaking not to make use of documents filed in these proceedings for purposes other than these proceedings – whether leave should be refused on the basis that documents were obtained pursuant to a letter of request issued under s 7 of the Foreign Evidence Act 1994 (Cth).

Perthmetro Pty Ltd, in the matter of Perthmetro Pty Ltd (in liq) [2015] FCA 671, Gilmour J 3 July 2015

Bankruptcy and Insolvency - application under s 511 of the Corporations Act 2001 (Cth) – scope of s 511 – whether employees should be prevented from proving employee entitlements in the liquidation – whether employment contracts illegal or offensive to public policy – income splitting – income tax regime.

Commissioner of Taxation v Desalination Technology Pty Limited [2015] FCAFC 96, Edmonds, Logan and Pagone JJ, 3 July 2015

Income Tax - research and development ("R&D") expenditure – whether taxpayer eligible for tax offset under Div 3 of Pt III (repealed) of Income Tax Assessment Act 1936 (Cth) – whether relevant expenditure "incurred" for purposes of s 73B(14)(a) – competency of appeal from Tribunal's decision – whether that appeal was on a question of law – whether

contingencies to which obligation was subject went only to timing of payment or to the existence of the obligation itself – whether taxpayer was definitively committed to the obligation.

Commissioner of Taxation v Warner [2015] FCA 659, Perry J 1 July 2015

Taxation - where Commissioner issued notices to produce documents under s 264 of the Income Tax Assessment Act 1936 (Cth) and s 353-10 of Sch 1 to the Taxation Administration Act 1953 (Cth) to liquidators appointed in voluntary windings up – whether liquidators have no obligation to comply with notice because s 486 of the Corporations Act 2001 (Cth) as applied by s 511 to voluntary windings up confers that power on the court – where Commissioner is empowered to undertake broad enquiries for purpose of administering tax laws including “fishing expedition” pursuant to s 264.

Statutory interpretation - discussion of approaches to statutory construction – whether s 486 applies in the context of a voluntary winding up – whether conflict arises between s 264 and s 353-10, and s 486 – whether such conflict is to be resolved by reading down “person” and “you” to exclude liquidator – whether Commissioner is a “creditor” for the purposes of s 486 – whether s 486 as the more specific provision takes priority over s 264 and s 353-10 - where such a construction would undermine purpose of provisions.

Practice and procedure - where respondents filed submitting notice and amicus curiae briefed by Commissioner to make submissions as a contradictor.

Deputy Commissioner of Taxation v Meletsis (No 2) [2015] FCA 657, Davies J 30 June 2015

Bankruptcy and insolvency - notice of opposition to petition – application to adjourn petition until after determination of Administrative Appeals Tribunal proceedings – undisputed tax liabilities – whether Court should exercise discretion to adjourn petition under s 33 of Bankruptcy Act 1966 (Cth).

Haritos v Commissioner of Taxation [2015] FCAFC 92, Allsop CJ, Kenny, Besanko, Robertson and Mortimer JJ 30 June 2015

Income tax - income tax assessments under ss 167(b), 167(c) and 170(1) of the Income Tax Assessment Act 1936 (Cth) – appeal from the Administrative Appeals Tribunal (Tribunal) – whether amended notice of appeal raised questions of law – whether Tribunal’s reasoning process was illogical, irrational or lacking a basis in findings or inferences of fact supported on logical grounds and thus made a decision it was not authorised to make – whether Tribunal misconstrued the burden of proof in Taxation Administration Act 1953 (Cth), s 14ZZK – whether Tribunal erred in law in concluding that payments made to associates were ordinary income within Income Tax Assessment Act 1997 (Cth) s 6-5 – whether Tribunal erred in law by applying Part III Division 7A as amended by the Tax Laws Amendment (2010 Measures No 2) Act 2010 (Cth) where transitional provision provided that the amendments applied to payments made, loans made and debts forgiven on or after 1 July 2009.

Commissioner of Taxation v Rawson Finances Pty Ltd [2015] FCA 628, Flick J 23 June 2015

Practice and procedure - application to be released from implied undertaking – considerations relevant to exercise of discretion - interests of the administration of justice (Taxation Administration Act 1953 (Cth), s 14S(1))

Lucas v Commissioner of Taxation [2015] FCA 598, Pagone J 17 June 2015

Taxation - capital gains tax – sale of business by trustee of unit trust – units in unit trust held by trustee of discretionary trust in favour of taxpayers – whether applicable CGT event A1 (disposal of CGT asset) or B1 (use and enjoyment before title passes) – timing of CGT event – whether taxpayers presently entitled to net income of unit trust and assessable on capital gain.

BCI Finances Pty Limited (In Liq) v Commissioner of Taxation [2015] FCA 602, Foster J 15 June 2015

Privilege - legal professional privilege – common interest privilege – whether certain documents in the possession of the Commissioner of Taxation and the liquidators of the applicant are protected by either form of privilege.

John Passant

9 Tax and related meetings

Local

The **School of Taxation and Business Law**, UNSW will host the following scholars as part of its 2015 research fellowship program:

Dr 1. Dr Benjamin Kujinga, University of Pretoria, South Africa. Dr Kujinga will speak on ‘A comparative study of GAARS’ 1 October 2015. Venue and time TBA

Jeremy Sherwood, HM Revenue and Customs, UK, November 2015. Details of his public lecture will be advised closer to the date.

Another Taxation and Business Law Research seminar will be Prof John Taylor - 24th August. ‘Tax me if you can: Comparing the UK’s Diverted Profits Tax And Australia’s proposed tax law integrity multi national avoidance law’, Venue TBA

Tax and Transfer Policy Institute, Crawford School of Public Policy will focus on the economics and law design of **Australia's Future GST in the Real World**, at a conference to be held on Wednesday 26 and Thursday 27 August 2015. Further details and a program <<https://taxpolicy.crawford.anu.edu.au>>

KPMG Tax is sponsoring in association with the Tax Institute, the **AFR Tax Reform Summit**, 22-23 September 2015, the InterContinental, Sydney. The Summit features speakers and panel members, including the Hon Joe Hockey MP, the Hon Chris Bowen MP, Phil Edmands, MD, Rio Tinto and Michael Andrew, Chair, Board of Taxation, as well as Peter Nash, Grant Wardell-Johnson, Brendan Rynne and Kate Law from KPMG. Roundtable discussions on a variety of interesting and important issues will be conducted, including tax transparency, complexity and compliance, state taxation and the Federation, consumption tax, and the tax treatment of savings. Other speakers include ATTA members Profs Miranda Stewart, Richard Vann and Rebecca Millar. Early bird registration \$A2964.50 before 31 July 2015, after 31 July 2015 \$A3294.50 <<http://www.informa.com.au/conferences/financial-services-conference/afr-tax-reform-summit>>

The **Global Conference on Environmental Taxation**, University of Technology, Sydney, Sydney, Australia 23-26 September 2015. Theme for the Conference is *Green Fiscal Reform: Protecting our Natural Resources for a Sustainable Future*. Note:

Wednesday 23 September 2015 will be an afternoon session open to everyone with PhD candidate presentations only.

Saturday 26 September 2015 will be a morning session open to everyone that will focus on evaluation frameworks for environmental taxes and concessions.

<<http://www.uts.edu.au/research-and-teaching/our-research/law-research-centre-p2/resources/upcoming-academic-conferences-1>>

ATTA's **28th Annual Conference** will be hosted by the University of New South Wales School of Taxation & Business Law, 20th to 22nd January 2016. The theme of the conference is *Tax and Time Travel: Looking Backwards and Looking Forwards*. The conference will celebrate 28 years of ATTA in Australasia. Further information about the conference is included above in this newsletter. If you have any questions please contact John Taylor at c.taylor@unsw.edu.au

The **Tax Institute's** website www.taxinstitute.com.au lists many conferences, conventions, seminars, and breakfast clubs. For further enquiries, contact Phillipa Cardigan (02) 8223 0045 or email phillipacardigan@taxinstitute.com.au or register online at www.taxinstitute.com.au Call the National Events team on 1300 733 842 for more details.

Please contact the National Events Team on 1300 733 842 or by email,

nationalevents@taxinstitute.com.au Follow us on Twitter @TaxInstituteOz.

Danielle Thurston, Event and Member Services Executive The Tax Institute Phone: 02 8223 0000; Direct: 02 8223 0014 Fax: 02 8223 0077 daniellethurston@taxinstitute.com.au

Overseas

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

Canadian Tax Foundation <http://www.ctf.ca/ctfweb/en>

Institute for Fiscal Studies Conferences and seminars

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

Institute for Austrian and International Tax Law 2015 events:

The topics of the seminar sessions and other events can always be found at www.wu.ac.at/taxlaw. Please see our website for most up-to-date information on them.

International Bureau of Fiscal Documentation. Various courses in Amsterdam, the Netherlands or in Malaysia or elsewhere. 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

For courses go to <http://www.ibfd.org/Training>

IBFD International Tax Courses - A selection of related courses in 2015

Principles of Transfer Pricing 27-31 July 2015 (KL)

Principles of Transfer Pricing 12-16 October 2015 (NL)

Transfer Pricing Risk Management: Implementation and Monitoring 5-6 November 2015 (NL)

Principles of Transfer Pricing 15-17 November 2015 (AE)

Transfer Pricing and Intangibles 19-20 November 2015 (NL)

Transfer Pricing and Attribution of Profits to Permanent Establishments 16-18 December 2015 (NL)

More international tax courses

Tax Planning and Corporate Taxation US Corporate Taxation 9-11 September 2015 (NL)

International Taxation of Banks and Financial Institutions 16-18 September 2015 (NL)

Tax Planning and Substance 21-22 September 2015 (NL)

Base Erosion and Profit Shifting 14-16 October 2015 (ZA)
Tax Treaties
International Taxation of Oil and Gas and Other Mining Activities 20-23 October 2015 (SG)
Tax Treaties - Selected Issues 28-30 Oct 2015 (NL)
Principles of International Taxation 16-20 November 2015 (KL)
Indirect Taxation
European Value Added Tax - Selected Issues 5-7 October 2015 (NL)
European Value Added Tax Workshop 12-13 November 2015 (NL)
For entire course portfolio, see < http://www.ibfd.org/Training/Find-course?utm_source=course-promo-april&utm_medium=email&utm_campaign=ITA0520-04-2015&utm_content=Course-finder>

IBFD and GTS **4th International Tax Conference**, 10 and 11 September 2015, Beijing, China <http://www.ibfd.org/IBFD-Tax-Portal/Events/4th-International-Tax-Conference?utm_source=may-newsletter&utm_medium=email&utm_campaign=AP28-05-2015%20&utm_content=4th-International-Tax-Conference>

Renovating the Hong Kong Revenue Regime: the Local, Cross-Border & International Contexts, Taxation Law Research Programme, University of Hong Kong – International Conference - Saturday, 31 October 2015

Overview

Hong Kong has developed, over decades, a Revenue Regime (RR) that is astonishing for its simplicity, stability and adequate resourcing of public services – not least when compared to other developed jurisdictions, most of which need to cope with entrenched, far more complex tax systems. Articles 106-108 of the Basic Law of the Hong Kong Special Administrative Region (HKSAR) also direct that these fundamentals of the RR should be retained. The system's long history of satisfactory performance, however, does not imply or guarantee future fitness. More than ever, we need to understand the strengths and weaknesses of the RR.

Increasingly, the Hong Kong RR operates within the context of policy-shaping interaction both with the Mainland China Tax System and the International Tax System. For example, there are conspicuously increased calls, on the HKSAR, for detailed exchange of tax-related information and the Base Erosion and Profit Shifting (BEPS) Project initiated within the influential Organization of Economic Cooperation and Development (OECD) is aimed at re-setting the International Tax System agenda.

The HKSAR government has begun to pay notably greater attention to the need address a range of longer-term livelihood issues. Policy areas of concern include: tackling poverty and inequality; the housing (and livelihood) aspirations of Hong Kong people; ensuring proper welfare support for an ageing population and addressing an array of significant environmental (and energy) concerns. Initiatives aimed at addressing each of these challenges will require significant public expenditure backed up by a sustainable RR.

The RR will also need: to support and further develop the full span of Hong Kong's first-rate general infrastructure; to meet and respond well to the growing economic - and fiscal – interaction with Mainland China; and to respond effectively to international economic and fiscal developments – arising from the BEPS Project, for example.

Further info at:

<http://www.law.hku.hk/aiifl/taxation-law-research-programme-tlrp/>

Registration is free. Those attending do need to make their own travel and accommodation arrangements, however.

For registration, please email Flora Leung at: fkleung@hku.hk

Richard Cullen (Director of the TLRP) is happy to answer any questions about the Conference - he can be contacted at: richard.culllen@gmail.com

International Conference of Chinese Tax and Policy, Xiamen University, Xiamen, China 12-13 December 2015 and jointly organised by The University of Sydney Business School

(<http://sydney.edu.au/business>), the Journal of Chinese Tax and Policy (<http://sydney.edu.au/business/research/journals/jctp>), the Department of Public Economics of Xiamen University (<http://czx.xmu.edu.cn/user/index.asp>) and the Taxation Law and Policy Research Institute of Monash University (<http://www.buseco.monash.edu.au/blt/tlpri/>). The conference theme: Individual Income Tax Reform in China. All accepted papers have the priority to be selected for publication in the *Journal of Chinese Tax and Policy*, subject to an international blind peer-review process.

International Fiscal Association Congresses <http://www.ifa.nl/pages/default.aspx>
2015 **Basel, Switzerland** (30 August 2015 - 4 September 2015) www.ifabasel2015.com
Topics under consideration as Subjects 1 and 2 of the Congress are "The use of tax measures in the area of research and development (R & D)" and "Taxation and fundamental rights: taxpayers' procedural rights in a globalised world"
2016 **Madrid, Spain**
2017 **Rio de Janeiro, Brazil**
2018 **Seoul, Korea, Rep of**
2019 **London, United Kingdom**

International Atlantic Economic Society (IAES) conference 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

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

Other useful tax and law related conference websites include the International Bar Association:
http://www.ibanet.org/Conferences/conferences_home.aspx
IBFD Course calendar
<http://www.ibfd.org/portal/app?bookmarkablePage=org.ibfd.portal.presentation.TaxCourses>
International Events and Law Conferences
<http://internationaleventsandlawconferences.yolasite.com>
Conferences in Australia <http://www.conferencealerts.com/country-listing.php?page=1&ipp=All&country=Australia>
New South Wales Bar Association
http://www.nswbar.asn.au/docs/professional/prof_dev/CPD/programme/index.php
Law Council of Australia <http://www.lawcouncil.asn.au/lawcouncil/index.php/conferences>
Practising Law Institute <http://www.pli.edu/>
New York County Lawyers Association <http://www.nycla.org>
American Bar Association Taxation CLE topics
http://www.americanbar.org/cle/cle_courses_by_topic/taxation.html
New York Bar Association <http://www.nysba.org/>
Hieros Gamos Worldwide Law Events Calendar <http://www.hg.org/legal-events.asp>
For Australian ones <http://www.hg.org/legal-events-australia.asp>
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 ATTA people in the media

Passant, John

Hutchens, Gareth 'Meet the new Greens economics team preparing to shake up Australian politics', *Sydney Morning Herald* 26 June 2015
< <http://www.smh.com.au/federal-politics/political-news/the-greens-have-a-new-economics-team-they-are-not-what-you-d-expect-20150626-ghw747>>

Stewart, Miranda

Martin, Peter 'Income tax. It's having a birthday', *Sydney Morning Herald* 28 June 2015
<<http://www.smh.com.au/business/comment-and-analysis/income-tax-its-having-a-birthday-20150627-ghyla4>>
Greber, Jacob 'Prosperity more at risk than politicians admit', *Australian Financial Review* 30 June 2015 p5. In the photos accompanying this story, the photo caption omits to mention Miranda Stewart was in the photo next to Heather Ridout.

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

Alcock, Jamie 'Busting the five myths about negative gearing', *Sydney Morning Herald* Domain 19 July 2015 <<http://news.domain.com.au/domain/real-estate-news/busting-the-five-myths-about-negative-gearing-20150719-gifasl.html>>

Australia. Inspector-General of Taxation, recent reports are:

- Debt collection; and
- The Australian Taxation Office's services and support for tax practitioners.

The full reports are available here: <http://igt.gov.au/our-reviews/reports-of-reviews/>

The accompanying media releases for each are here: <http://igt.gov.au/news-and-media/>

(2015) 44 (2) *Australian Tax Review*

Editorial - "Only the little people pay taxes"

The case for unitary taxation with formulary apportionment in the finance sector and the effect on developing nations – **Kerrie Sadiq**

The implications of the Multilateral Convention and the Foreign Account Tax Compliance Act: An Australasian perspective – **Adrian Sawyer**

The politics of tax: Rethinking the basis for an independent accountants tax advice privilege – **Robin H Woellner** and **Andrew J Maples**

Cooney, Michael 'Raising the GST is a lazy reflex by conservatives', *The Drum*, ABC TV, 20 July 2015 <<http://www.abc.net.au/news/2015-07-20/cooney-the-rights-gst-brain-explosion/6633344>>

Grattan, Michelle 'That GST debate: is it game over, game on, or just a never-ending game?', *The Conversation* 20 July 2015 < <https://theconversation.com/that-gst-debate-is-it-game-over-game-on-or-just-a-never-ending-game-44927>>

Hodgson, Helen ‘It’s your super, so why shouldn’t you be allowed access?’ *The Conversation* 9 July 2015 <<https://theconversation.com/its-your-super-so-why-shouldnt-you-be-allowed-access-44356>>

Jordan, Chris ‘Your experience matters to us’, Commissioner’s speech to the National Small Business Summit, Thursday 16 July 2015, Doltone House, Jones Bay Wharf, Sydney <<https://www.ato.gov.au/Media-centre/Speeches/Commissioner/Commissioner-s-speech-to-COSBOA>>

Moral Compass, 28 June 2015, ABC TV <<http://www.abc.net.au/compass/moral-compass-2015-3/default.htm>> “As the end of the financial year approaches, tax is on many of our minds. What are our moral obligations around paying tax?” Panellists included: Fred Hilmer, Jane Gleeson-White, Mark Carnegie and Ross Gittens.

Nethercott, Les; Devos, Ken & Richardson, Grant *Australian taxation study manual 2015: Questions and suggested solutions*, 25th ed, Melbourne, Oxford University Press, 2015. 598 pp, Print: 9780190304201; A\$110 / NZ\$126.99, oup.com.au/nethercott25e
Ebook: 9780190304218; A\$98.95 / NZ\$113.99, oup.com.au/nethercott25ebook

Passant, John; McLaren, John; Silaen, Parulian; and Wickramasinghe, Ananda, ‘The Asian development model and mining reforms in Indonesia’, (2015) 9 (2) *Australasian Accounting, Business and Finance Journal* 59-78. Available at:<http://ro.uow.edu.au/aabfj/vol9/iss2/5>

Smith, Warwick ‘Four tax policies Australian house prices rest on’, *The Conversation* 20 July 2015 <<https://theconversation.com/four-tax-policies-australian-house-prices-rest-on-44778>>

Stewart, Miranda; Moore, Andre; Whiteford, Peter & Grafton, R. Quentin *A Stocktake of the tax system and directions for reform: five years after the Henry review*, Canberra, Tax and Transfer Policy Institute, Crawford School of Public Policy, February 2015 <https://taxpolicy.crawford.anu.edu.au/files/uploads/taxstudies_crawford_anu_edu_au/2015-03/stocktake_report_final_web_version.pdf>

Stewart, Miranda ‘Hockey's tax principles are on the money - now he must follow up’, *The Drum*, ABC TV, 16 July 2015 <<http://www.abc.net.au/news/2015-07-16/stewart-hockeys-tax-principles-are-on-the-money/6623776>>

Tax Institute publications

Taxation in Australia Volume 49 (10) May 2015

- Finding fraud or evasion in the corporate tax environment - Daniel Slater and Stephen Chen
- Valuations for taxation: practical implications of the IGT review - Laine Simpson
- Inspector-General of Taxation now handling your tax complaints - Tim Yap
- What happens when your business outgrows a trust? - Steven Toth
- Superannuation: Another BDBN fails due to poor SMSF documents – Daniel Butler
- Tax Cases: Track and the CGT small business concessions - Michael Norbury
- The use of stapled structures for Australian economic infrastructure - Luke Bugden and Christina Sahyoun

Taxation in Australia Volume 49 (11) June 2015

- Successful succession: Grants of representation and further provision claims - Katerina Peiros and Christine Smyth
- Tax cases: Duty and consideration – Michael Norbury

- The Inspector-General of Taxation - “checking in” - Andrew McLoughlin
- Alternative assets insights: BEPS and specific issues relevant to infrastructure - Michael Davidson, James Eaton and Angela Van
- Stamp duty consequences of infrastructure and development agreements - Jared Clements
- A matter of trusts: Do trustees no longer have unlimited assessment periods? - Sam Campbell
- Superannuation: Managing tax losses in an SMSF - Daniel Butler
- The ATO and SMSFs: An update - Matthew Bambrick

Taxation in Australia Volume 50 (1) July 2015

- Alternative assets insights: A new tax system for managed investment trusts - Joshua Cardwell
- Superannuation: The legal minefield of BDBNs – Daniel Butler
- 2014 cases show a continuing trend of high ATO success rate - Timothy Gorton, Joanne Dunne, Hilary Taylor and Jasmin Aldred
- A matter of trusts: One off-the-shelf - Chris Bitmead
- Tax cases: Quest: a contractor or an employee? - Michael Norbury
- Is it a “scheme”? - Phillip White and Andrew Sinclair
- Common errors in applying the market value concept Common errors in applying the market value concept - Wayne Lonergan and Hung Chu

Australian Tax Forum – Volume 30 (2)

- Does a more transparent international tax environment provide the same outcomes as transfer pricing would but in a less arbitrary way? - Jingyi Wang
- Thin capitalisation rules: a second-best solution to the cross-border debt bias? - **Ann Kayis-Kumar**
- Understanding clients’ ties to a tax practitioner: the mediating influence of trust and service satisfaction - **Ranjana Gupta**
- Structural tax reform: what should be brought to the table? - Justice Richard Edmonds
- Pattern of distributions test for discretionary trusts: defects reveal questionable policy design and implementation - **Dale Boccabella**
- Dividend reinvestment plans: a tax-based incentive under the Australian imputation tax system - Mathew Abraham, Mike Dempsey, and Alastair Marsden
- Is integration of income taxation possible in the EU? - **Shafi U Khan Niazi** and **Richard Krever**

The Tax Specialist Volume 18 (4) April 2015

- Policy considerations for an Australian patent box regime - Matthew McLean
- TR 2010/3 on UPEs and Div 7A: an unwelcome U-turn? - Cindy Chan
- Resurrecting employee share schemes - Judy Choate
- Your Honour, he is a contractor! - Cyrus Thistleton
- Superannuation: do contribution caps have any meaning? - Frederick Mahar

The Tax Specialist Volume 18 (5) June 2015

- Surgery with anaesthetics: mergers and acquisitions taxation - Ken Spence and Edward Consett
- Issues facing parents and subsidiaries in the current international tax climate - Peter McCullough
- Pitfalls in the valuation of specialised in situ fixed assets for tax and duty purposes - Hung Chu

Papers published in May - July

West Australian Division

- Superannuation regulatory update - Greg Bentley
- Exploring the practicalities of super fund borrowing - Ron Doig
- Entering the pension phase - Jemma Sanderson
- Property in superannuation - Jemma Sanderson
- The concept of control, as it applies to super, family trusts and succession in general - Morgan Solomon
- SMSFs & insurance - A forgotten opportunity or a headache? - Katie Timms
- Tips, traps and uncertainties in the not-so-easy small business CGT concessions - Alan Krawitz and Antony Barrier
- Making the Most of your Superannuation Fund - Greg Bentley

South Australian Division

- SMSF update and an overview of the new penalty regime - Tim Miller
- Strategies for navigating the contribution minefield - Kerri Reynolds
- SMSF participation in private business - Matthew Andruchowycz
- Tour de tax - Roger Brake
- Australia and the digital economy - Sue Hatcher
- Beware - Non-resident beneficiaries - Tom Pledge
- Assessing the risk: Allocation of profits within professional firms - Marc Romaldi
- SMSF audit horror stories - What can go wrong and how to fix it! - Shirley Schaefer
- Exiting your business - Transferring to the next generation - Andrew Sinclair
- Dying for a fight about super - Matthew Tripodi
- Exiting your business - Selling to a third party - Sean Van Der Linden
- The tools for asset protection - Ken Schurgott
- The ATO's approach to 2015-16 - Andrew Mills

Queensland Division

- Insurance and superannuation - Cameron Allen
- Conflicts in a superannuation death benefit context - Neal Dallas
- Contribution strategies and instalment contracts - Kieran Hoare
- Asset protection and bankruptcy - Peter Vilaysack
- Limited recourse borrowing arrangement update - Michael Garrone and Megan Kelly

NSW Division

- Division 7A: Putting your hands in the till without getting your fingers burnt - Greg Travers
- Transfer pricing – ATO perspectives - Michael Jenkins
- Are you facing an unlimited amendment period due to fraud or evasion - Where does the law stand? - Mathew Leighton-Daly
- Superannuation and estate planning - SMSF focus - Lisa Oddo
- Payroll tax: What is the NSW OSR really looking for? - Mark Payne
- Tax and family law matters - Suzanne Delbridge
- Ethics - Gordon S Cooper Property development - Key GST and stamp duties issues to consider - Andre Spnovic
- Proving residency - Harder than you think? - Zubair Bangash
- Trusts and asset protection: Myth or fact? - Nick Gangemi
- BEPS - Practical perspectives - Peter Poulos

- Now you see them, now you don't - Borrowings in SMSFs - Graeme Colley
- SME's in financial trouble - What tax issues can this really trigger? - Alastair McLean
- Employment taxes update for corporates - Kylie Rusten
- ADR in a tax context from a mediator's perspective - K. E. Lindgren
- Estate planning and the use of testamentary trusts - Andrew Frankland
- GST update - Heydon Miller
- Cutting edge estate planning techniques - Adrian Abbott and Kevin J Munro

Victorian Division

- Trustee resolutions - Including Section 100A - Michael Parker
- Trusts and Murphy's law (or anything that can go wrong, will go wrong) - Jeffrey Chang
- Perpetuity periods, vesting dates and winding up a trust - Andrew O'Bryan, William Moore and Jacinta Bolzonello
- Division 7A – The distributable surplus minefield - Damian O'Connor

National Division

- MIT rules in an infrastructure context - Steven Economides and Sally Dole
- GST & infrastructure timing is everything - Rhys Penning
- Securitised lease/licence arrangements - Martin Fry

Ting, Antony 'Amazon shows Google tax can work, despite arguments against it', *The Conversation* 23 June 2015 <<https://theconversation.com/amazon-shows-google-tax-can-work-despite-arguments-against-it-43545>>

Ting, Antony 'Why negative gearing is not a fair tax policy', *The Conversation* 17 July 2015 <<https://theconversation.com/why-negative-gearing-is-not-a-fair-tax-policy-44775>>

Overseas

Asia-Pacific Tax Bulletin Number 3 - 2015

Australia - Casenote – Information-Gathering Powers of the Commissioner - Anton Joseph

Hong Kong - The Source of Dividends in Hong Kong Tax Law - Stefano Mariani

India - Bandwidth Capacity – Taxability and Controversy - Kamesh Susarla and Praveen Natarajan

Taxation of Shipping Income under Tax Treaties – Development of Case Law in India - Amar Mehta

India - Intra-Group Share Issuance – Out of the Realm of Transfer Pricing - Vishal Kalra and Khyati Dadhwal (reviewed by Mukesh Butani)

Bulletin for International Taxation Number 6/7 - 2015

Editorial - International/OECD - The Road Home? Finalizing and Implementing the BEPS

Agenda - **Graeme Cooper** and **Miranda Stewart**

Articles on base erosion and profit shifting

International/OECD - Permanent Establishments and Action 1 on the Digital Economy of the OECD Base Erosion and Profit Shifting Initiative – The Nexus Criterion Redefined? Daniel W. Blum

OECD/International - Interest Deductions and Multinational Enterprises: Goldilocks and the Brave New World - **Chloe Burnett**

Australia/International/OECD - Some Thoughts on the OECD's Recommendations on Hybrid Mismatches - **Graeme S Cooper**

OECD/Canada - Action 4 of the OECD Action Plan on Base Erosion and Profit Shifting Initiative: Interest and Base-Eroding Payments – Insights from the Canadian Experience - David G Duff

OECD/International/China - China and Base Erosion and Profit Shifting: From a Norm-Taker to a Norm-Shaker - Jinyan Li

OECD - Labour Rents, Arm’s Length Transfer Pricing, and Intangibles: Still Searching for a Solution to the BEPS - Mitchell A Kane

International/OECD - Developing Countries’ Reactions to the G20/OECD Action Plan on Base Erosion and Profit Shifting - Carmel Peters

India/OECD - Base Erosion and Profit Shifting: An Indian Perspective - DP Sengupta and R Kavita Rao

OECD/International/Australia - Improving Treaty Dispute Resolution – An Australian Perspective - Jonathon Spencer and Andrew Mills

International/OECD - Abuse and Economic Substance in a Digital BEPS World - **Miranda Stewart**

OECD/United States - The Politics of BEPS – Apple’s International Tax Structure and the US Attitude towards BEPS - **Antony Ting**

Tax treaty case law monitor

Netherlands/Malta - Maltese Laws Held To Be Special Regime under Malta-Netherlands Income and Capital Tax Treaty (1977) - Hans Mooij

Articles

International - Report of the Proceedings of the Fifth Assembly of the International Association of Tax Judges (23-24 October 2014) - Della Bauserman, Maggie Stehn and Kathy L Lovett

Germany - Recent Developments Regarding German International Tax Law - Christian Kahlenberg

(2015) 63 (1) *Canadian Tax Journal*

<http://www.ctf.ca/CTFWEB/EN/Publications/CTJ_Contents/2015CTJ1.aspx>

J.L. Ilsley and the Transition to the Post-War Tax System: 1943-1946 — Colin Campbell

Warfare State, Welfare State, and the Selling of the Personal Income Tax, 1942-1945 — Shirley Tillotson

The Disjunction Between Corporate Residence and Corporate Taxation: Is Improvement Possible? — Geoffrey Loomer

Policy Forum: Effective Tax Rates for Multinationals—The Role of Tax Incentives and Tax Planning — W. Steven Clark and Alexander Kemm

Douglas J. Sherbaniuk Distinguished Writing Award / Prix d’excellence en rédaction Douglas J. Sherbaniuk

Canadian Tax Foundation Regional Student-Paper Awards / Prix régionaux du meilleur article par un étudiant de la Fondation canadienne de fiscalité

Finances of the Nation: Survey of Provincial and Territorial Budgets, 2014-15

Current Cases: (TCC) Devon Canada Corporation v. The Queen; (TCC) Henco Industries Limited v. The Queen; (TCC) J.K. Read Engineering Ltd. v. The Queen

International Tax Planning: Recommended Improvements to the Upstream Loan Rules — Personal Tax Planning: Testamentary Trusts: The New Rules

Planification fiscale personnelle: Fiducie testamentaire : Les nouvelles règles

Corporate Tax Planning: Paid-Up Capital Planning

Chodikoff, David W (ed) *Transfer pricing & tax avoidance*, London, Sweet & Maxwell, 2014, 585 pages

Cullen, Richard ‘Magna Carta - 800 Years on: a Sino-Euro reflection’, 7 June 2015

<http://researchblog.law.hku.hk/2015/06/richard-cullen-marks-800-years-of-magna_7.html>

European Taxation Number 7 - 2015

European Union - The End of Intra-Group Financing ... or Not Just Yet? – Part 1- Pascal Janssens, David Ledure, Bertrand Vandepitte and Jelle Loos
Italy - Implementation of the AIFM Directive in Italy – Overview of the Tax Implications - Francesco Mantegazza and Andrea Brambilla
Finland - Contemporary Transfer Pricing Case Law of the Finnish Supreme Administrative Court - Seppo Penttilä and Martti Nieminen
Netherlands/Spain - The Eighty Years' War, the Spanish Tax Lease System and Other Netherlands/Spanish Sea and Field Battles - Dick van Sprundel
EU update – Commission - Laura Ambagtsheer-Pakarinen; Court of Justice - Laura Ambagtsheer-Pakarinen
What's going on in ...
Germany - The German Silent Partnership - Marisa Lipp
Luxembourg - The New Luxembourg Tax Ruling Procedure - Patrick Mischo and Franz Kerger
United Kingdom - Finance Act 2015 - Douglas Roxburgh

International Transfer Pricing Journal Number 3 - 2015

International - Investigations by European Commission into Transfer Pricing Underlying Certain Tax Rulings in the European Union - Eduard Sporken and Yves Cattel
International - Transfer Pricing in a BEPS Era: Rethinking the Arm's Length Principle – Part I - Mirjam Koomen
International - Outcome Testing: Why Year-End Adjustments Cannot Be the First Choice to Bring Intercompany Margins to an Arm's Length Level - Frank Schoeneborn
United States - Allocation of Income and Deductions among Taxpayers under Section 482 of the United States Internal Revenue Code: Alerting the Courts to the Role of Contractual Interpretation Law in the Transfer Pricing Arm's Length Comparability Analysis - Amir Pichhadze
India/International - Prioritizing Transfer Pricing Methods: An Indian and Global Perspective - Ajit Kumar Jain
Recent developments
Australia - Advance Pricing Agreements - Anton Joseph
Germany - Permanent Establishment Regulations for Banks and Insurers - Ulf Andresen, Manuel Imhof and Yu Tao
Luxembourg - Impact of New Transfer Pricing Requirements - Marc Rasch and Pawel Wroblewski
Poland - Amended Thin Capitalization Rules - Krzysztof Lasiński-Sulecki
Russia - Transfer Pricing Guidance Issued by Ministry of Finance - Svetlana Stroykova
Singapore - Revised Transfer Pricing Guidelines - Vatika Bhatnagar
Spain - Proposal for Country-by-Country Reporting - Florentino Carreño and Miriam Sánchez-Briñas
Ukraine - Adoption of Substantial Amendments to Transfer Pricing Legislation - Joel Lachlan Cooper

James, Kathryn *The rise of the value added tax*, Cambridge, UK, Cambridge University Press, 2015 (Part of Cambridge Tax Law Series)

<<http://www.cambridge.org/ba/academic/subjects/law/taxation-law/rise-value-added-tax>>

Qiu, Dongmei (Doreen) & **Cullen, Richard** 'The Rule of Law in Chinese Tax Legislation - Some Remarkable Changes under the Revised Legislation Law', 17 March 2015

<<http://researchblog.law.hku.hk/2015/03/the-rule-of-law-in-chinese-tax.html>>

Schenk, Alan; Thuronyi, Victor & Cui, Wei *Value added tax: a comparative approach*, 2nd ed, Cambridge, UK, Cambridge University Press, 2015 (Part of Cambridge Tax Law Series)

<<http://www.cambridge.org/ba/academic/subjects/law/taxation-law/value-added-tax-comparative-approach-2nd-edition?format=PB>>

12 Quotable quotes

“Millions of people, not just Greek governments, played their part. Among the many examples: the Athens subway services a population of five million people but operates in a constant state of insolvency and subsidy because it uses an honour system, which is routinely dishonoured.

Then there are the swimming pools. According to tax records, the affluent suburbs of Athens had 300 swimming pools and the households paid a resulting luxury tax. When the tax department started using Google Earth, it discovered 20,000 pools. When word of Google Earth got out, there was a boom in sales of tarpaulins, to hide the pools rather than pay the tax.”

Source: Sheehan, Paul ‘Welcome to Grimbo: why Greece has passed the point of no return’, *Sydney Morning Herald* 6 July 2015 p 16-17, 17.
<<http://www.smh.com.au/comment/welcome-to-grimbo-why-greece-has-passed-the-point-of-no-return-20150705-gi5i71.html>>

Francis (Cont’d): Don’t be flattered that I’m familiar with your work. I read everything.

Zoe: I don’t doubt it. And yes, Metro is killing me.

Francis (considers for a moment): How exactly can I help you?

Zoe: The Administration’s legislative agenda.

Francis: I see.

Zoe: You must know.

Francis: I may.

Zoe: Immigration is too controversial. **Tax-reform isn’t sexy enough.** I’m thinking Education.

Francis: You very well might think that. I couldn’t possibly comment.

Zoe: All I need is a nod or a wink.

Source: *House of Cards*, NetFlix, Series 1, episode 1, 2012 <<http://genius.com/Beau-willimon-house-of-cards-chapter-1-annotated>>

“Referring to a nationwide vote on further economic reforms due to be held on July 5, Mr Varoufakis said: ‘To those who say that, effectively, this is a referendum on the euro, my answer is: You may very well say this but I shall not comment. This is your judgement, your opinion, your interpretation. Not ours!’

Did the Greek finance minister just quote House of Cards in Euro negotiations?

Frances Urquhart, the ruthless wannabe prime minister in the BBC’s original House of Cards drama, was famous for his plausible deniability catchphrase: ‘You might very well think that; I couldn’t possibly comment.’

Described as ‘the epitome of elegant evil’, the murderous politician isn’t necessarily someone Varoufakis wants to be associated with.”

Source: Wills, Rachel ‘Did the Greek finance minister just quote House of Cards in Euro negotiations?’ *Metro* 29 June 2015 <<http://metro.co.uk/2015/06/29/did-the-greek-finance-minister-just-quote-house-of-cards-in-euro-negotiations-5271410>>

“The report finds that so-called ‘sandstone’ universities are not the way to higher earnings.

Graduates of the lauded “Group of Eight” universities do not reap the biggest pay packets.

In fact, the report says that prestige belongs to newer institutions like La Trobe, James Cook, Griffith, Murdoch and Flinders universities.

The Group of Eight universities are Monash University, University of Melbourne, ANU, University of Adelaide, University of Western Australia, University New South Wales, University of Queensland and University of Sydney.”

Source: Colangelo, Anthony ‘What makes us happy? It’s not what you’d think’, *The New Daily*, 16 July 2015 <<http://thenewdaily.com.au/life/2015/07/16/booze-bachelorhood-things-make-us-happy>>

“The Abbott government should strike a quarter of a trillion dollar "grand deal" to increase the GST to 15 per cent and remove all exemptions, in return for personal income tax cuts and greater spending on pensions, health and education, the peak accountancy body says.

Ahead of a meeting between the Prime Minister and state premiers this week, new modelling by Chartered Accountants Australia New Zealand to be released on Monday reveals increasing the GST this way would raise \$256 billion over four years.

Households could then receive \$171 billion in permanent tax cuts, pension and welfare boosts to fully compensate low income households for the impact of higher prices.

This would leave \$94 billion to abolish inefficient state taxes and fix state and federal budgets.”

Source: Irvine, Jessica ‘Increase GST to 15 per cent and broaden to raise \$256 billion: accountants’, *Sydney Morning Herald* 20 July 2015 p 1, 6
<<http://www.smh.com.au/nsw/increase-gst-to-15-per-cent-and-broaden-to-raise-256-billion-accountants-20150719-gibmk6>>

“Tony Abbott has praised a “very sensible” proposal to increase the goods and services tax (GST) to help the states cover rising healthcare outlays, sparking a fresh political fight over the cost of living and election promises.

The prime minister signalled his support for the New South Wales premier, Mike Baird, to raise the idea of a 15% GST rate during a meeting of state, territory and federal leaders in Sydney later this week.

Abbott, who ruled out GST changes before the 2013 election, is overseeing tax and federation reform white paper processes that could pave the way for an overhaul to be taken to the next election.

...

Writing in the Australian newspaper on Monday, Baird said the “federal-state -financial system is in imminent danger of tumbling over a fiscal cliff” and budgets would be in deficit by \$45bn by 2030.

“The real issue is no longer who funds what health services, or who carries the greatest share. The fiscal reality is that all the resources of the commonwealth and the states, pooled together, can no longer fund health services to our current standard,” Baird wrote.

Former Liberal leader John Hewson, who pushed for a 15% GST in the early 1990s, has welcomed the “mature debate” on the range of tax options.

He particularly praised Baird for looking beyond the immediate political backlash likely to follow any proposal to increase GST, currently at 10%.

“We had this silly game about you go first, you blink first, and that is never going to lead to a substantial debate but at least Mike Baird has decided to lead it,” he told ABC TV on Monday.

...

Chris Richardson from Deloitte Access Economics said a surplus would never be achieved while politicians continued to exploit divisions.

“Short of believing in the tooth fairy, it’s hard to call any path back to surplus ‘credible’ unless and until you can see a similar credible path back to bipartisanship in Australia,” Richardson said. “Unless our politicians start agreeing fast, then our deficits will linger.”

Source: Medhora, Shalailah and Hurst, Daniel ‘Tony Abbott backs Mike Baird's call to raise GST to 15%’, *The Guardian Australia Edition* Monday 20 July 2015
<<http://www.theguardian.com/australia-news/2015/jul/20/tony-abbott-backs-mike-bairds-call-to-raise-gst-to-15>>

Rick Krever suggested the following:

“The award for best tax return ever goes to...
...a man from Evesham.

HMRC have returned a tax return to a man in Evesham after he ‘apparently’ answered one of the questions incorrectly.

In response to the question “do you have anyone dependent on you?” The man answered:

“2.1 million illegal immigrants, 1.1 million crack heads, 2.2 million unemployable Jeremy Kyle scroungers, 900,000 criminals in over 85 prisons, plus 650 idiots in Parliament, and the whole of the European commission.”

HMRC deemed this response as unacceptable.

To this, the man replied saying “who did I miss out?””

Source: Simple Tax <<https://www.gosimpletax.com/blog/best-tax-return-ever>>

“As NSW Premier Mike Baird sparked furious debate with a proposal to increase the GST rate to 15 per cent, the groups called for the tax reform debate to be held "in an open, inclusive and transparent way that does not rule out options because it is politically expedient to do so.”

"Reform will only happen if our political, business and community leaders take the long view and put the national interest first," they say.

Releasing a set of "key messages" for tax reform, the Australian Chamber of Commerce and Industry, Australian Council of Social Service and Business Council of Australia say all options should remain on the table and that "no change" is not an option.

They argue that the case for reform is "compelling" and that the tax system "must be assessed as a whole".

Australia's leaders should "work towards a tax system that raises the revenue governments need to provide services to the community in a way that supports a stronger economy and job creation, and is fair".

ACOSS chief executive Cassandra Goldie said Australian could no longer afford to avoid serious tax reform.

"If we postpone it until governments really do face a budget crisis the choices will be a lot tougher," she said.

"Experience shows us that tax and budget reform can be achieved, but it will require a degree of vision, consensus and bipartisanship, starting with our political leaders."

BCA chief executive Jennifer Westacott said the agreement between the business and community groups on the core principles for tax reform "provides our political leaders with a solid platform of consensus and support to take things forward".

Source: Nicholls, Sean 'Take politics out of tax reform, urge business and community groups', *Sydney Morning Herald* 21 July 2015 <<http://www.smh.com.au/federal-politics/political-news/take-politics-out-of-tax-reform-urge-business-and-community-groups-20150720-gigiyo.html>>

"But there's a big difference between tax design and tax reform, as the Harvard economist Martin Feldstein noted four decades ago. Tax systems can be designed on a blank sheet of paper. But tax reform has to be done in an existing political system, underpinned by existing political institutions, coordinated with existing political compromises, and against the backdrop of a welter of political interest groups with political influence and media friends.

...

The last real tax reform success was 15 years ago, when the Howard government introduced the GST. But that success is easy to overstate. Parliamentary negotiations meant that large swathes of consumer products now fall outside the GST net. The original intention was that states would eliminate stamp duties on mortgages and other loans. That didn't happen. And the way the GST is distributed means states bicker over their share and generally act like mendicant clients of an autocratic Commonwealth."

Source: Berg, Chris 'Hockey's 'grand deal on tax' is wishful thinking', *The Drum*, ABC TV, 21 July 2015 <<http://www.abc.net.au/news/2015-07-21/berg-hockeys-grand-deal-on-tax-is-wishful-thinking/6635462>>

ATTA News August 2015

<https://www.business.unsw.edu.au/about/schools/taxation-business-law/australasian-tax-teachers-association/newsletters>

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ATTA website: <https://www.business.unsw.edu.au/about/schools/taxation-business-law/australasian-tax-teachers-association>

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1 Presidential column

For those of us that prefer warmer weather, the first signs of Spring are appearing with early flower and bulbs indicating that we should soon have winter behind us. However, in parts of New Zealand at least, winter does not seem to be ready as yet to let go.

Turning the focus to work matters, I was recently appointed to my University's Human Ethics Committee. While my membership provides me with wonderful insights into the diversity of student and staff research, the drawback is the substantial amount of time involved in reviewing the applications that arrive in my email inbox almost on a daily basis. If you thought I may have had my 'fill of ethics', most probably when you are reading this newsletter I will be in the middle of marking substantial student projects on the subject of tax ethics!

Enough about my workload! This month's newsletter has an array of interesting and important information which Colin has assembled for us – thanks Colin. I would like to draw your attention in particular to the call for papers for the 2016 ATTA Conference. Registration is open for all but PhD students should wait for guidance in the near future concerning when they should register. If you have not done so already, please mark 20-22 January 2016 in your diaries and plan to be in Sydney.

Details of the OUP ATTA Doctoral Series are provided including a call for submissions. I am delighted that OUP is supporting this series through taking over from CCH. If you have recently completed or are near completion of your PhD/SJD, please carefully review the guidelines, which have been slightly revised since the most recent CCH ATTA Doctoral Series announcement in 2014. Importantly, please note the cut-off date for submissions is 30 November 2015.

As I have mentioned in an earlier column, there are numerous opportunities for members to be part of conferences and seminars that are scheduled in Australasia and further afield over the coming months. While I appreciate that financial and other circumstances put challenges in our way of participating in such events, the networking and contacts can prove to be invaluable in relation to our current and future research and teaching.

Adrian Sawyer

2 ATTA's 28th Annual Conference call for papers

Papers are invited to be submitted to the upcoming Australasian Tax Teachers' Association's 28th Annual Conference. The theme of the conference is "Tax and Time Travel: Looking Backwards and Looking Forwards" and papers are invited to be submitted that explore the future of tax law and policy in the light its development to date.

The conference will be hosted by the UNSW School of Taxation and Business Law and will be held at UNSW Kensington Campus from 20th to 22nd January 2016.

Papers on the conference theme are strongly encouraged; although the submission of papers on any aspect of taxation is welcome. Also, papers that explore the scholarship of tax teaching and learning are invited. Current PhD students are encouraged to submit an abstract as there will be special mentoring workshops for them. There will be prizes for best tax research paper, best tax teaching presentation and best PhD student paper.

The template for abstracts can be found at:

www.business.unsw.edu.au/2016atta

Abstracts of no more than 500 words should be emailed to Maree Magafas at m.magafas@unsw.edu.au by Friday 25th September 2015.

Registration will open soon and there are a number registration options including:

- Super Early Bird: \$460 (3 day conference attendance with welcome drinks and dinner)
Registration and payment due by 30 Sept 2015
- Early Bird: \$510 (3 day conference attendance with welcome drinks and dinner) Registration and payment due by 13 December 2015
- Full Fee (after 13 December 2015): \$560 (3 day conference attendance with welcome drinks and dinner)
- PhD Students (Full time): \$360 (3 day conference and dinner attendance) - (note PhD students are recommended not to formally register until the PhD scholarships are determined)
- ATO rate: \$360 (Days 2 and 3 conference attendance)
- Industry: \$175 (Day 2 conference attendance with morning and lunch)
- Dinner only: \$160 (Day 2 conference dinner)

If you have any questions please contact Maree Magafas at m.magafas@unsw.edu.au, +61 (2) 9385 9549 or visit the conference website at: www.business.unsw.edu.au/2016atta

3 OUP ATTA Doctoral Series 2015

We are pleased to announce that Oxford University Press Australia and ATTA will provide the opportunity to publish a book based upon a thesis in the OUP ATTA Doctoral Series. Expressions of interest are therefore called for doctoral submissions to be considered for the sixth publication in the Series. The Series was previously sponsored by CCH, and past authors have included Lisa Marriott, Brett Freudenberg, John Bevacqua, Fiona Martin and Theuns Steyn.

Applicants need to follow the guidelines listed below which have been agreed to by the Doctoral Series Editorial Board (DSEB), consisting of Professors Adrian Sawyer, Kerrie Sadiq and Dale Pinto.

1. To be eligible for submission for possible publication in the OUP ATTA Doctoral Series, a doctoral thesis must be at least at the stage of having been approved for award of the degree, but need not be awarded at the time of submission.
2. To be eligible, the academic must be affiliated with an Australian or New Zealand University. The content should relate to any taxation topic with particular relevance to Australia and/or New Zealand.
3. Submissions must be made to the DSEB by the relevant cut-off date for a year to be considered for possible publication in the series in that year. For 2015, the cut-off date is 30 November 2015. The successful applicant will be announced at ATTA in January 2016.

4. Theses from any period will be considered by the DSEB for possible publication in the series. However, the currency, relevance and topical interest of the thesis will be among the considerations taken into account by the DSEB in selecting a thesis for possible publication.
 5. If a thesis which is submitted by an author needs to be updated/edited in the view of the DSEB then the author undertakes to carry out any updates/edits to the satisfaction of the DSEB within time frames which the DSEB specifies.
 6. Doctoral submissions may include PhD or SJD theses which have been through the examination process.
 7. The DSEB may decide not to publish any submissions received in a particular year. There will not be more than one winner in any year.
 8. Any publication is subject to a contractual agreement between the author and OUP and will be subject to OUP's standard approval processes including approval by the Delegates of the Press.
 9. The decisions of the DSEB are final and no correspondence will be entered into.
- Please send submissions on or before the 2015 cut-off date of 30 November 2015 to Professor Dale Pinto (dale.pinto@cbs.curtin.edu.au). The submission should include:
- a) a copy of the thesis
 - b) a brief statement on the status of the award (whether awarded or approved)
 - c) details of the supervisors of the degree and
 - d) copies of the examiners' formal reports on the thesis.

The Doctoral Series Editorial Board

4 Arrivals, departures and honours

Now that GST has been implemented in Malaysia, **Christine Peacock** (formerly RMIT) has finished her appointment at KPMG Malaysia and is continuing to gain international VAT/GST experience. She is now in Amsterdam, working as a Senior VAT specialist in the VAT topical team at the IBFD. Her email address is peacock.c.a@gmail.com. She has resigned from her involvement with the *Australian GST Journal*. Enquiries about the journal can be directed to agstj@thomsonreuters.com

The School of Taxation and Business Law, UNSW will be hosting Mr **Jeremy Sherwood** from HMRC, UK from 12 October until 12 December 2015.

Going...going...but not quite gone

On 21 August **Chris Evans** will formally retire from his full time position at UNSW. But he returns to UNSW on a fractional (0.25 FTE) contract in October, and has also accepted a similar fractional appointment at the University of Pretoria, South Africa. In addition he retains visiting appointments at Monash, Exeter, Oxford and Vienna universities and is working for the World Bank on capital gains tax reform in Pakistan. He is also continuing as General Editor of *Australian Tax Review*, along with Kerrie Sadiq and Dale Pinto who are Associate Editors of the journal. Doesn't sound much of a retirement, although none of the work is likely to be happening on cricket Test match days.

5 New Zealand developments

Noteworthy activity over the past month in New Zealand includes:

- The signing of a DTA between New Zealand and Samoa on 8th July 2015. This DTA replaces the tax information exchange agreement that is currently in place. New Zealand is Samoa's second largest trading partner. The agreement is expected to come into force later in 2015.
- There are a number of Inland Revenue draft Standard Practice Statements out for consultation at present that outline how the Commissioner of Inland Revenue will exercise a statutory discretion. These include:

- Relief from repayment obligations for student loans (ED 176)
- Writing off outstanding tax (ED 174)
- Instalment arrangements for payment of tax (ED 173)
- Remission of penalties and use-of-money interest (ED 172)
- An exposure draft on the exclusion from fringe benefit tax of car parks provided on an employer's premises. Current practice is that car parks owned or leased by employers qualify as 'on-premises' and are excluded from fringe benefit tax.

Lisa Marriott

6 Research in Fiscal Accountability PhD Scholarship

This scholarship is for PhD studies in the field of fiscal accountability within a human rights framework. We're looking for an outstanding student to undertake a PhD in the field of accounting and auditing for corporates during social change.

Available for

You have to be applying for a QUT course to apply for this scholarship.

Student type: Future domestic research students

Future international research students

Study type: Postgraduate research

Faculty/area: Business

Eligible courses: IF49

Application dates Open date: 15 July 2015

Eligibility details

You must:

meet the entry criteria for our PhD

- be planning to research in the field of fiscal accountability within a human rights framework
- have an outstanding academic record
- have a background in accounting or business law
- demonstrate good communication skills and leadership potential.

What you receive

You'll receive:

a tax-free scholarship of \$26,000 a year for 3 years, paid as a fortnightly stipend up to \$6,000 for research costs such as conferences, overseas study and minor expenses over the course of your degree.

How to apply

You must apply for a PhD at QUT and indicate on your course application that you want to be considered for this scholarship. Your PhD application will include a research proposal, which we'll review when we assess applications.

How to apply for a research degree

You must apply by:

31 October 2015 for domestic students

31 August 2015 for international students.

What happens next

We'll assess applications based on the research proposal you've submitted as part of your application, looking for potential benefits of your research to industry.

You may be invited to attend an interview with our selection panel. You can do a telephone or video conference interview if you live overseas.

We'll select the successful applicant based on the outcome of the interview and the strength of their proposed research. If there are no suitable applicants, we reserve the right to not award the scholarship. If you're awarded the scholarship, you'll be an ambassador for QUT, and you may be required to give presentations to industry.

Background

The Research in Fiscal Accountability PhD Scholarship has been established as a result of the internationally recognised research being undertaken by a group of leading researchers in this area.

This scholarship is for PhD studies in the field of fiscal accountability within a human rights framework.

Tax revenue is an essential element for developing countries to attain self-reliance and provide sufficient funds for public services like health and education. Tax plays a fundamental role in addressing inequality and shaping accountability of governments. It's been acknowledged that while tax can build accountability, its exploitation can foster widespread human rights abuses.

Using a human rights framework, and examining the relationship of citizens (rights-holders) and government (duty-bearers), your thesis will consider the interaction between human rights and government accountability and responsiveness in matters of fiscal policy.

<<https://www.qut.edu.au/study/fees-and-scholarships/scholarships-and-prizes/research-in-fiscal-accountability-phd-scholarship>>

For further details please contact:

Professor Kerrie Sadiq

School of Accountancy | Queensland University of Technology | www.bus.qut.edu.au

Phone: 07 3138 4236| Fax: 07 3138 1812|Email: kerrie.sadiq@qut.edu.au|

7 Vacancies

University of Auckland

Professor of Taxation, Auckland City Campus, Close date 31/08/2015

The University of Auckland Business School invites applications for a Professor of Taxation in the Department of Commercial Law. The position is intended for candidates with leadership experience, a relevant PhD and an international research portfolio. The candidate must demonstrate a strong commitment to excellence in research in taxation and will be able to demonstrate excellence in the teaching at undergraduate and postgraduate levels. Evidence of leadership in research, a significant international standing, high quality teaching and supervision at PhD level is required. Ideally, in addition to research and teaching in taxation law, the candidate would also be researching, teaching and supervising in company law.

<https://www.opportunities.auckland.ac.nz/psp/ps/EMPLOYEE/HRMS/c/HRS_HRAM.HRS_CE.GBL?languageCd=ENG>

8 Recent Federal Court of Australia tax cases

The last month of Federal Court cases on tax and related matters, from 15 July to 14 August 2015 with the catchwords taken from the Federal Court website. For the full cases check the FCA website search engine here (<http://www.fedcourt.gov.au/publications/judgments/search#legislation>) or Google the case names.

Rigoli v Commissioner of Taxation [2015] FCA 803

Pagone J, 7 August 2015

Income Tax - default assessment – where taxpayer failed to lodge tax returns – expert report prepared for Commissioner to determine financial affairs of partnership of which taxpayer was partner – whether taxpayer able to rely on expert report to establish that assessment excessive – burden of proof on taxpayer – whether Tribunal erred in not finding that taxpayer could rely on expert report to establish taxable income – probative value of expert report.

Davies v Deputy Commissioner of Taxation [2015] FCA 773

Perram J, 31 July 2015

Taxation - employee share schemes – when shares and options were to be brought to tax – whether s 83A-15 of the Income Tax (Transitional Provisions) Act 1997 (Cth) operated where right was merely contingent – whether contingent right to acquire shares can be said to have become a right to acquire shares upon satisfaction of contingency.

12 Years Juice Foods Australia Pty Ltd v Commissioner of Taxation [2015] FCA 741

Edmonds J, 24 July 2015

Taxation - Protected Information – Division 355 of Schedule 1 to the Taxation Administration Act 1953 (Cth) – notice to produce – where taxpayer seeks production of documents relied upon by

Commissioner of Taxation to issue notices of assessment – whether documents contain protected information and therefore unlawful for taxation officer to disclose information pursuant to s 355-25 – whether production of documents by taxation officer containing protected information pursuant to a notice to produce within a lawful exception of s 355-50 – whether documents sought to be produced respond to the notice to produce.

John Passant

9 Tax and related meetings

Local

The **School of Taxation and Business Law**, UNSW will host the following scholars as part of its 2015 research fellowship program:

Dr Benjamin Kujinga, University of Pretoria, South Africa. Dr Kujinga will speak on '**A comparative study of GAARS**' 1 October 2015. Venue and time TBA

Jeremy Sherwood, HM Revenue and Customs, UK, November 2015. Details of his public lecture will be advised closer to the date.

Another Taxation and Business Law Research seminar will be Prof John Taylor - 24th August. '**Tax me if you can: Comparing the UK's Diverted Profits Tax and Australia's proposed tax law integrity multi national avoidance law**', Venue TBA

Jeremy Sherwood from HMRC, UK will be presenting a '**Thought Leadership**' lecture dealing with the UK's experience with Tax Simplification and on issues concerning Tax Simplification more generally on 5 November. Further details will be provided closer to the date.

Tax and Transfer Policy Institute, Crawford School of Public Policy will focus on the economics and law design of **Australia's Future GST in the Real World**, at a conference to be held on Wednesday 16 September 8.30 - 5pm (previously scheduled for 26-27 August). Further details and a program <<https://taxpolicy.crawford.anu.edu.au/events/6046/future-australias-gst-good-design-real-world>>

Tax and Transfer Policy Institute, Crawford School of Public Policy International Visitor Seminar, Dr Sacchidananda Mukherjee will present on **GST reform in India**, on Wednesday 26 August 2015, 3 - 4.30pm at Crawford School. Further details and event registration are <<https://taxpolicy.crawford.anu.edu.au/events/6041/tax-reform-india>>

Tax and Transfer Policy Institute, Crawford School of Public Policy will also host leading public economist Professor Clifford Winston, Senior Fellow of the Brookings Institution in the US, jointly with the Centre for Applied Macroeconomic Analysis (CAMA). Professor Winston is the keynote speaker for our event **Roads, cars and taxes on congestion, transport regulation, car parking and other road user charges**, on Wednesday 9 September 2015, 3.30pm - 5.30pm. We will also have Australian panellists Dr Mark Harrison, ANU and Dr Elizabeth Taylor, RMIT. Further details and event registration is <<https://taxpolicy.crawford.anu.edu.au/events/6024/roads-cars-and-taxes>>

KPMG Tax is sponsoring in association with the Tax Institute, the **AFR Tax Reform Summit**, 22-23 September 2015, the InterContinental, Sydney. The Summit features speakers and panel members, including the Hon Joe Hockey MP, the Hon Chris Bowen MP, Phil Edmands, MD, Rio Tinto and Michael Andrew, Chair, Board of Taxation, as well as Peter Nash, Grant Wardell-Johnson, Brendan Rynne and Kate Law from KPMG. Roundtable discussions on a variety of interesting and important issues will be conducted, including tax transparency, complexity and compliance, state taxation and the Federation, consumption tax, and the tax treatment of savings. Other speakers include ATTA members Profs Miranda Stewart, Richard Vann and Rebecca Millar. Registration after 31 July 2015 \$A3294.50 <<http://www.informa.com.au/conferences/financial-services-conference/afr-tax-reform-summit>>

The **Global Conference on Environmental Taxation**, University of Technology, Sydney, Sydney, Australia 23-26 September 2015. Theme for the Conference is *Green Fiscal Reform: Protecting our Natural Resources for a Sustainable Future*. Note:

Wednesday 23 September 2015 will be an afternoon session open to everyone with PhD candidate presentations only.

Saturday 26 September 2015 will be a morning session open to everyone that will focus on evaluation frameworks for environmental taxes and concessions.

<<http://www.uts.edu.au/research-and-teaching/our-research/law-research-centre-p2/resources/upcoming-academic-conferences-1>>

ATTA's **28th Annual Conference** will be hosted by the University of New South Wales School of Taxation & Business Law, 20th to 22nd January 2016. The theme of the conference is *Tax and Time Travel: Looking Backwards and Looking Forwards*. The conference will celebrate 28 years of ATTA in Australasia. Further information about the conference is included above in this newsletter. If you have any questions please contact John Taylor at c.taylor@unsw.edu.au or <www.business.unsw.edu.au/2016atta>

The **Tax Institute's** website www.taxinstitute.com.au lists many conferences, conventions, seminars, and breakfast clubs. For further enquiries, contact Phillipa Cardigan (02) 8223 0045 or email phillipacardigan@taxinstitute.com.au or register online at www.taxinstitute.com.au

Call the National Events team on 1300 733 842 for more details.

Please contact the National Events Team on 1300 733 842 or by email, nationalevents@taxinstitute.com.au Follow us on Twitter @TaxInstituteOz.

Danielle Thurston, Event and Member Services Executive The Tax Institute Phone: 02 8223 0000; Direct: 02 8223 0014 Fax: 02 8223 0077 daniellethurston@taxinstitute.com.au

Overseas

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

Canadian Tax Foundation <http://www.ctf.ca/ctfweb/en>

Institute for Fiscal Studies Conferences and seminars <http://www1.ifs.org.uk/conferences/index.shtml>

Institute for Austrian and International Tax Law 2015 events:

The topics of the seminar sessions and other events can always be found at www.wu.ac.at/taxlaw. Please see our website for most up-to-date information on them.

International Bureau of Fiscal Documentation. Various courses in Amsterdam, the Netherlands or in Malaysia or elsewhere. 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

For courses go to <http://www.ibfd.org/Training>

IBFD International Tax Courses - A selection of related courses in 2015

Principles of Transfer Pricing 12-16 October 2015 (NL)

Transfer Pricing Risk Management: Implementation and Monitoring 5-6 November 2015 (NL)

Principles of Transfer Pricing 15-17 November 2015 (AE)

Transfer Pricing and Intangibles 19-20 November 2015 (NL)

Transfer Pricing and Attribution of Profits to Permanent Establishments 16-18 December 2015 (NL)

More international tax courses

Tax Planning and Corporate Taxation US Corporate Taxation 9-11 September 2015 (NL)

International Taxation of Banks and Financial Institutions 16-18 September 2015 (NL)

Tax Planning and Substance 21-22 September 2015 (NL)

Base Erosion and Profit Shifting 14-16 October 2015 (ZA)

Tax Treaties

International Taxation of Oil and Gas and Other Mining Activities 20-23 October 2015 (SG)

Tax Treaties - Selected Issues 28-30 Oct 2015 (NL)

Principles of International Taxation 16-20 November 2015 (KL)

Indirect Taxation

European Value Added Tax - Selected Issues 5-7 October 2015 (NL)

European Value Added Tax Workshop 12-13 November 2015 (NL)

For entire course portfolio, see < http://www.ibfd.org/Training/Find-course?utm_source=course-promo-april&utm_medium=email&utm_campaign=ITA0520-04-2015&utm_content=Course-finder>

IBFD and GTS 4th International Tax Conference, 10 and 11 September 2015, Beijing, China

<http://www.ibfd.org/IBFD-Tax-Portal/Events/4th-International-Tax-Conference?utm_source=may-newsletter&utm_medium=email&utm_campaign=AP28-05-2015%20&utm_content=4th-International-Tax-Conference>

Renovating the Hong Kong Revenue Regime: the Local, Cross-Border & International Contexts,

Taxation Law Research Programme, University of Hong Kong – International Conference - Saturday, 31 October 2015

Overview

Hong Kong has developed, over decades, a Revenue Regime (RR) that is astonishing for its simplicity, stability and adequate resourcing of public services – not least when compared to other developed jurisdictions, most of which need to cope with entrenched, far more complex tax systems. Articles 106-108 of the Basic Law of the Hong Kong Special Administrative Region (HKSAR) also direct that these fundamentals of the RR should be retained. The system's long history of satisfactory performance, however, does not imply or guarantee future fitness. More than ever, we need to understand the strengths and weaknesses of the RR.

Increasingly, the Hong Kong RR operates within the context of policy-shaping interaction both with the Mainland China Tax System and the International Tax System. For example, there are conspicuously increased calls, on the HKSAR, for detailed exchange of tax-related information and the Base Erosion and Profit Shifting (BEPS) Project initiated within the influential Organization of Economic Cooperation and Development (OECD) is aimed at re-setting the International Tax System agenda.

The HKSAR government has begun to pay notably greater attention to the need address a range of longer-term livelihood issues. Policy areas of concern include: tackling poverty and inequality; the housing (and livelihood) aspirations of Hong Kong people; ensuring proper welfare support for an ageing population and addressing an array of significant environmental (and energy) concerns. Initiatives aimed at addressing each of these challenges will require significant public expenditure backed up by a sustainable RR.

The RR will also need: to support and further develop the full span of Hong Kong's first-rate general infrastructure; to meet and respond well to the growing economic - and fiscal – interaction with Mainland China; and to respond effectively to international economic and fiscal developments – arising from the BEPS Project, for example.

Further info at:

<http://www.law.hku.hk/aiifl/taxation-law-research-programme-tlrp/>

Registration is free. Those attending do need to make their own travel and accommodation arrangements, however.

For registration, please email Flora Leung at: fkleung@hku.hk

Richard Cullen (Director of the TLRP) is happy to answer any questions about the Conference - he can be contacted at: richard.cullen@gmail.com

International Conference of Chinese Tax and Policy, Xiamen University, Xiamen, China 12-13

December 2015 and jointly organised by The University of Sydney Business School

(<http://sydney.edu.au/business>), the Journal of Chinese Tax and Policy

(<http://sydney.edu.au/business/research/journals/jctp>), the Department of Public Economics of Xiamen

University (<http://czz.xmu.edu.cn/user/index.asp>) and the Taxation Law and Policy Research Institute of Monash University (<http://www.buseco.monash.edu.au/blt/tlpri/>).

The conference theme: Individual Income Tax Reform in China. All accepted papers have the priority to be selected for publication in the *Journal of Chinese Tax and Policy*, subject to an international blind peer-review process.

International Fiscal Association Congresses <http://www.ifa.nl/pages/default.aspx>

2015 **Basel, Switzerland** (30 August 2015 - 4 September 2015) www.ifabasel2015.com

Topics under consideration as Subjects 1 and 2 of the Congress are "The use of tax measures in the area of research and development (R & D)" and "Taxation and fundamental rights: taxpayers' procedural rights in a globalised world"

2016 **Madrid, Spain**

2017 **Rio de Janeiro, Brazil**

2018 **Seoul, Korea, Rep of**

2019 **London, United Kingdom**

International Atlantic Economic Society (IAES) conference 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

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

Other useful tax and law related conference websites include the International Bar Association:

http://www.ibanet.org/Conferences/conferences_home.aspx

IBFD Course calendar

<http://www.ibfd.org/portal/app?bookmarkablePage=org.ibfd.portal.presentation.TaxCourses>

International Events and Law Conferences

<http://internationaleventsandlawconferences.yolasite.com>

Conferences in Australia <http://www.conferencealerts.com/country-listing.php?page=1&ipp=All&country=Australia>

New South Wales Bar

Association http://www.nswbar.asn.au/docs/professional/prof_dev/CPD/programme/index.php

Law Council of Australia <http://www.lawcouncil.asn.au/lawcouncil/index.php/conferences>

Practising Law Institute <http://www.pli.edu/>

New York County Lawyers Association <http://www.nycla.org>

American Bar Association Taxation CLE topics

http://www.americanbar.org/cle/cle_courses_by_topic/taxation.html

New York Bar Association <http://www.nysba.org/>

Hieros Gamos Worldwide Law Events Calendar <http://www.hg.org/legal-events.asp>

For Australian ones <http://www.hg.org/legal-events-australia.asp>

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 ATTA people in the media

Martin, Fiona

Christodoulou, Mario and Long, Stephen 'Andrew 'Twiggy' Forrest's charities weighed down by Fortescue's falling share price', ABC News *Four Corners* 27 July 2015

<<http://www.abc.net.au/news/2015-07-27/andrew-forrest-charities-slump-with-iron-ore-price/6648474>>

Passant, John

ABC Sunshine Coast radio in defence of penalty rates on 7 August. A draft Productivity Commission Report to the government recommends enterprise contracts could be the way forward when it comes to future work arrangements. The proposal could spell the end of penalty rates. John Passant is a former tax lecturer and Assistant Commissioner of Taxation in charge of international tax reform in the ATO. He tells Annie Gaffney why the idea is Work Choices in a different guise.

<<https://soundcloud.com/abc-sunshine-coast/penalty-rates-cut-or-keep>>

A link to Megan Doherty's article 'Who are they? The Canberra Times' letters to the editor writers show us the faces behind the names' on 14 August, including some comments from John Passant.

<<http://www.canberratimes.com.au/act-news/who-are-they-the-canberra-times-letters-to-the-editor-writers-show-us-the-faces-behind-the-names-20150702-gi3i6t.html>>

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

(2015) 15 (2) *Australian GST Journal*

Article - GST treatment of commercial and Islamic banking – Rengasamy Thambu Doraisamy
Case note – Rio Tinto Services Limited: No input tax credit relief – Gina Lazanas and Robyn Thomas
GST update - Be reasonable – Apportion it my way – Chris Sievers

(2015) 44 (3) *Australian Tax Review*

Editorial - Time for another tax rethink?
Australian international taxation of attributed trust gains – Mark Brabazon
Tracking down stamp duty avoidance – do Western Australia’s general antiavoidance rules capture tracking notes? – Jared Clements and Matthew Plint
Unit Trend: It’s not just about GST – Nick Gangemi
Case notes
ATS Pacific Pty Ltd v FCT – **Kathrin Bain**
Lighthouse Financial Advisers (Townsville) Pty Ltd v FCT – **Kathrin Bain**

Bevacqua, John ‘ATO Accountability and taxpayer fairness: an assessment of the proposal to split the Australian Taxation Office’ (2015) 38 *University of New South Wales Law Journal* 995-1014

‘Christine Forster stars in Snoop Dogg parody video demanding Tony Abbott axe the tampon tax’, *Daily Life* 11 August 2015 < <http://www.dailylife.com.au/dl-people/dl-entertainment/christine-forster-stars-in-snoop-dogg-parody-video-demanding-tony-abbott-axe-the-tampon-tax-20150810-givooz.html>>

Freebairn, John; **Stewart, Miranda** & Liu, Pei Xuan ‘Reform of state taxes in Australia: rationale and options’, Melbourne School of Government, University of Melbourne, 25 July 2015 < <https://s3.amazonaws.com/msog-production/assets/files/000/000/323/original/MSoG-StateTaxes6.pdf?1437621474>>

(2015) 21(2) *New Zealand Journal of Taxation Law and Policy*

Adrian Sawyer and **Lin Mei Tan**, “Editorial”

Rob Vosslander, “‘Removing a Parasitic Element’: Speculation, Housing Affordability and the 1973 Property Speculation Tax”

Nthathi Rametse, “Measuring the Costs of Implementing the Former Carbon Tax for Australian Liable Entities”

Dylan Hobbs and **Lisa Marriott**, “The Value of a Financial Transactions Tax in New Zealand”

Andrew Smith, “The Australian Non-Commercial Loss Rules: Are Similar Rules Warranted in the New Zealand Income Tax Act?”

Seymour, Elen and Nehme, Marina ‘The ACNC, The Senate, The Commission of Audit and the not-for-profit sector’ (2015) 38 *University of New South Wales Law Journal* 1186- 1214

Tax reform: KPMG's submission to Treasury, July 2015, 79 pp;

<<http://www.kpmg.com/AU/en/IssuesAndInsights/ArticlesPublications/tax-reform/Documents/tax-reform-kpmg-submission-to-treasury-july-2015.pdf>>

(2015) 86 *Taxation Today* (August)

- Spotlight Shines on Property Opportunists - Phil Barlow and Shelley-Ann Brinkley
- The Distinction between Tax Avoidance and Tax Evasion [Part 2] - James Mullineux

Overseas

Bhandari, Monica *Overpaid tax*, Oxford, Hart, 2015, Paperback 9781841139661, £75.00

British Tax Review Number 3 2015

Introduction to the Special Issue on the OECD Base Erosion and Profit Shifting Action Plan and European Union Law

The BEPS Action Plan in the light of EU law - Wolfgang Schön and Philip Baker

BEPS Action 1: Digital Economy—EU Law Implications - Joachim Englisch

BEPS Action 2: 2014 Deliverable—Neutralising the Effects of Hybrid Mismatch Arrangements and its Compatibility with the Non-discrimination Provisions in Tax Treaties and the Treaty on the Functioning of the European Union - Alexander Rust

EU Law Compatibility of BEPS Action 2: Neutralising the Effects of Hybrid Mismatch Arrangements - Marjaana Helminen

The Role of CFC Rules in the BEPS Initiative and in the EU - Ana Paula Dourado

Limitations on Interest Deduction: an EU Law Perspective - Sjoerd Douma

Will the EU's State Aid Regime Survive BEPS? Raymond HC Luja

Tax Rulings and State Aid Law - Michael Lang

The Impact of BEPS on the Fight Against Harmful Tax Practices: Risks ... and Opportunities for the EU - Edoardo Traversa and Alessandra Flamini

The BEPS Action Plan in the Light of EU Law: Treaty Abuse - Philip Baker

Transfer Pricing Issues of BEPS in the Light of EU Law - Wolfgang Schön

Multilateral Instrument and EU Competence - Rudolf Streinz

Conclusion of the BEPS Multilateral Instrument and Distribution of Competences between the EU and its Member States - Adam Zalasiński

Book Reviews

Bulletin for International Taxation Number 8 - 2015

Tax treaty monitor - International/OECD - Emissions Trading and Tax Treaties - Roland Ismer and Manuel Haussner

International - Location-Specific Advantages: When and How They Should Be Allocated - Sunny Bilaney

European Union/Netherlands - The Effect of Taxation on Business Mobility in the European Union: The Case of the Netherlands - Loes Brilman

Brazil - The Brazilian Tax Implications of Cross-Border Remittances Arising from International Cost-Sharing Arrangements - Leonardo Freitas de Moraes e Castro

Netherlands - Housing Taxation: The Special Case of the Netherlands - Sigrid Hemels and Anneke Monsma

Poland - New Polish Controlled Foreign Company Rules - Filip Majdowski and Weronika Missala

International/OECD/Zambia - Bittersweet (Tax) Symphony - Li Shao Wu

Elliott, Steven; Häcker, Birke & Mitchell, Charles (ed) *Restitution of overpaid tax*, Oxford, Hart, 2013

1. Introduction - Steven Elliott, Birke Häcker and Charles Mitchell

Section II. English law

2. Overpaid Taxes: A Hybrid Public and Private Approach - Rebecca Williams

3. Mistaken Payments of Tax - Duncan Sheehan

4. Restitution from Public Authorities: Any Room for Duress? Nelson Enonchong

5. Reasons for Restitution - Charlie Webb

6. Restitutionary Claims by Indirect Taxpayers - Charles Mitchell

7. Property, Proportionality, and the Change of Position Defence - Niamh Cleary

8. Undoing Transactions for Tax Purposes: The Hastings-Bass Principle - Monica Bhandari

Section III. European law

9. Judicial Techniques in Relation to Remedies for Overpaid Tax - Catherine Barnard and Julian Ghosh

10. The Principle of Effectiveness and Restitution of Overpaid Tax - Maximilian Schlote

Section IV. Comparative law

11. Absence of Basis: A German Perspective - Anne Sanders

12. 'Public Law Restitutionary Claims': The German Perspective - Birke Häcker

13. Overpaid Taxes and Constitutional Redress in Ireland - Niamh Connolly

14. Restitution of Overpaid Tax in Canada - Robert Chambers

15. Restitution of Unlawfully Exacted Tax in Australia: The Woolwich Principle - Simone Degeling

Derivatives & Financial Instruments Number 4 - 2015 contains

New Zealand - Update on BEPS and FATCA - **Adrian Sawyer**

Singapore - Taxation of Hybrids: A Singaporean Perspective - Paul Lau

International - Developments in Funds Passporting Schemes in Asia - Irving Aw
China (People's Rep) - Stock Connect Programme: The Open Sesame to a Strong Chinese Capital Market - Ching-luen (Moya) Wu
Australia - BEPS, Hybrid Entities and Financing - Anton Joseph
China (People's Rep) - Distinctions between Chinese Rules on Hybrid Instruments and the OECD Approach under the BEPS Initiative - Jieyin Tang
Indonesia - BEPS Effects in Indonesia - Freddy Karyadi and Chaterine Tanuwijaya

Harding, Matthew; **O'Connell, Ann** and **Stewart, Miranda** (eds) *Not-for-profit law: theoretical and comparative perspectives*, Cambridge, Cambridge University Press, 2014

Introduction: theoretical and comparative perspectives on not-for-profit law Matthew Harding, **Ann O'Connell** and **Miranda Stewart**

Part I. Politics:

1. Philanthropy's function: a neo-classical reconsideration - Rob Atkinson
2. Archimedes, Aid/Watch, constitutional levers and where we now stand - Matthew Turnour and Elizabeth Turnour
3. Dilemmas in regulating electoral speech of non-profit organisations - Nina J. Crimm and Laurence H. Winer

Part II. Charity:

4. Charity law: 'no magic in words'? GE Dal Pont
5. The role of fiscal considerations in the judicial interpretation of charity - Adam Parachin
6. Charities Act 2011: dog's breakfast or dream come true? A case for further reform - Hubert Picarda
7. Convergence and divergence with the common law: the public benefit test and charities for indigenous peoples - **Fiona Martin**
8. The history and future of the definition of charity in Australia - Joyce Chia

Part III. Taxation:

9. The tax treatment of charitable contributions in a personal income tax: lessons from theory and Canadian experience - David G Duff
10. The boundaries of charity and tax - **Miranda Stewart**
11. Recent developments in charity taxation in the UK: the law gives and the law takes away -Debra Morris
12. Not-for-profit tax reform in Australia: opportunities and challenges - **Ann O'Connell** and John Emerson

Part IV. Regulation:

13. The fault line of charity - Jonathan Garton
14. Three challenges in charity regulation: the case of England and Wales - Christopher Decker and Matthew Harding
15. Appealing the regulator: experience from the Charity Tribunal for England and Wales - Alison McKenna
16. Are we there yet? Myles McGregor-Lowndes

International VAT Monitor Number 4 - 2015

Turning VAT Inside Out - Gorka Echevarría Zubeldia

The Interaction between Head Office, Branch and VAT Grouping: New Challenges Ahead for the European Union - Rahiela Abdoelkariem and Frank Prinsen

The Place of Supply of Admission to Scientific and Educational Events within the European Union - Christian Amand

Japan Consumption Tax on Cross-Border Supplies of Services - Yuki Nishida

VAT's Superiority: Is the Emperor Dressed like Adam? Robert F van Brederode and Sebastian Pfeiffer

Taxation of Goods and Services in Pakistan - Bilal Hassan

What's in a Name? Prepayments, Deposits, Vouchers and Options - **Richard Krever**

VAT news - Reports from: Argentina, Armenia, Australia, Austria, Bahamas, Bangladesh, Belgium, Bosnia and Herzegovina, Brazil, Bulgaria, Canada, Chile, China (People's Rep.), Colombia, Croatia, Denmark, European Union, Finland, Georgia, Greece, Guinea-Bissau, Hungary, India, Italy, Kyrgyzstan, Morocco, Norway, Pakistan, Paraguay, Peru, Poland, Puerto Rico, Seychelles, Slovak Republic, Slovenia, South Africa, Spain, St. Lucia, Swaziland, Sweden, and United States.

VAT case notes - Case notes from: Austria, Canada, Finland, Nigeria, Poland, Russia, Sweden and United Kingdom.

Syngé, Mary *'New' public benefit requirement: making sense of charity law?* Oxford, Hart, 2015, Hardback, July 2015 9781849465939, £60.00; ePub August 2015 9781509901548, £59.99; Adobe PDF ebook August 2015 9781509901531, £59.99; Library ebook 9781509901531

United Nations Handbook on selected issues in protecting the tax base of developing countries, Dept of Economic & Social Affairs, Financing for Development, 2015
< <http://www.un.org/esa/ffd/publications/handbook-tb.html>>

Virgo, Graham 'Restitution of overpaid tax' (2015) 74 *Cambridge Law Journal* 173-175

World Tax Journal Number 2 - 2015

The Impact of the International Tax System of the Home Country on the Location Decision of a Foreign Permanent Establishment: The Case of Germany - Katrin Laschewski and Christian Laschewski

Intergovernmental Agreements and the Implementation of FATCA in Europe - Leopoldo Parada
Sharing the Benefits of the EU's Common Consolidated Corporate Tax Base within Corporate Groups - Matthias Petutschnig

12 Quotable quotes

"Savvy taxpayers are being smarter about what they can get the green light on at tax time but the Australian Taxation Office has warned taxpayers that they are watching claims closely to ensure they are legitimate.

Findings from one of the nation's largest tax accountancy firms H & R Block found adult performers have been reimbursed for sex toy purchases and exotic dancers have received money back for costly breast implant surgeries.

Xbox consoles, pool tables and ping-pong tables are also among some of the surprising but successful tax deductions lodged by businesses and even the cost of ceremonial swords for professional sword swallows have been reimbursed.

H & R Block's director of tax communications Mark Chapman said for Australians who have a wacky job, claiming what seems outlandish deductions may make perfect sense".

Source: 'Wacky items you can claim at tax time', News.com 1 August 2015
<<http://www.news.com.au/finance/work/wacky-items-you-can-claim-at-tax-time/story-fnkgb66w-1227465794805>>

"Cruz has vowed as president he would abolish the IRS [Internal Revenue Service], take all 125,000 IRS agents and put them on our southern border", where illegal Mexican immigrants are crossing into his home state of Texas."

Source: Kehoe, John 'How two Aussies beat Ted Cruz at his best suit', *Australian Financial Review* 10 August 2015 p 36

"Assistant Treasurer Josh Frydenberg is set to throw an accelerant on a debate in the wine industry with the release of a discussion paper into the wine equalisation tax (WET) rebate.

It is understood that the discussion paper, to be released within the next two weeks, will not make any recommendations but will include case studies that show how the WET rebate is being manipulated and rorted.

It will include studies of virtual winemakers who don't own vines, production facilities or the wine but have managed to create a structure that enables them to access the \$500,000-a-year tax rebate."

Source: Ferguson, Adele 'Wine tax rorts exposed' *Australian Financial Review* 10 August 2015 p 40
<<http://www.afr.com/business/agriculture/wine-tax-rorts-exposed-20150809-giuy04>>

"Companies that minimise the tax they pay in Australia are unlikely to find themselves named and shamed, but they are in the sights of the tax office.

A report from a Senate inquiry on Monday is expected to call on the government to reveal the names of corporations that avoid paying tax in Australia.

But Assistant Treasurer Josh Frydenberg says the government won't be doing that because it's got the resources to go after companies in other ways."

Source: 'Tax 'name and shame' off the cards: govt', News.com 17 August 2015

<<http://www.news.com.au/national/breaking-news/name-and-shame-tax-dodgers-labor/story-e6frfku9-1227485547673>>

Jack Straw & The Bomb

Richard Cullen reports that he recently heard Jack Straw (former Blair / Brown Labour Government Minister in the UK) being interviewed on the BBC World Service. Straw was being grilled on the Iran Nuclear Deal. He was asked what had drawn him away from the CND (Campaign for Nuclear Disarmament) by the 1960s - when he was a young activist.

Marching, one day, to Stop the Bomb, Straw explained that, he was sharing enthusiastic stopping-logic with another chap on the march, from the UK Communist Party. Straw said that he was for everyone de-bombing.

His fellow marcher explained that his arguments did not apply to the USSR, on account of what Russia had was the "Workers' Bomb" - and it was, thus, in a special (protected) category.

Theodore Dalrymple & Rock Music

Richard Cullen also recently took delivery of a new book of Theodore Dalrymple essays called: *Threats of Pain and Ruin*. Already, he feels that the cover price has been repaid from his first dip into the contents. There is an essay about Sid Vicious, entitled: "The Good the Bad and the Ugly"

On page one of this essay, TD explains that:

"I have a fairly simple attitude to rock music, of which Mr. Vicious was some kind of exponent, the same, in effect, as President Coolidge's to sin: I am against it. Ideally, I would like to start a Society for the Suppression of Rock Music but I suspect it would have the same practical effect as the Society for the Suppression of Vice founded in the early 19th century, namely nil. Suffice it to say, that whenever I hear that the youth of a country is employing rock music to rise up against dictatorship, I rally at once to the cause of the Dictator."

The Spiders vs The Cavalry

A further quote from *Threats of Pain and Ruin* (found in an essay entitled "The Bruised Heel Healed"): "I was at this point strongly reminded of a film I once saw high on the Bolivian antiplano, in the Teatro Municipal of Uyuni called *The Invasion of the Giant Spiders*, in which the eggs of vast spiders fell to earth from outer space to hatch and take over the world. The only thing that stood between the giant spiders and world domination was the US Air Force, and the audience cheered the spiders on to victory which, however, was not in the end theirs, though it very nearly was."

ATTA News September 2015

<https://www.business.unsw.edu.au/about/schools/taxation-business-law/australasian-tax-teachers-association/newsletters>

Editor: Colin Fong, Faculty of Law, University of New South Wales, Sydney c.fong@unsw.edu.au
ATTA website: <https://www.business.unsw.edu.au/about/schools/taxation-business-law/australasian-tax-teachers-association>

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1 Presidential column

It is now September and Spring is well and truly upon us. For those members in Australia, September 15 marked the start of a new era with yet another Prime Minister. The media in New Zealand are likening this to Italy; in this case five prime ministers in five years! Of interest as well is Malcolm Turnbull's statement that Australia needs to adopt the style of New Zealand's Prime Minister, John Key. The old saying, "Imitation is the sincerest form of flattery", seems fitting!

Since writing my last column it has been a challenging time for my family with the passing of my Mother-in-Law last month. While in one sense her passing was expected, at the same time this makes it no easier, and as a family it will take us considerable time before life returns to our 'new' normal. I am delighted to have Prof Kerrie Sadiq with us at the University of Canterbury as a visiting Erskine Fellow until mid-October. Kerrie has already led her first seminar with our Honours students and is teaching our third year tax students as well. While we do all that we can to provide a warm welcome, unfortunately the weather is not as warm as Brisbane!

I would encourage anyone that has not as yet submitted an abstract for the 2016 ATTA Conference to do so – submissions close Friday September 25 which is not that far away. Doctoral students interested in being considered for a PhD scholarship should be ensuring their applications are completed as soon as possible. For anyone that has recently completed their PhD or SJD, the closing date for the OUP ATTA Doctoral Series is a little over two months away (30 November 2015) and we all know how fast time can go by.

Adrian Sawyer

2 ATTA's 28th Annual Conference call for papers

Papers are invited to be submitted to the upcoming Australasian Tax Teachers' Association's 28th Annual Conference. The theme of the conference is "Tax and Time Travel: Looking Backwards and Looking Forwards" and papers are invited to be submitted that explore the future of tax law and policy in the light its development to date.

The conference will be hosted by the UNSW School of Taxation and Business Law and will be held at UNSW Kensington Campus from 20th to 22nd January 2016.

Papers on the conference theme are strongly encouraged; although the submission of papers on any aspect of taxation is welcome. Also, papers that explore the scholarship of tax teaching and learning are invited. Current PhD students are encouraged to submit an abstract as there will be special mentoring workshops for them. There will be prizes for best tax research paper, best tax teaching presentation and best PhD student paper.

The template for abstracts can be found at:

www.business.unsw.edu.au/2016atta

Abstracts of no more than 500 words should be emailed to Maree Magafas at m.magafas@unsw.edu.au by Friday 25th September 2015.

Registration will open soon and there are a number registration options including:

- Super Early Bird: \$460 (3 day conference attendance with welcome drinks and dinner)
Registration and payment due by 30 Sept 2015
- Early Bird: \$510 (3 day conference attendance with welcome drinks and dinner) Registration and payment due by 13 December 2015
- Full Fee (after 13 December 2015): \$560 (3 day conference attendance with welcome drinks and dinner)
- PhD Students (Full time): \$360 (3 day conference and dinner attendance) - (note PhD students are recommended not to formally register until the PhD scholarships are determined)
- ATO rate: \$360 (Days 2 and 3 conference attendance)
- Industry: \$175 (Day 2 conference attendance with morning and lunch)
- Dinner only: \$160 (Day 2 conference dinner)

If you have any questions please contact Maree Magafas at m.magafas@unsw.edu.au, +61 (2) 9385 9549 or visit the conference website at: www.business.unsw.edu.au/2016atta

3 OUP ATTA Doctoral Series 2015

We are pleased to announce that Oxford University Press Australia and ATTA will provide the opportunity to publish a book based upon a thesis in the OUP ATTA Doctoral Series. Expressions of interest are therefore called for doctoral submissions to be considered for the sixth publication in the Series. The Series was previously sponsored by CCH, and past authors have included Lisa Marriott, Brett Freudenberg, John Bevacqua, Fiona Martin and Theuns Steyn.

Applicants need to follow the guidelines listed below which have been agreed to by the Doctoral Series Editorial Board (DSEB), consisting of Professors Adrian Sawyer, Kerrie Sadiq and Dale Pinto.

1. To be eligible for submission for possible publication in the OUP ATTA Doctoral Series, a doctoral thesis must be at least at the stage of having been approved for award of the degree, but need not be awarded at the time of submission.
2. To be eligible, the academic must be affiliated with an Australian or New Zealand University. The content should relate to any taxation topic with particular relevance to Australia and/or New Zealand.
3. Submissions must be made to the DSEB by the relevant cut-off date for a year to be considered for possible publication in the series in that year. For 2015, the cut-off date is 30 November 2015. The successful applicant will be announced at ATTA in January 2016.
4. Theses from any period will be considered by the DSEB for possible publication in the series. However, the currency, relevance and topical interest of the thesis will be among the considerations taken into account by the DSEB in selecting a thesis for possible publication.
5. If a thesis which is submitted by an author needs to be updated/edited in the view of the DSEB then the author undertakes to carry out any updates/edits to the satisfaction of the DSEB within time frames which the DSEB specifies.
6. Doctoral submissions may include PhD or SJD theses which have been through the examination process.
7. The DSEB may decide not to publish any submissions received in a particular year. There will not be more than one winner in any year.

8. Any publication is subject to a contractual agreement between the author and OUP and will be subject to OUP's standard approval processes including approval by the Delegates of the Press.
9. The decisions of the DSEB are final and no correspondence will be entered into.
- Please send submissions on or before the 2015 cut-off date of 30 November 2015 to Professor Dale Pinto (dale.pinto@cbs.curtin.edu.au). The submission should include:
- a) a copy of the thesis
 - b) a brief statement on the status of the award (whether awarded or approved)
 - c) details of the supervisors of the degree and
 - d) copies of the examiners' formal reports on the thesis.

The Doctoral Series Editorial Board

4 Arrivals, departures and honours

Congratulations to Caroline Dick who will be awarded her doctorate from the University of Wollongong. Her topic was *Sumptuary law by any other name: manifestations of sumptuary regulation in Australia, 1901-1927*. In the main, the thesis concerns the sumptuary effect of tariffs on imported clothing in Australia from 1901-1927.

5 Research in Fiscal Accountability PhD Scholarship

This scholarship is for PhD studies in the field of fiscal accountability within a human rights framework. We're looking for an outstanding student to undertake a PhD in the field of accounting and auditing for corporates during social change.

Available for

You have to be applying for a QUT course to apply for this scholarship.

Student type: Future domestic research students

Future international research students

Study type: Postgraduate research

Faculty/area: Business

Eligible courses: IF49

Application dates Open date: 15 July 2015

Eligibility details

You must:

meet the entry criteria for our PhD

- be planning to research in the field of fiscal accountability within a human rights framework
- have an outstanding academic record
- have a background in accounting or business law
- demonstrate good communication skills and leadership potential.

What you receive

You'll receive:

a tax-free scholarship of \$26,000 a year for 3 years, paid as a fortnightly stipend up to \$6,000 for research costs such as conferences, overseas study and minor expenses over the course of your degree.

How to apply

You must apply for a PhD at QUT and indicate on your course application that you want to be considered for this scholarship. Your PhD application will include a research proposal, which we'll review when we assess applications.

How to apply for a research degree

You must apply by:

31 October 2015 for domestic students

31 August 2015 for international students.

What happens next

We'll assess applications based on the research proposal you've submitted as part of your application, looking for potential benefits of your research to industry.

You may be invited to attend an interview with our selection panel. You can do a telephone or video conference interview if you live overseas.

We'll select the successful applicant based on the outcome of the interview and the strength of their proposed research. If there are no suitable applicants, we reserve the right to not award the scholarship. If you're awarded the scholarship, you'll be an ambassador for QUT, and you may be required to give presentations to industry.

Background

The Research in Fiscal Accountability PhD Scholarship has been established as a result of the internationally recognised research being undertaken by a group of leading researchers in this area. This scholarship is for PhD studies in the field of fiscal accountability within a human rights framework.

Tax revenue is an essential element for developing countries to attain self-reliance and provide sufficient funds for public services like health and education. Tax plays a fundamental role in addressing inequality and shaping accountability of governments. It's been acknowledged that while tax can build accountability, its exploitation can foster widespread human rights abuses.

Using a human rights framework, and examining the relationship of citizens (rights-holders) and government (duty-bearers), your thesis will consider the interaction between human rights and government accountability and responsiveness in matters of fiscal policy.

<<https://www.qut.edu.au/study/fees-and-scholarships/scholarships-and-prizes/research-in-fiscal-accountability-phd-scholarship>>

For further details please contact:

Professor Kerrie Sadiq

School of Accountancy | Queensland University of Technology | www.bus.qut.edu.au

Phone: 07 3138 4236| Fax: 07 3138 1812|Email: kerrie.sadiq@qut.edu.au

6 Digital Legal Deposit

“Have you ever wondered what happened to the webpage for the Sydney Olympics? Or if someone has an archive of the digital-only Guardian newspaper? Libraries have traditionally been charged with collecting a comprehensive catalogue of published material, but with the increased move to digital first, or digital only, publishing we risk ending up with huge gaps in our national collections. The need to update legal deposit (the mechanism by which the National Library ensures a comprehensive collection) for the digital age has been long recognised, but it has been slow going. However in a very important and exciting development a set of Digital Legal Deposit

<<http://libcopyright.org.au/news/collecting-digital-legal-deposit-extended-national-library>> reforms have finally received royal assent and will come into effect in mid-February 2016. The ADA welcomes this sign that copyright law can progress with the times.”

Source: [Australian Digital Alliance Newsletter] Keeping up with Copyright - *ADA Newsletter* September 2015

7 Recent Australian tax cases

The following cases are from the last month or so of Australian cases on tax and related matters, with the catchwords taken from the AustLII, Federal Court and Jade websites.

High Court of Australia

AusNet Transmission Group Pty Ltd v Federal Commissioner of Taxation [2015] HCA 25 (5 August 2015)

Order: Appeal dismissed with costs.

On appeal from the Federal Court of Australia

Taxation – Income tax – Allowable deductions – Charges were imposed on holder of electricity transmission licence pursuant to State regulatory framework – Taxpayer purchased assets of electricity

transmission business including electricity transmission licence – Taxpayer required to pay charges to State of Victoria under asset sale agreement – Whether payments of charges were outgoing "of capital, or of a capital nature" and therefore not tax deductible.
Words and phrases – "capital", "capital account", "of a capital nature", "revenue account".
Electricity Industry Act 1993 (Vic), ss 163A, 163AA.
Income Tax Assessment Act 1997 (Cth), s 8-1(2)(a).

Federal Court of Australia

MNWA Pty Ltd v Deputy Commissioner of Taxation (No 1) [2015] FCA 1011
Practice And Procedure - application for adjournment - where the plaintiffs sought at the commencement of hearing to introduce a new case different from that outlined in the filed submissions
10 Sep 2015, Practice and Procedure, Griffiths J

Bai v Commissioner of Taxation [2015] FCA 973
Taxation - onus of proof - Commissioner's power to amend income tax assessments at any time under s 170(1) item 5 Income Tax Assessment Act 1936 (Cth) after forming opinion that there had been fraud or evasion - whether amendment excessive - where taxpayer sought to challenge amended assessment on ground that it...
3 Sep 2015, Taxation; Administrative Law, Rares J

Commissioner of Taxation v AusNet Transmission Group Pty Ltd (No 2) [2015] FCAFC 124
Costs - whether Court should depart from "usual order as to costs" - apportionment - absence of special circumstances - costs follow the event
2 Sep 2015, Costs, Kenny, Edmonds and Greenwood JJ

Thomas v Commissioner of Taxation [2015] FCA 968
Taxation - consideration of the construction and operation of Division 207 ("Effect of receiving a franked distribution") of Part 3-6 of the Income Tax Assessment Act 1997 (Cth) (the "1997 Act") - ("The imputation system") Taxation - consideration particularly of when a franked distribution flows indirectly to a beneficiary of a...
31 Aug 2015, Taxation, Greenwood J

Allan J Heasman Pty Ltd v Commissioner of Taxation [2015] FCAFC 119
Income tax - appeal from decision of a single judge of this Court dismissing an appeal from decision of the Administrative Appeals Tribunal - where appellant created an employee welfare fund - deductibility of contributions to the fund under s 8-1 of the Income Tax Assessment Act 1997 (Cth) - whether Tribunal...
28 Aug 2015, Income Tax, Siopis, Davies and Wigney JJ

Deputy Commissioner of Taxation v McManus [2015] FCA 959
Practice and procedure - service outside Australia - originating application - service on a person in a foreign country in accordance with a convention - whether proposed means of service available - whether proposed means of service permitted by law of foreign country - substituted service - whether order for substituted service may be made...
28 Aug 2015, Practice and Procedure, Pagone J

Deputy Commissioner of Taxation v Vasiliades [2015] FCA 957
Practice and procedure - application to set aside judgment and orders - application to extend time for effect of orders - failure to appear at previous hearings - power to vary or stay orders - whether proper basis for stay - whether adequate explanation of failure to appear - whether extension of time would cause prejudice
28 Aug 2015, Practice and Procedure, Pagone J

Rio Tinto Services Limited v Commissioner of Taxation [2015] FCAFC 117
Taxation - Goods and Services Tax - input tax credits - creditable acquisition - creditable purpose - supply of residential accommodation - workforce in remote region - input taxed supply - whether acquisitions made solely or partly for creditable purpose - acquisitions made for broader commercial purpose of...
24 Aug 2015, Taxation, Middleton, Logan and Pagone JJ

Queensland - Supreme Court of Queensland - Court of Appeal

Gore v Deputy Commissioner of Taxation [2015] QCA 173 (18 September 2015) (Gotterson and Morrison and Philippides JJA.)

Catchwords: Appeal And New Trial – Appeal – General Principles – Interference With Judge's Findings Of Fact – Other Matters – where the DCT commenced proceedings against Ms Gore in the District Court at Southport to recover as a debt due an alleged outstanding taxation liability together with further general interest charges and costs – where the taxation liability was confined to director penalties incurred by Ms Gore in respect of unpaid actual Pay As You Go Withholding liabilities – where Ms Gore was served with Director Penalty Notices – where each notice, with a covering letter, was placed in an envelope, a stamp was affixed to each and posted in a letterbox in the Brisbane CBD – where neither envelope was returned as undelivered mail – where Counsel for Ms Gore submitted that there was evidence that the DPNs might not have been posted at all – where the primary judge ruled that there was no evidence of non-receipt by Ms Gore – where the primary judge gave judgment in favour of the DCT for the amount of \$68,938.90 together with interest in the sum of \$5,859.80 – where the primary judge ordered that Ms Gore pay the DCT's costs, on the standard basis, in the amount of \$4,002.60 – where Ms Gore applied for an extension of time to apply for leave to appeal – whether an extension of time to allow for leave to appeal should be granted

Redmond v Deputy Commissioner of Taxation [2015] QCA 172 (18 September 2015) (Holmes CJ and Philippides JA and Burns J.)

Catchwords: Taxes And Duties – Administration Of Federal Tax Legislation – Penalties, Offences And Prosecutions – Particular Penalties And Offences – Failure To Comply With Requirement Under Taxation Law – where the respondent was granted summary judgment against the applicant, the director of a company, on claims for the payment of director's penalties owing under the Taxation Administration Act 1953 – where the applicant argued that the primary judge erred in finding that the director penalty notice sent to him conformed with the requirements of s 269-25 of Schedule 1 to the Taxation Administration Act 1953 – whether the primary judge erred – whether leave to appeal should be granted

Evidence – Proof – Facilitating Proof – Matters Relating To Post And Communications – where the applicant argued that the primary judge erred in finding that the director penalty notice was given on the date it bore – where an employee of the respondent deposed as to the postage of the director penalty notice on that date, as well as the general system of posting notices – where the primary judge found that the employee's evidence gave rise to an inference that the notice was collected by the courier and posted on that date – whether the primary judge erred – whether leave to appeal should be granted

Victoria - Supreme Court of Victoria - Court of Appeal

Commissioner of State Revenue v Landrow Properties Pty Ltd & Anor [2010] VSCA 197 (6 August 2010)

Stamp duty – Change in capacity in which trustee of unit trusts held units in land rich landholder – Duties Act 2000, ss 76, 77, 78, 79 – Liability – Whether transaction a relevant acquisition – Meaning of 'beneficial entitlement' and 'obtains an interest beneficially' – Appeal dismissed.

Costs – Offer of compromise – Whether award of costs on indemnity basis appropriate – House v The King [1936] HCA 40; (1936) 55 CLR 499, applied.

Colin Fong

8 Tax and related meetings

Local

The School of Taxation and Business Law, UNSW will host the following scholars as part of its 2015 research fellowship program:

1 Dr Benjamin Kujinga, University of Pretoria, South Africa. Dr Kujinga will speak on 'A comparative study of GAARS', 1 October 2015, QUAD Building Room 2055 - Kensington Campus,

12.30pm - 2.00pm. A light lunch will be provided. Please RSVP to Fiona Martin for catering purposes - f.martin@unsw.edu.au.

2 Jeremy Sherwood, HM Revenue and Customs, UK, November 2015. Jeremy will be presenting a **'Thought Leadership' lecture dealing with the UK's experience with Tax Simplification and on issues concerning Tax Simplification** more generally on 5 November. Further details will be provided closer to the date.

Please contact Fiona Martin on F.martin@unsw.edu.au for further details closer to the time.

KPMG Tax is sponsoring in association with the Tax Institute, the **AFR Tax Reform Summit**, 22-23 September 2015, the InterContinental, Sydney. The Summit features speakers and panel members, including the Hon Joe Hockey MP, the Hon Chris Bowen MP, Phil Edmonds, MD, Rio Tinto and Michael Andrew, Chair, Board of Taxation, as well as Peter Nash, Grant Wardell-Johnson, Brendan Rynne and Kate Law from KPMG. Roundtable discussions on a variety of interesting and important issues will be conducted, including tax transparency, complexity and compliance, state taxation and the Federation, consumption tax, and the tax treatment of savings. Other speakers include ATTA members Profs Miranda Stewart, Richard Vann and Rebecca Millar. Registration after 31 July 2015 \$A3294.50 <<http://www.informa.com.au/conferences/financial-services-conference/afr-tax-reform-summit>>

The **Global Conference on Environmental Taxation**, University of Technology, Sydney, Sydney, Australia 23-26 September 2015. Theme for the Conference is *Green Fiscal Reform: Protecting our Natural Resources for a Sustainable Future*. Note:

Wednesday 23 September 2015 will be an afternoon session open to everyone with PhD candidate presentations only.

Saturday 26 September 2015 will be a morning session open to everyone that will focus on evaluation frameworks for environmental taxes and concessions.

<<http://www.uts.edu.au/research-and-teaching/our-research/law-research-centre-p2/resources/upcoming-academic-conferences-1>>

KPMG Webinar: BEPS Action Plan. Please join us for a webinar on Tuesday 13 October 2015 to discuss KPMG's insights into the numerous papers expected to be released in early October by the Organisation for Economic Cooperation and Development (OECD) as part of its Base Erosion and Profit Shifting (BEPS) Action Plan. The recommendations in the expected OECD discussion papers will represent the most significant reform in the approach to international tax in decades.

Our webinar will focus on:

- an overview of the announced papers, including particular changes in the approach to various action items over the past 12 months
- the broader international political and policy context
- the response of the Australian Government
- how the changes recommended in the OECD papers are likely to take effect as they are implemented on a country by country basis.

Stephen Carpenter, KPMG Tax Partner, will host the webinar and will be joined by partners Grant Wardell-Johnson, KPMG's Australian Tax Centre Leader and Peter Madden, KPMG International Tax Leader in Australia.

<<https://engage.vevent.com/index.jsp?eid=2853&seid=785>>

"Insolvency and Tax: Smoke and Mirrors" is the theme for the upcoming 2015 Business Law Symposium being hosted by Griffith University on Monday 2 November at South Bank (Brisbane). There will be an exciting range of presentations from Business law academics, including tax, insolvency, environment, superannuation and intellectual property. It is free to register and registration is open to academics with a research interest in insolvency, tax, or business law generally, as well as Higher Degree Research students. To register go to:

<https://www.griffith.edu.au/business-government/griffith-business-school/departments/department-accounting-finance-economics/news-and-events/2015-business-law-symposium>

ATTA's **28th Annual Conference** will be hosted by the University of New South Wales School of Taxation & Business Law, 20th to 22nd January 2016. The theme of the conference is *Tax and Time Travel: Looking Backwards and Looking Forwards*. The conference will celebrate 28 years of ATTA in Australasia. Further information about the conference is included above in this newsletter. If you

have any questions please contact John Taylor at c.taylor@unsw.edu.au or <www.business.unsw.edu.au/2016atta>

The **Tax Institute's** website www.taxinstitute.com.au lists many conferences, conventions, seminars, and breakfast clubs. For further enquiries, contact Phillipa Cardigan (02) 8223 0045 or email phillipacardigan@taxinstitute.com.au or register online at www.taxinstitute.com.au Call the National Events team on 1300 733 842 for more details. Please contact the National Events Team on 1300 733 842 or by email, nationalevents@taxinstitute.com.au Follow us on Twitter @TaxInstituteOz. Danielle Thurston, Event and Member Services Executive The Tax Institute Phone: 02 8223 0000; Direct: 02 8223 0014 Fax: 02 8223 0077 daniellethurston@taxinstitute.com.au

Overseas

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

Canadian Tax Foundation <http://www.ctf.ca/ctfweb/en>

Institute for Fiscal Studies Conferences and seminars <http://www1.ifs.org.uk/conferences/index.shtml>

Institute for Austrian and International Tax Law 2015 events:

The topics of the seminar sessions and other events can always be found at www.wu.ac.at/taxlaw. Please see our website for most up-to-date information on them.

International Bureau of Fiscal Documentation. Various courses in Amsterdam, the Netherlands or in Malaysia or elsewhere. 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

For courses go to <http://www.ibfd.org/Training>

IBFD International Tax Courses - A selection of related courses in 2015

Principles of Transfer Pricing 12-16 October 2015 (NL)

Transfer Pricing Risk Management: Implementation and Monitoring 5-6 November 2015 (NL)

Principles of Transfer Pricing 15-17 November 2015 (AE)

Transfer Pricing and Intangibles 19-20 November 2015 (NL)

Transfer Pricing and Attribution of Profits to Permanent Establishments 16-18 December 2015 (NL)

More international tax courses

Tax Planning and Corporate Taxation US Corporate Taxation 9-11 September 2015 (NL)

International Taxation of Banks and Financial Institutions 16-18 September 2015 (NL)

Tax Planning and Substance 21-22 September 2015 (NL)

Base Erosion and Profit Shifting 14-16 October 2015 (ZA)

Tax Treaties

International Taxation of Oil and Gas and Other Mining Activities 20-23 October 2015 (SG)

Tax Treaties - Selected Issues 28-30 Oct 2015 (NL)

Principles of International Taxation 16-20 November 2015 (KL)

Indirect Taxation

European Value Added Tax - Selected Issues 5-7 October 2015 (NL)

European Value Added Tax Workshop 12-13 November 2015 (NL)

For entire course portfolio, see < http://www.ibfd.org/Training/Find-course?utm_source=course-promo-april&utm_medium=email&utm_campaign=ITA0520-04-2015&utm_content=Course-finder>

Inaugural International Conference on Taxpayer Rights: The Bedrock of Tax Administration, Washington, DC, 18-19 November 2015. The National Taxpayer Advocate of the U.S. Internal Revenue Service is convening the Inaugural International Conference on Taxpayer Rights in Washington, D.C. This ground breaking conference will explore how taxpayer rights globally serve as the foundation for effective tax administration.

Government officials, scholars, and practitioners from many countries will discuss issues such as:

- Rights to confidentiality and privacy in an age of transparency;
 - Right to appeal to an independent forum: the role of tax tribunals in protecting taxpayer rights;
 - Taxpayer rights and procedural justice in audit and collection activities;
 - Impact of taxpayer service on compliance;
 - Role of taxpayer advocates, defenders, and ombuds in protecting taxpayer rights and promoting voluntary compliance; and
 - Challenges in "operationalizing" taxpayer rights in both mature and developing tax administrations.
- <<http://www.taxpayerrightsconference.com>>

Renovating the Hong Kong Revenue Regime: the Local, Cross-Border & International Contexts, Taxation Law Research Programme, University of Hong Kong – International Conference - Saturday, 31 October 2015. Hong Kong has developed, over decades, a Revenue Regime (RR) that is astonishing for its simplicity, stability and adequate resourcing of public services – not least when compared to other developed jurisdictions, most of which need to cope with entrenched, far more complex tax systems. Articles 106-108 of the Basic Law of the Hong Kong Special Administrative Region (HKSAR) also direct that these fundamentals of the RR should be retained. The system's long history of satisfactory performance, however, does not imply or guarantee future fitness. More than ever, we need to understand the strengths and weaknesses of the RR.

Further info at:

<http://www.law.hku.hk/aiifl/taxation-law-research-programme-tlrp/>

Registration is free. Those attending do need to make their own travel and accommodation arrangements, however.

For registration, please email Flora Leung at: fkleung@hku.hk

Richard Cullen (Director of the TLRP) is happy to answer any questions about the Conference - he can be contacted at: richard.culllen@gmail.com

International Conference of Chinese Tax and Policy, Xiamen University, Xiamen, China, 12-13 December 2015 and jointly organised by The University of Sydney Business School (<http://sydney.edu.au/business>), the Journal of Chinese Tax and Policy (<http://sydney.edu.au/business/research/journals/jctp>), the Department of Public Economics of Xiamen University (<http://czz.xmu.edu.cn/user/index.asp>) and the Taxation Law and Policy Research Institute of Monash University (<http://www.buseco.monash.edu.au/blt/tpri/>). The conference theme: Individual Income Tax Reform in China. All accepted papers have the priority to be selected for publication in the *Journal of Chinese Tax and Policy*, subject to an international blind peer-review process.

International Fiscal Association Congresses <http://www.ifa.nl/pages/default.aspx>

2016 Madrid, Spain (25 August - 30 August 2016)

<https://www.ifa.nl/activities/annual_congresses/Pages/2016_Madrid_Congress_19.aspx?source=%2fPages%2fdefault.aspx>

Subject 1:

Dispute resolution procedures in international tax matters

Subject 2:

The notion of tax and the elimination of international double taxation or double non-taxation

Tentative Seminar Programme

IFA/OECD

IFA/EU

Recent developments in international taxation

Latin-American tax seminar

Tax judges seminar

Taxation of activities performed in breach of legal regulations (Illegal activities)

Taxation of venture capital: Funds, managers and investment structure

International taxation of sportsmen, sport organizations and sports events

How has BEPS affected to MNEs relocation?

VAT and direct taxation of digital economy: Old problems, new solutions?

2017 **Rio de Janeiro, Brazil**

2018 **Seoul, Korea, Rep of**

2019 **London, United Kingdom**

International Atlantic Economic Society (IAES) conference 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

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

Other useful tax and law related conference websites include the

International Bar Association:

http://www.ibanet.org/Conferences/conferences_home.aspx

IBFD Course calendar

<http://www.ibfd.org/portal/app?bookmarkablePage=org.ibfd.portal.presentation.TaxCourses>

International Events and Law Conferences

<http://internationaleventsandlawconferences.yolasite.com>

Conferences in Australia <http://www.conferencealerts.com/country-listing.php?page=1&ipp=All&country=Australia>

New South Wales Bar

Association http://www.nswbar.asn.au/docs/professional/prof_dev/CPD/programme/index.php

Law Council of Australia <http://www.lawcouncil.asn.au/lawcouncil/index.php/conferences>

Practising Law Institute <http://www.pli.edu/>

New York County Lawyers Association <http://www.nycla.org>

American Bar Association Taxation CLE topics

http://www.americanbar.org/cle/cle_courses_by_topic/taxation.html

New York Bar Association <http://www.nysba.org/>

Hieros Gamos Worldwide Law Events Calendar <http://www.hg.org/legal-events.asp>

For Australian ones <http://www.hg.org/legal-events-australia.asp>

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 ATTA people in the media

Morabito, Vince

Danckert, Sarah 'New kids warned on action risk', *Sydney Morning Herald* 24 August 2015 p 20

James, Kathryn

Stewart, Miranda 'Will Turnbull take up the GST challenge?' *The Drum* ABC TV 16 September 2015
<<http://www.abc.net.au/news/2015-09-16/stewart-will-turnbull-take-up-the-gst-challenge/6779992>>

Passant, John

Treasurer Hockey's latest thought bubble is to have the workers pay for tax cuts for the rich by imposing 15 per cent GST on fresh food, health and education. Former Assistant Commissioner of Taxation John Passant reports in *Independent Australia* 27 August 2015.

<<https://independentaustralia.net/politics/politics-display/tax-cuts-for-the-rich-seriously-mr-hockey,8098>>

Peter Dutton, the Immigration minister discussed by former Assistant Commissioner of Taxation, John Passant in *Independent Australia*. <<https://independentaustralia.net/politics/politics-display/join-my-jihad-against-this-rotten-australian-government,8122>>

It wasn't Turnbull or Shorten who unseated Abbott as PM, it was community's stand against his rotten, neoliberal policies. We need to get back to the streets and send the same message to fight Turnbull's neoliberalism, says John Passant in *Independent Australia*.

<<https://independentaustralia.net/politics/politics-display/prime-ministerial-deck-chairs-what-the-hell-is-going-on-in-australia,8168>>

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

Australia. Parliament, Senate *Report - Part 1: You cannot tax what you cannot see*, 18 August 2015 <http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Economics/Corporate_Tax_Avoidance/Report_part_1>

Bain, Kathryn 'FactCheck Q&A: would 60% of any GST revenue raised have to be spent on compensation?' *The Conversation* 11 September 2015 <<http://theconversation.com/factcheck-qanda-would-60-of-any-gst-revenue-raised-have-to-be-spent-on-compensation-47205>>

Freydenberg, Josh 'The Government's tax agenda', Address to the Queensland Tax Forum, 27 August 2015 <<http://jaf.ministers.treasury.gov.au/speech/013-2015>>

Hodgson, Helen 'FactCheck: Has the government introduced 17 new taxes?' *The Conversation* 2 September 2015 <<http://theconversation.com/factcheck-has-the-government-introduced-17-new-taxes-46875>>

Joseph, Sally-Ann 'The polluter pays principle and land remediation: a comparison of the United Kingdom and Australian approaches' (2014) 1 *Australian Journal of Environmental Law* 24-36

Stewart, Miranda 'Why the hard sell on personal income tax cuts?' *The Drum* ABC TV 25 August 2015 <<http://www.abc.net.au/news/2015-08-25/stewart-why-the-hard-sell-on-personal-income-tax-cuts/6721930>>

Stewart, Miranda 'Will Turnbull take up the GST challenge?' *The Drum* ABC TV 16 September 2015 <<http://www.abc.net.au/news/2015-09-16/stewart-will-turnbull-take-up-the-gst-challenge/6779992>>

Tax Institute publications

(2015) 50 (2) *Taxation in Australia*, August 2015

- Testamentary trusts post-death: bespoke planning opportunities - Matthew Burgess
- Tax transparency in Australia: cutting through the BEPS noise Jerome Tse and Catherine Krol
- Property investment through discretionary trusts - Lister Harrison QC
- Alternative assets insights: The importance of the arm's length debt test to infrastructure - Kirsten Arblaster and Jayde Thompson
- Accounting for tax: To deal or not to deal at arm's length - Arthur Athanasiou
- Superannuation: The changing landscape of insurance in SMSFs - Daniel Butler and William Fettes
- BDBNs in super: Don't take chances - Kate Curtain
- Tax cases: The inventor who failed to incur expenditure - Michael Norbury
- A matter of trusts: The ATO's proposed treatment of unpaid present entitlements: Part 1 -Ashleigh Eynaud

(2015) 50 (3) *Taxation in Australia*, September 2015

- Part IVA and consolidated groups: Grazing on uncertainty - Clint Harding and Peter Scott
- After-tax investing for superannuation funds: What should managers manage? - Raewyn Williams
- Forgive but don't forget: CGT event C2 and related party loans - Dean Crossingham and Kaylene Hubbard
- Alternative assets insights: Finance companies - To consolidate or not? - Chris McLean
- Dividend access shares – Revisited - Guy Brandon
- Tax cases: Land tax and uncompleted sales - Michael Norbury
- Successful succession: Bankrupt beneficiaries of deceased estates - Katerina Peiros and Christine Smyth

- A matter of trusts: The ATO's proposed treatment of unpaid present entitlements: Part 2 - Renuka Somers and Ashleigh Eynaud
- Superannuation: What wins out - an ARP or a BDBN? - Daniel Butler

(2015) 19 (1) *Tax Specialist* August 2015

- Is Subdiv 815-B on transfer pricing overly prescriptive? - Cindy Chan
- Excess superannuation contributions: your worst nightmare or your best friend? - Frederick Mahar
- Tax consolidation changes - Daniel Sydes and Andrew Hirst
- An update on capital management issues - Simon Jenner

Papers published between 13 July and 11 September

Queensland Division

- Restructuring and rollovers - How to move assets/businesses into corporate structures with little or no CGT - Dominic Moon
- ESS - Start-up concessions - Murray Shume
- Queensland state royalties - Some practical issues - Trevor Pascall
- R&D disputes in a modern landscape - Wayne Huf, Paul McNab, Ashani Samuel-Thambiah, and Navin Raj Kirubairajah
- Economic entitlements and economic interests in property - Adrian Chek
- Corporate governance for small companies - Michael Klatt
- States taxes legislative update - Spencer McMahon and Peter Cain

NSW Division

- Remedies and actions outside the Taxation Administration Acts - Jennifer Batrouney QC and Angela Lee
- Economic entitlements and economic interests in property - Adrian Chek
- Payroll tax cases - "The big ones" - Steve Batrouney
- State tax cases update - Primrose Mroczkowski
- Contemporary land tax issues - Andrew Rider
- Employee, contractor and other - Is "wages to an employee" an outdated concept? - Paul Ellis, Amanda Spinks, and Allen Tan
- Recent issues affecting consideration, valuation and characterising a transaction - Glynn Gill
- Payroll tax: Inter-jurisdictional Issues - Tony Ince
- Some issues in state tax litigation - Bradley Jones
- Strategies for winding up companies - Linda Tapiolas
- Retirement living - Getting the best for your clients (Part 1) - The landscape - Scott McGill
- Retirement living - Getting the best for your clients (Part 2) - Louise Biti
- Retired and moving overseas - What are the tax issues - Robert Campbell
- It ain't over 'til it's over (Binding Financial Agreements)- Therese Catanzariti
- The trusted adviser a facilitator and gate keeper for the client - Michael Perkins
- Economic entitlements and economic interests in property - Adrian Chek
- Payroll tax cases - "The big ones" - Steve Batrouney

Victorian Division

- Trustee duties: Lessons from recent cases - Carolyn Sparke
- Applying the new employee share schemes tax provisions - Shaun Cartoon

SA Division

- Farm income, smoothing the way forward - John Crouch
- Employee share schemes - What's old will be new again, but with extra benefits for start-ups - Jacqui Tucker and Justyna Carlier
- Formation, restructure and Sale How will recent changes impact the advice we give our clients? - Brett Zimmermann
- Business succession agreements for agribusiness - Peter Slegers and Andrew Dunccliff
- Cashing out of agribusiness - Will Fennell
- Customs duty & Australia's free trade agreements - Jessica Pengelly
- Getting expenditure right for tax - Raoul Stevenson

Overseas

Basilavecchia, Massimo; del Federico, Lorenzo & Mastellone, Pietro *Tax implications of environmental disasters and pollution*, Alphen aan den Rijn, The Netherlands, Kluwer, 2015, ISBN: 9789041156112, Hardcover, Price: EUR 130.00 / USD 176.00/ GBP 104.00. EUCOTAX Series on European Taxation Vol 44

Chua, Annie *Malaysian GST legislation plus*, Subang Jaya, Sweet & Maxwell, 2015; Print RM 200.00, 978-967-0735-60-3; eBook RM 190.80, 978-967-0735-79-5; Print & eBook RM 221.20

Evans, Chris; Krever, Richard and Mellor, Peter (ed) *Tax simplification*, Alphen aan den Rijn, The Netherlands, Kluwer, 2015 (Series on International Tax, Vol 53)

1 Why'd You Have to Go and Make Things So Complicated? Joel Slemrod

2 A Contemporary Approach to Tax Complexity: Polycentrism in an Increasingly International Tax Environment - Frank H. Pedersen

3 Tax Complexity and Symbolic Power - Lynne Oats & Gregory Morris

4 Measuring Tax Complexity - David Ulph

5 An Integrated Approach to the Economic Measurement of the Costs of Tax Complexity - **Binh Tran-Nam**

6 Paying Taxes: The Global Picture: An Index to Encourage Tax Reform and the Development of Good Tax Systems - Andrew Packman & Neville Howlett

7 The Paying Taxes Report: Will It Guide Tax System Simplification? Sharon Smulders

8 Measuring Tax Compliance Costs: Evidence from Australia - **Philip Lignier, Chris Evans & Binh Tran-Nam**

9 Measuring Tax Complexity: Analytical Framework and Evidence for Individual Income Tax Preferences for Canada Marco Lugo & François Vaillancourt

10 Administering Tax Complexity versus Simplicity - Kristin E. Hickman

11 Tax Complexity: A Necessary Evil? **Michael Walpole**

12 Exploring Individual Taxpayers' Perceptions of Tax Complexity: A Pilot Study - Kudakwashe M.M. Muli & Theuns Steyn

13 Six Degrees of Graduation: Law and Economics of Variable Sanctions - Alex Raskolnikov

14 Some Cautions Regarding Tax Simplification - J. Clifton Fleming Jr

15 The Office of Tax Simplification and Its Complexity Index - John Whiting, Jeremy Sherwood & Gareth Jones

16 Managing Tax Complexity: The Institutional Framework for Tax Policy-Making and Oversight - Judith Freedman

17 Oversight Mechanisms and Administrative Responses to Tax Complexity in the United States - John Hasseldine

18 Pathways for Tax Policy and Administration: Institutions and Simplicity – An Australian Perspective - **Michael D'Ascenzo**

19 Simplified Small Business Tax Regimes in Developing Countries: Empirical Evidence of Use and Abuse Jacqueline Coolidge & Fatih Yilmaz

Lang, Michael & Lejeune, Ine (ed) *VAT/GST in a digital global economy*, Alphen aan den Rijn, The Netherlands, Kluwer, 2015, ISBN: 9789041159526, August 2015, Hardcover, Price: EUR 140.00/ USD 189.00 / GBP 112.00. EUCOTAX Series on European Taxation Vol.43

Passant, John 'Some basic Marxist concepts to help understand income tax' (2015) 27 *Journal Jurisprudence* 263 <<http://www.jurisprudence.com.au>>

Peacock, Christine *Malaysian GST handbook*, Subang Jaya, Sweet & Maxwell, September 2015; ISBN: 978-967-0735-59-7 (Print); e-ISBN: 978-967-0915-00-5 (Proview eBook), Format: Paperback / ProView eBook, Print Price: RM 180.00; Print and eBook Bundle Price: RM 199.08

Thornton, Richard *Q & A on GST in Malaysia*, Subang Jaya, Sweet & Maxwell, 2015; RM 50.00, 978-967-0735-46-7; eBook RM 47.70, 978-967-0735-99-3; Print & eBook RM 55.30

Yonah, Reuven Avi & Slemrod, Joel *Taxation and migration*, Alphen aan den Rijn, The Netherlands, Kluwer, 2015, ISBN: 9789041161369, Hardcover, Price: EUR 125.00/ USD 169.00 / GBP 100.00. Series on International Taxation Vol. 54

11 Quotable quotes

“A leading economist has compared the political debate in Australia to the behaviour of one of the world's most famous cartoon families.

Access Economics director Chris Richardson says arguments about tax reform between Tony Abbott and Bill Shorten remind him of Homer Simpson choking his son Bart.

The comments came after Treasurer Joe Hockey announced plans to bring personal income tax cuts to the next election, and as he left the door open to extending the GST to healthcare

...

Mr Richardson said he agreed with Mr Hockey's argument that Australia needed to stop relying on bad taxes, such as personal income tax, and start collecting better taxes, but he believed it would be impossible for the Treasurer to cut income taxes in the current political environment.

The Abbott government has virtually ruled out significant tax increases - besides the GST - and shifted \$80 billion in health and education spending to the states, so it will be hard to find where major budget savings could be found.

"It can't be done. Success on budget repair and bracket creep is wholly a function of bipartisanship, and you know what the answer is there," Mr Richardson said.

"The budget debate in Australia is essentially Bart and Homer having a discussion, hands around each other's necks and choking.

"It's true that we should be doing something over fiscal drag ... this is something that is genuinely bad and we should be doing something about it."

Source: Massola, James & Hutchens, Gareth 'Joe Hockey can't say how he would fund personal income tax cuts', *Sydney Morning Herald* 25 August 2015 < <http://www.smh.com.au/federal-politics/political-news/joe-hockey-cant-say-how-he-would-fund-personal-income-tax-cuts-20150824-gj6gbt.html>>

“Consider, for example, a \$100 asset that when it is sold in a year will yield \$107. If the inflation rate is 3 per cent, the investor's real gain will be of only \$4; so even taxing the nominal gain of \$7 at 33 per cent (the average individuals pay on net capital gains) amounts to a 59 per cent effective tax rate on the actual increase in wealth.

Little wonder then the New Zealand tax review, which covered much the same ground as the Henry report, found “even low rates of inflation can significantly distort effective tax rates”. And as it also found capital gains taxes “make the tax system complex and costly”, it concluded that a CGT would not lead to a “fairer or more efficient tax system, lower avoidance or raise substantial revenue”.

New Zealand therefore benefits from not having a CGT, as do numerous other countries. And we would too, or at least from lower rates. But the sack-and-pillage crowd want to increase the CGT. Their goal is neither efficiency nor prosperity; it is to tax and spend, soaking the rich along the way. With Labor well ahead, they may soon have their way.”

Source: Ergas, Henry 'We could very well do without a capital gains tax', *The Australian* 31 August 2015 p 12 or online 'Tax reform: Australia could do without a CGT' <<http://www.theaustralian.com.au/opinion/columnists/tax-reform-australia-could-do-without-a-cgt/story-fn7078da-1227505116931?sv=7efec5217f2bb60fda468937fea417c7>>

“At the outset, it should be noted that there is evidence that I have no computer and that all

email correspondence is sent and received by my personal assistant (ACTU MFI-6). Indeed it is notorious among the legal profession that I am incapable of sending or receiving emails. The consequence is that I read emails only after they have been printed out for me.”

Source: Heydon, *Dyson Reasons for ruling on disqualification applications*, Royal Commission into Trade Union Governance & Corruption, Sydney, 31 August 2015, p 18
<<http://www.tradeunionroyalcommission.gov.au/Hearings/Documents/2015/Evidence31August2015/ReasonsforRulingonDisqualificationApplicationdated31August2015.pdf>>

Thanks to Kerrie Sadiq for the following:

[J T Gleeson SC S-G]: The Court has before you a case on the construction of section 254 of the 1936 Income Tax Act. It is a provision of some antiquity. It first came into the Commonwealth statute book in the 1915 Income Act as section 52 — may I pause to observe, section 52 of an Act which had only 65 sections and 22 pages.

French CJ: Pity they could not stick with that.

Mr Gleeson: It is a slim and lovely looking document, your Honours. ...

Source: *Commissioner of Taxation v Australian Building Systems Pty Ltd (In Liquidation); Commissioner of Taxation v Ginette Dawn Muller and Joanne Emily Dunn as Liquidators of Australian Building Systems Pty Ltd (In Liquidation)* [2015] HCATrans 217 (8 September 2015)
<<http://www.austlii.edu.au/au/cases/cth/HCATrans/2015/217.html>>

ATTA News October 2015

<https://www.business.unsw.edu.au/about/schools/taxation-business-law/australasian-tax-teachers-association/newsletters>

Editor: Colin Fong, Faculty of Law, University of New South Wales, Sydney c.fong@unsw.edu.au
ATTA website: <https://www.business.unsw.edu.au/about/schools/taxation-business-law/australasian-tax-teachers-association>

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1 Presidential column

As I write this month's column it is the last week of lectures here at the University of Canterbury – just where has the year gone? Exam marking is not far away which also means the 'research break' will follow soon after for many of us. Over the next two months I will be fitting my marking around a couple of conferences (Hong Kong and Mainland China), as well as a Business Research Deans meeting in Australia.

Sadly for us Prof Kerrie Sadiq's time with us at the University of Canterbury as a visiting Erskine Fellow finished earlier this month. Kerrie's contributions have been greatly appreciated by students and faculty. While the time went so quickly for us, I am sure Kerrie's family are delighted to have her back (as no doubt will be her Head of School!). During Kerrie's visit the OECD released its final reports on the BEPS project which means a lot more reading for many of us!

The 2016 ATTA Conference Organising Committee has their preparations well in hand, with the close off date for abstracts now passed. Notification of acceptance based on abstracts should have been sent out. We now await the release of the draft programme with anticipation. Registration is open although the super early bird registration fee closing date has passed. I would encourage all members to ensure they register early if they can. Doctoral students who applied for a PhD scholarship should have been notified of the outcome of their application.

My congratulations to a number of ATTA members on their recent success, especially Anna Mortimore, Maria Italia and Julie Zetler for completing their doctorates. This is a wonderful time of celebration after many years of hard work! My congratulations also go to Ann Kayis-Kumar, Sally Joseph, Craig Elliffe and Julie Cassidy with their new appointments.

Adrian Sawyer

2 2016 ATTA Conference

The 28th Annual ATTA conference will be hosted by the UNSW School of Taxation and Business Law and will be held at UNSW Kensington Campus from 20th to 22nd January 2016. The theme of the conference will be 'Tax and Time Travel: Looking Backwards and Looking Forwards'.

Plenary Speakers

Plenary speakers for the conference will be:

Professor Diane Ring (Boston College)

Professor Greg Smith (Melbourne University and Commonwealth Grants Commission)

Justice William Young (Supreme Court of New Zealand)

Jan Farrell (Australian Deputy Commissioner of Taxation Case Leadership PG & I)

Social Program

A welcome reception will be held at the UNSW Business Lounge

The conference dinner will be held at the Australian Museum. The after dinner speaker will be Ross Gittins (Sydney Morning Herald Economics Editor)

The Trans-Tasman Cricket Match and BBQ will be the final social event of the conference.

Registration:

Registration is now open. There are a number registration options including:

- Early Bird: \$510 (3 day conference attendance with welcome drinks and dinner) Registration and payment due by 13 December 2015
- Full Fee (after 13 December 2015): \$560 (3 day conference attendance with welcome drinks and dinner)
- PhD Students (Full time): \$360 (3 day conference and dinner attendance) - (note PhD students are recommended not to formally register until the PhD scholarships are determined)
- ATO rate: \$360 (Days 2 and 3 conference attendance)
- Industry: \$175 (Day 2 conference attendance with morning and lunch)
- Dinner only: \$160 (Day 2 conference dinner)

If you have any questions please contact Maree Magafas at m.magafas@unsw.edu.au, +61 (2) 9385 9549 or visit the conference website at: www.business.unsw.edu.au/2016atta

3 OUP ATTA Doctoral Series 2015

We are pleased to announce that Oxford University Press Australia and ATTA will provide the opportunity to publish a book based upon a thesis in the OUP ATTA Doctoral Series. Expressions of interest are therefore called for doctoral submissions to be considered for the sixth publication in the Series. The Series was previously sponsored by CCH, and past authors have included Lisa Marriott, Brett Freudenberg, John Bevacqua, Fiona Martin and Theuns Steyn.

Applicants need to follow the guidelines listed below which have been agreed to by the Doctoral Series Editorial Board (DSEB), consisting of Professors Adrian Sawyer, Kerrie Sadiq and Dale Pinto.

1. To be eligible for submission for possible publication in the OUP ATTA Doctoral Series, a doctoral thesis must be at least at the stage of having been approved for award of the degree, but need not be awarded at the time of submission.
2. To be eligible, the academic must be affiliated with an Australian or New Zealand University. The content should relate to any taxation topic with particular relevance to Australia and/or New Zealand.
3. Submissions must be made to the DSEB by the relevant cut-off date for a year to be considered for possible publication in the series in that year. For 2015, the cut-off date is 30 November 2015. The successful applicant will be announced at ATTA in January 2016.
4. Theses from any period will be considered by the DSEB for possible publication in the series. However, the currency, relevance and topical interest of the thesis will be among the considerations taken into account by the DSEB in selecting a thesis for possible publication.

5. If a thesis which is submitted by an author needs to be updated/edited in the view of the DSEB then the author undertakes to carry out any updates/edits to the satisfaction of the DSEB within time frames which the DSEB specifies.
 6. Doctoral submissions may include PhD or SJD theses which have been through the examination process.
 7. The DSEB may decide not to publish any submissions received in a particular year. There will not be more than one winner in any year.
 8. Any publication is subject to a contractual agreement between the author and OUP and will be subject to OUP's standard approval processes including approval by the Delegates of the Press.
 9. The decisions of the DSEB are final and no correspondence will be entered into.
- Please send submissions on or before the 2015 cut-off date of 30 November 2015 to Professor Dale Pinto (dale.pinto@cbs.curtin.edu.au). The submission should include:
- a) a copy of the thesis
 - b) a brief statement on the status of the award (whether awarded or approved)
 - c) details of the supervisors of the degree and
 - d) copies of the examiners' formal reports on the thesis.

The Doctoral Series Editorial Board

4 Arrivals, departures and honours

Congratulations to **Anna Mortimore** on being conferred with her doctorate from Macquarie University. Her topic was *The use of economic instruments in managing the environmental externalities of transport*, and her supervisor was A/Prof Hope Ashiabor.

Congratulations to **Maria Italia** on completing her doctorate on *A taxpayer privilege for Australia*, from Victoria University College of Business. Maria graduated in October 2015 and her supervisor was Professor Duncan Bentley.

Ann Kayis-Kumar has been appointed a Lecturer, with the School of Taxation & Business Law, University of New South Wales, effective from November 2015. Her PhD research area is international taxation law, focusing on the taxation of cross-border intercompany financing activities and her research applies a combination of legal analysis and optimisation modelling.

Congratulations to **Julie Zetler** on the completion of her SJD from the University of Sydney. Her topic was: *The legal and ethical implications of electronic patient health records and e-health on Australian privacy and confidentiality law*, and her supervisors were Terry Carney and Ghena Krayem.

Sally Joseph received a 12 month post-doctoral research grant at the National University of Singapore, Faculty of Law, Centre for law & Business. She commenced in June 2015 working on a project on the taxation of sovereign wealth funds.

“Melbourne Law School is assisting the Australian Taxation Office’s efforts to reclaim revenue lost by businesses engaging illegal phoenix activity.

Associate Professor Helen Anderson from the Law School recently participated in a video series with Australian regulators as part of this initiative.

The videos focus on “illegal phoenix activity”. This occurs when a second company, often newly incorporated, arises from the ashes of its failed predecessor where the second company’s controllers and business are essentially the same. The intention is to exploit the corporate form to the detriment of unsecured creditors, including employees and tax authorities. The company in financial difficulties is placed into external administration, and its assets may be transferred for less than their true value to the new company.

Phoenix activity is a major source of lost revenue for the ATO. The Law School’s involvement in the video series highlights MLS academics offering their expertise as part of a contemporary approach to solving the problem.

“It’s something the Tax Office is cracking down on, and from our perspective it is excellent for Melbourne Law School to be involved in this video series,” Professor Anderson says.

We are able to share our extensive knowledge and expertise in corporate law and tax law with government and the wider community. This is one of the reasons we were given a large discovery grant by the Australian Research Council.”

The ARC grant was made to Associate Professor Anderson, Professor Ian Ramsay, Professor **Ann O’Connell**, all of the Melbourne Law School, as well as Associate Professor Michelle Welsh of the Monash Business School.

David Koch, respected finance journalist and the co-host of ‘Sunrise’ on Channel Seven, facilitated the video series. Alongside Associate Professor Anderson, the videos feature Deputy Commissioner Michael Cranston from the ATO, Brett Bassett from Small Business Compliance and Deterrence at the Australian Securities and Investments Commission, and Tom O’Shea, the Executive Director of Media & Communications Policy from the Fair Work Ombudsman.”

Source: Chawla, Tarang ‘Melbourne Law School assists the Australian Taxation Office reclaim revenue’, 28 April 2015 <<http://www.law.unimelb.edu.au/melbourne-law-school/news-and-events/news-and-events-details/diaryid/8812>>

See also Bullock, Lara ‘Phoenix’ lawyers undeterred by ATO crackdown’ *Lawyers Weekly* 21 October, 2015 <http://www.lawyersweekly.com.au/news/17357-phoenix-lawyers-undeterred-by-ato-crackdown?utm_source=lawyersweekly&utm_campaign=lawyersweekly_Bulletin21_10_2015&utm_medium=email>

“An important element of tax and transfer reform in Australia is about supporting women's workforce participation and retirement savings. We are excited to announce a forthcoming visit by leading Canadian tax scholar, Professor **Kathleen Lahey** of Queen's University, in the first week of November. TTPI and the Gender Institute will jointly host Professor Lahey in a public lecture on Tax and transfer policies and sex equality: what Australia, Canada and the UK should learn from experience. Professor Lahey will also participate in an Academy of the Social Sciences interdisciplinary Workshop on Gender Equality in Australia's Tax and Transfer System, which will bring together leading scholars and policymakers on this topic.”

Source: *TTPI Newsletter* October 2015

Professor **Craig Elliffe** transferred from the Commercial Law Department, within the Business School, to the Law Faculty, University of Auckland, in June this year. The Master of Tax degree has also moved to the Law Faculty.

Julie Cassidy has resigned from her position at the Auckland University of Technology to take up the position of Professor of Taxation at the University of Auckland, effective from the beginning of 2016.

Professor **Kerrie Sadiq** was the visiting Erskine Fellow at the University of Canterbury from September 12 to October 10 2015. During this time Kerrie was involved in teaching an advanced undergraduate tax class and taking seminars in a honours tax class. Kerrie also spent time with thesis students discussing their work, and undertaking other research-related activities. The Erskine Fellowship is a the result of a bequest established in 1963 to enable approximately 70 distinguished international academic visitors who are able to teach in subjects within the Faculties of Commerce, Engineering or Science. Visitors come for durations of one to three months for the purpose of giving lectures to students of the University.

5 Research in Fiscal Accountability PhD Scholarship

This scholarship is for PhD studies in the field of fiscal accountability within a human rights framework. We're looking for an outstanding student to undertake a PhD in the field of accounting and auditing for corporates during social change.

Available for

You have to be applying for a QUT course to apply for this scholarship.

Student type: Future domestic research students

Future international research students

Study type: Postgraduate research

Faculty/area: Business

Eligible courses: IF49

Application dates Open date: 15 July 2015

Eligibility details

You must:

meet the entry criteria for our PhD

- be planning to research in the field of fiscal accountability within a human rights framework
- have an outstanding academic record
- have a background in accounting or business law
- demonstrate good communication skills and leadership potential.

What you receive

You'll receive:

a tax-free scholarship of \$26,000 a year for 3 years, paid as a fortnightly stipend

up to \$6,000 for research costs such as conferences, overseas study and minor expenses over the course of your degree.

How to apply

You must apply for a PhD at QUT and indicate on your course application that you want to be considered for this scholarship. Your PhD application will include a research proposal, which we'll review when we assess applications.

How to apply for a research degree

You must apply by:

31 October 2015 for domestic students

31 August 2015 for international students.

What happens next

We'll assess applications based on the research proposal you've submitted as part of your application, looking for potential benefits of your research to industry.

You may be invited to attend an interview with our selection panel. You can do a telephone or video conference interview if you live overseas.

We'll select the successful applicant based on the outcome of the interview and the strength of their proposed research. If there are no suitable applicants, we reserve the right to not award the scholarship. If you're awarded the scholarship, you'll be an ambassador for QUT, and you may be required to give presentations to industry.

Background

The Research in Fiscal Accountability PhD Scholarship has been established as a result of the internationally recognised research being undertaken by a group of leading researchers in this area.

This scholarship is for PhD studies in the field of fiscal accountability within a human rights framework.

Tax revenue is an essential element for developing countries to attain self-reliance and provide sufficient funds for public services like health and education. Tax plays a fundamental role in addressing inequality and shaping accountability of governments. It's been acknowledged that while tax can build accountability, its exploitation can foster widespread human rights abuses.

Using a human rights framework, and examining the relationship of citizens (rights-holders) and government (duty-bearers), your thesis will consider the interaction between human rights and government accountability and responsiveness in matters of fiscal policy.

<<https://www.qut.edu.au/study/fees-and-scholarships/scholarships-and-prizes/research-in-fiscal-accountability-phd-scholarship>>

For further details please contact:

Professor Kerrie Sadiq

School of Accountancy | Queensland University of Technology | www.bus.qut.edu.au

Phone: 07 3138 4236| Fax: 07 3138 1812|Email: kerrie.sadiq@qut.edu.au|

6 ATTA Member Rides for MS

Please support ATTA member Dale Boccabella as he again undertakes the Sydney to Gong (Wollongong) ride to raise money to support those with MS. You can donate here:

<https://register.gongride.org.au/MS-Sydney-to-the-Gong-Ride/DaleBoccabella>

7 Australian and New Zealand tax and related doctoral theses

In the *ATTA News* for December 2002, March 2004, April 2005, June 2006, June 2007, July 2008, September 2009, December 2010, November 2011, December 2012 and December 2013, December 2014 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 doctoral theses 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 December 2015. 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 or where it can be found. If you wish to preview the list before publication, please let me know by email.

Colin Fong

8 New Zealand developments

In between the rugby games, there has been a fair amount of tax-related activity in New Zealand over recent weeks.

A new test for land sales taxation came into effect on 1st October 2015. Where residential land is purchased after 1st October 2015 for investment purposes and sold within two years of acquisition, any profit made on sale is taxable at the marginal income tax rate of the seller. Any losses made can only be used against gains from other land sales.

New disclosure rules apply from the same date. These new rules apply to those who are: not a New Zealand resident or citizen; or who are a NZ resident or citizen where the property is not their main home; or who are a NZ resident or citizen where they have sold more than three other properties in the past two years. The new rules require: provision of tax identification from the person's home country (where applicable); the person to open a New Zealand bank account; the person to hold or obtain an Inland Revenue tax number; and in some cases provide other information. Amendments made to the

Tax Administration Act 1994 mean that after 1st October 2015, offshore persons will need to hold a NZ bank account before they can apply for an Inland Revenue tax number.

Inland Revenue has published Standard Practice Statement SPS 13/01 Retention of business records in electronic format, application to store records offshore and application to keep records in Māori. The publication of this SPS is in response to increasing use of cloud computing services, but also extends to requests from businesses to hold their records in Māori. As well as providing guidance on keeping records in electronic format, the SPS clarifies Inland Revenue's practice when requests are made to hold business records offshore.

Over the past two months (since the last NZ column) Inland Revenue have been consulting on a number of different issues, including:

- GST rules. The two primary issues are the GST treatment of costs associated with raising capital relating to business expansion, and when GST should be paid on expenses such as real estate agent fees and legal costs provided to non-residents in connection with NZ land purchases.
- Loss grouping and imputation credits.
- The rules surrounding closely held companies.
- GST and online purchases (also covering collection of GST on low-value imported goods).

Thanks to Colin Fong for sending through the media report on the 'Kiwi march "due to lower tax"'. Apparently Joe Hockey (in his prior role) had 'raised alarm' about increasing numbers of Australians relocating to NZ for preferable tax rates. It's good to know our higher GST, lower salaries and questionable weather all play a lesser role than income tax rates!

Lisa Marriott

9 TTPI 2016 Australian Visiting Fellow Awards

Applications for the 2016 Australian Visiting Fellow Awards are now open. These awards fund a one or two week visit by Australian tax and welfare scholars from around the country to TTPI at Crawford School, to build our national public finance research network. Visiting fellows will carry out research and we will aim to build collaborative projects in future. Guidelines and the application form are available here. <<https://taxpolicy.crawford.anu.edu.au/taxpolicy-grants>>

10 Recent Australian tax cases

The following cases are from the last month of Australian cases on tax and related matters, with the catchwords taken from the AustLII, Federal Court and Jade websites.

Federal Court of Australia

Millar v Commissioner of Taxation [2015] FCA 1104

Taxation - appeal from a decision of the Administrative Appeals Tribunal ('AAT') affirming the respondent's decision to disallow the applicants' objections against amended assessments and notices of assessment of shortfall penalty - where the AAT found the existence of sham - whether the AAT erred in not confining its assessment of whether sham...

19 Oct 2015 Taxation, Griffiths J

Frugtniet v Tax Practitioners Board [2015] FCA 1066

Administrative Law - Appeal from a decision of the Administrative Appeals Tribunal that affirmed the termination of the applicant's registration as a tax agent and precluded him from applying for registration for a period of 5 years - Apprehended bias - Natural justice - Apprehension of bias found arising out of a similarly...

1 Oct 2015 Administrative Law, Jessup J

Bell Group Limited (in liq) v Deputy Commissioner of Taxation [2015] FCA 1056

Taxation - where notices have been issued by the Commissioner of Taxation pursuant to s 260-5 of Schedule 1 to the Taxation Administration Act 1953 (Cth) to a company which is being wound up and

its liquidator in relation to the company's post-liquidation tax-related liabilities - whether the Commissioner of Taxation has power to...
29 Sep 2015 Taxation, Wigney J

Supreme Court of Queensland - Court of Appeal

Commissioner of State Revenue v Di Sipio & Anor [2015] QCA 198 (20 October 2015) (Holmes CJ and P Lyons and Burns JJ,)

Taxes And Duties – Stamp Duties – Concessional Rates of Duty – Generally – where the respondents purchased a property subject to an existing tenancy and obtained a first home concession under s 92 Duties Act 2001 (Qld) – where the Commissioner of State Revenue reassessed the duty under s 154 Duties Act 2001 (Qld) – where the Appeal Tribunal of the Queensland Civil and Administrative Tribunal found that s 154 did not apply, as the respondents had not leased the land to the tenants nor given them exclusive possession – where the Commissioner argues that the Appeal Tribunal misconstrued s 154(2) in so finding – where the Commissioner argues that the respondents became lessors to the existing tenants – where the respondents argue that they received only the reversionary estate, the leasehold interest having already passed to the tenants – where the respondents argue that they did not grant exclusive possession of the property as the tenants were already in exclusive possession – whether s 154(2) should be construed so that a buyer's acquisition of a property subject to an existing lease constitutes a disposal of the property – whether leave to appeal should be granted – whether the appeal should be allowed

Victoria - Supreme Court of Victoria - Court of Appeal

EHL Burgess Properties Pty Ltd v Commissioner of State Revenue [2015] VSCA 269 (29 September 2015) (Tate and Kyrou JJA and Robson AJA)

Taxation – Land tax – Exemption for land outside 'greater Melbourne' that is used primarily for primary production – Meaning of 'greater Melbourne' – Whether respondent's land located outside 'greater Melbourne' – Land Tax Act 2005 ss 64(1), 65(1).

Taxation – Land tax – Definition of 'greater Melbourne' in s 64(1) of the Land Tax Act 2005 relied on definition of 'metropolitan area' in s 201(1) of the Melbourne and Metropolitan Board of Works Act 1958 as in force on 30 June 2007 – Definition of 'metropolitan area' relied on areas described in Third Schedule of 1958 Act – Those areas were described by reference to the municipal districts of Cities and Shires all but one of which (the City of Melbourne) had ceased to exist in 1994 or earlier – Whether judge erred in finding that references to such municipal districts lacked any legal meaning or effect – Application for leave to appeal granted – Appeal allowed.

Statutory Interpretation – Principles – Context – Ascertaining legislative intention – Relevance of legislative history – Circumstances in which courts can read words into a statute – Circumstances in which an alternative interpretation can be adopted to avoid anomalous consequences – Whether courts have power to hold that a statutory provision is void for uncertainty – Circumstances in which a statute can operate on historical facts which have no other ongoing legal consequences.

Western Australia - Supreme Court of Western Australia - Court of Appeal

Roche -v- Deputy Commissioner of Taxation [2015] WASCA 196 (24 September 2015) (Buss JA, Newnes JA, Murphy JA)

Catchwords Practice and procedure - Summary judgment - Taxation - Failure by company to remit tax withheld from employees to Commissioner of Taxation - Taxation Administration Act 1953 (Cth) - Penalty imposed on appellant as director - Whether appellant took all reasonable steps to cause company to comply with obligations - Section 269-35 - No evidence of any steps taken - Whether s 269-30(2) applied to penalties imposed prior to 30 June 2012

Administrative Appeals Tribunal

Taxpayer -1 & Taxpayer -2 and Commissioner of Taxation (Taxation) [2015] AATA 737 (22 September 2015)

Tribunal, Ms G Ettinger, Senior Member

The Tribunal affirms the decision under review.

Taxation – whether the Taxpayers were carrying on an enterprise – Commissioner carried out three audits – no business plan – input credits not substantiated – no enterprise – objection decisions under review affirmed

Lipton and Commissioner of Taxation (Taxation) [2015] AATA 754 (25 September 2015)

Tribunal, Ms G Lazanas, Senior Member

The decisions under review are affirmed.

Taxation – application for release from tax debt refused – whether applicants would suffer serious hardship if required to satisfy tax debts – whether applicants able to redraw loan facility – whether discretion to release debts in part or in full should be exercised – decisions under review affirmed

Colin Fong

11 IBFD Frans Vanistendael Award for International Tax Law

IBFD wishes to promote outstanding scientific research output on international tax law. For this purpose, it decided to introduce the IBFD Frans Vanistendael Award for International Tax Law, named after its previous, esteemed Academic Chairman, Prof. Dr Frans Vanistendael. With his academic production at the highest scientific standards, Professor Vanistendael has long distinguished himself as one of the most far-sighted scholars in the field of international tax law.

The winning article of the first edition of the award was J. (Jürgen) Lüdicke & J.F. Avery Jones, The Origins of Article 5(5) and 5(6) of the OECD Model, 6 *World Tax Journal* 3 (2014).

Applications for the second edition of the IBFD Frans Vanistendael Award are open until 15 January 2016. Please send your application to academic@ibfd.org and include a short motivational letter.

I. Funding, focus and requirements

The proposed dotation is EUR 10,000 plus a flat financial reimbursement for travel and accommodation expenses incurred to attend the award ceremony.

Eligible publications are all articles and book chapters on international tax law (including EU tax law), in paper or digital format (with an ISBN or ISSN number), published in English between 1 January 2015 and 31 December 2015, which have provided an outstanding contribution to the development of international tax law.

II. Application and selection process

The applications for the Frans Vanistendael Award will be evaluated by an international jury, the members of which will soon be announced.

Members of the jury are not eligible for the award.

III. Award information

The jury will decide on the winner of the award by a two-third majority. In case that majority is not reached after two rounds of votes, the decision is taken by simple majority. The award will be conferred in September 2016 during the IBFD seminar at the IFA Congress in Madrid, Spain.

The following publications were shortlisted for the first edition of the award:

- Y. Brauner, BEPS: An Interim Evaluation, 6 *World Tax Journal* 1 (2014)
- Y. Brauner, Formula Based Transfer Pricing, 42 *Intertax* 10, pp. 615-631 (2014)
- Y. Brauner, What the BEPS?, 16 *Florida Tax Review* 55 (2014)
- W. Cui, Taxing Indirect Transfers: Improving an Instrument for Stemming Tax and Legal Base Erosion, 33 *Virginia Tax Review* 4 (2014)
- C. Fleming, R. Peroni & R. S. Shay, Formulary Apportionment in the U.S. International Income Tax System: Putting Lipstick on a Pig?, 36 *Michigan Journal of International Law* 1 (2014)
- M.A. Kane, Transfer Pricing, Integration and Synergy Intangibles: A Consensus Approach to the Arm's Length Standard, 6 *World Tax Journal* 3 (2014)
- J. (Jürgen) Lüdicke & J.F. Avery Jones, The Origins of Article 5(5) and 5(6) of the OECD Model, 6 *World Tax Journal* 3 (2014)
- C. Peters, On the Legitimacy of International Tax Law (IBFD 2014)
- A. Ting, iTax - Apple's International Tax Structure and the Double Non-Taxation Issue, *British Tax Review* 1 (2014)

<<http://www.ibfd.org/Academic/IBFD-Frans-Vanistendael-Award-International-Tax-Law>>

12 Tax and related meetings

Local

The School of Taxation and Business Law, UNSW will host the following scholars as part of its 2015 research fellowship program:

Jeremy Sherwood, HM Revenue and Customs, UK, November 2015. Jeremy will be presenting a **'Thought Leadership' lecture dealing with the UK's experience with Tax Simplification and on issues concerning Tax Simplification** more generally on 5 November. Further details will be provided closer to the date.

Please contact Fiona Martin on F.martin@unsw.edu.au for further details closer to the time.

"Insolvency and Tax: Smoke and Mirrors" is the theme for the upcoming 2015 Business Law Symposium being hosted by Griffith University on Monday 2 November at South Bank (Brisbane). There will be an exciting range of presentations from Business law academics, including tax, insolvency, environment, superannuation and intellectual property. It is free to register and registration is open to academics with a research interest in insolvency, tax, or business law generally, as well as Higher Degree Research students. To register go to:

<https://www.griffith.edu.au/business-government/griffith-business-school/departments/department-accounting-finance-economics/news-and-events/2015-business-law-symposium>

The Tax and Transfer Policy Institute and Gender Institute at ANU Public Lecture *Tax and transfer policies and sex equality: what Australia, Canada and the UK should learn from experience*, to be given by Professor **Kathleen Lahey** from Canada. This free public lecture is on Wednesday 4 November at 5.15pm at Weston Theatre, Level 1, Crawford Building 132, Lennox Crossing, Australian National University, Canberra.

Professor **Bob Breunig** will be leading a Crawford Executive Education course on Tax Policy on 12-13 November 2015, which will provide a broad introduction and overview of the economics and design aspects of tax policy. Course overview and details on how to apply are available here.

<<https://crawford.anu.edu.au/executive-education/course/introductory/5578/economics-tax-policy>>

ATTA's **28th Annual Conference** will be hosted by the University of New South Wales School of Taxation & Business Law, 20th to 22nd January 2016. The theme of the conference is *Tax and Time Travel: Looking Backwards and Looking Forwards*. The conference will celebrate 28 years of ATTA in Australasia. Further information about the conference is included above in this newsletter. If you have any questions please contact John Taylor at c.taylor@unsw.edu.au or <www.business.unsw.edu.au/2016atta>

The **Tax Institute's** website www.taxinstitute.com.au lists many conferences, conventions, seminars, and breakfast clubs. For further enquiries, contact Phillipa Cardigan (02) 8223 0045 or email phillipacardigan@taxinstitute.com.au or register online at www.taxinstitute.com.au

Call the National Events team on 1300 733 842 for more details.

Please contact the National Events Team on 1300 733 842 or by email, nationalevents@taxinstitute.com.au Follow us on Twitter @TaxInstituteOz.

Danielle Thurston, Event and Member Services Executive The Tax Institute Phone: 02 8223 0000; Direct: 02 8223 0014 Fax: 02 8223 0077 daniellethurston@taxinstitute.com.au

Overseas

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

Canadian Tax Foundation <http://www.ctf.ca/ctfweb/en>

Institute for Fiscal Studies Conferences and seminars <http://www1.ifs.org.uk/conferences/index.shtml>

Institute for Austrian and International Tax Law 2015 events:

The topics of the seminar sessions and other events can always be found at www.wu.ac.at/taxlaw. Please see our website for most up-to-date information on them.

International Bureau of Fiscal Documentation. Various courses in Amsterdam, the Netherlands or in Malaysia or elsewhere. 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

For courses go to <http://www.ibfd.org/Training>

IBFD International Tax Courses - A selection of related courses in 2015

Transfer Pricing Risk Management: Implementation and Monitoring 5-6 November 2015 (NL)

Principles of Transfer Pricing 15-17 November 2015 (AE)

Transfer Pricing and Intangibles 19-20 November 2015 (NL)

Transfer Pricing and Attribution of Profits to Permanent Establishments 16-18 December 2015 (NL)

More international tax courses

Tax Treaties

International Taxation of Oil and Gas and Other Mining Activities 20-23 October 2015 (SG)

Tax Treaties - Selected Issues 28-30 Oct 2015 (NL)

Principles of International Taxation 16-20 November 2015 (KL)

Indirect Taxation

European Value Added Tax Workshop 12-13 November 2015 (NL)

For entire course portfolio, see < http://www.ibfd.org/Training/Find-course?utm_source=course-promo-april&utm_medium=email&utm_campaign=ITA0520-04-2015&utm_content=Course-finder>

Inaugural International Conference on Taxpayer Rights: The Bedrock of Tax Administration,

Washington, DC, 18-19 November 2015. The National Taxpayer Advocate of the U.S. Internal Revenue Service is convening the Inaugural International Conference on Taxpayer Rights in Washington, D.C. This ground breaking conference will explore how taxpayer rights globally serve as the foundation for effective tax administration.

Government officials, scholars, and practitioners from many countries will discuss issues such as:

- Rights to confidentiality and privacy in an age of transparency;
- Right to appeal to an independent forum: the role of tax tribunals in protecting taxpayer rights;
- Taxpayer rights and procedural justice in audit and collection activities;
- Impact of taxpayer service on compliance;
- Role of taxpayer advocates, defenders, and ombuds in protecting taxpayer rights and promoting voluntary compliance; and
- Challenges in "operationalizing" taxpayer rights in both mature and developing tax administrations.

<<http://www.taxpayerrightsconference.com>>

Renovating the Hong Kong Revenue Regime: the Local, Cross-Border & International Contexts,

Taxation Law Research Programme, University of Hong Kong – International Conference - Saturday, 31 October 2015. Hong Kong has developed, over decades, a Revenue Regime (RR) that is astonishing for its simplicity, stability and adequate resourcing of public services – not least when compared to other developed jurisdictions, most of which need to cope with entrenched, far more complex tax systems. Articles 106-108 of the Basic Law of the Hong Kong Special Administrative Region (HKSAR) also direct that these fundamentals of the RR should be retained. The system's long history of satisfactory performance, however, does not imply or guarantee future fitness. More than ever, we need to understand the strengths and weaknesses of the RR.

Further info at:

<http://www.law.hku.hk/aiifl/taxation-law-research-programme-tlrp/>

Registration is free. Those attending do need to make their own travel and accommodation arrangements, however.

For registration, please email Flora Leung at: fkleung@hku.hk

Richard Cullen (Director of the TLRP) is happy to answer any questions about the Conference - he can be contacted at: richard.culllen@gmail.com

International Conference of Chinese Tax and Policy, Xiamen University, Xiamen, China, 12-13 December 2015 and jointly organised by The University of Sydney Business School (<http://sydney.edu.au/business>), the Journal of Chinese Tax and Policy (<http://sydney.edu.au/business/research/journals/jctp>), the Department of Public Economics of Xiamen University (<http://czx.xmu.edu.cn/user/index.asp>) and the Taxation Law and Policy Research Institute of Monash University (<http://www.buseco.monash.edu.au/blt/tlpri/>).
The conference theme: Individual Income Tax Reform in China. All accepted papers have the priority to be selected for publication in the *Journal of Chinese Tax and Policy*, subject to an international blind peer-review process.

International Fiscal Association Congresses <http://www.ifa.nl/pages/default.aspx>

2016 Madrid, Spain (25 August - 30 August 2016)

<https://www.ifa.nl/activities/annual_congresses/Pages/2016_Madrid_Congress_19.aspx?source=%2fPages%2fdefault.aspx>

Subject 1:

Dispute resolution procedures in international tax matters

Subject 2:

The notion of tax and the elimination of international double taxation or double non-taxation

Tentative Seminar Programme

IFA/OECD

IFA/EU

Recent developments in international taxation

Latin-American tax seminar

Tax judges seminar

Taxation of activities performed in breach of legal regulations (Illegal activities)

Taxation of venture capital: Funds, managers and investment structure

International taxation of sportsmen, sport organizations and sports events

How has BEPS affected to MNEs relocation?

VAT and direct taxation of digital economy: Old problems, new solutions?

2017 **Rio de Janeiro, Brazil**

2018 **Seoul, Korea, Rep of**

2019 **London, United Kingdom**

International Atlantic Economic Society (IAES) conference 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

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

Other useful tax and law related conference websites include the

International Bar Association:

http://www.ibanet.org/Conferences/conferences_home.aspx

IBFD Course calendar

<http://www.ibfd.org/portal/app?bookmarkablePage=org.ibfd.portal.presentation.TaxCourses>

International Events and Law Conferences

<http://internationaleventsandlawconferences.yolasite.com>

Conferences in Australia <http://www.conferencealerts.com/country-listing.php?page=1&ipp=All&country=Australia>

New South Wales Bar

Association http://www.nswbar.asn.au/docs/professional/prof_dev/CPD/programme/index.php

Law Council of Australia <http://www.lawcouncil.asn.au/lawcouncil/index.php/conferences>

Practising Law Institute <http://www.pli.edu/>

New York County Lawyers Association <http://www.nycla.org>

American Bar Association Taxation CLE topics

http://www.americanbar.org/cle/cle_courses_by_topic/taxation.html

New York Bar Association <http://www.nysba.org/>

Hieros Gamos Worldwide Law Events Calendar <http://www.hg.org/legal-events.asp>

For Australian ones <http://www.hg.org/legal-events-australia.asp>

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 ATTA people in the media

Boccabella, Dale

Mather, Joanne 'Family trusts cost the taxpayer \$1b each year', *Australian Financial Review* 1 October 2015, p 10. Boccabella estimated lost revenue from the use of family trusts estimated to be in excess of \$ 1 billion dollars each year.

Mackenzie, Gordon

Channel 7 News, 24 August 2015. In the audience listening to a speech that Joe Hockey gave about reducing taxes.

Mortimore, Anna

7:30 Report, ABC TV 24 September 2015. She was talking about the recent scandal with Volkswagen fitting devices to their cars to avoid emission tests.

Featured in a package on the VW scandal which runs on ABC Radio National (Breakfast with Fran Kelly) on 12 October 2015.

ABC RN (PM) and ABC News Radio (RN) segments on fallout from VW scandal on 9 October 2015

Interview with *The Wall Street Journal* (Canberra) and publication of following newspaper article: "Australians Fear 'Dirty Car' Influx after VW Scandal" published in the Asia edition of the *Wall Street Journal* on 14 October 2015.

14 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

Anderson, Helen; **O'Connell, Ann**; Ramsay, Ian; Welsh, Michelle and Withers, Hannah 'Corporate insolvency: The productivity commission, corporate insolvency and phoenix companies' (2015) 33 *Company and Securities Law Journal* 425-429

Australia Parliamentary Budget Office *Alcohol taxation in Australia*, Report No 3/2015, October 2015 <http://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Budget_Office/research_reports/Alcohol_taxation_in_Australia>

Australia Productivity Commission *Tax and transfer incidence in Australia*, 7 October 2015
Commission working paper <<http://www.pc.gov.au/research/completed/tax-and-transfer-incidence/tax-and-transfer-incidence.pdf>>

(2015) 15 (3) *Australian GST Journal*

Editorial

Goods and services tax impacting the retailing sector – **Jeyapalan Kasipillai**

GST update

Measuring the Australian GST Gap – Kevin O'Rourke

News from the Asia Pacific

South Korea: New VAT regulation on overseas electronic services – Dong-Keon Lee

Pakistan: Phasing out concessionary tax regime – Shafi Khan

Boccabella, Dale 'Using family trusts to minimise tax is on the nose: so why are policy makers silent?' *The Conversation* 22 September 2015 <<http://theconversation.com/using-family-trusts-to-minimise-tax-is-on-the-nose-so-why-are-policy-makers-silent-47277>>

Brake, Roger 'An inside perspective on the Tax White Paper', Melbourne, 8 October 2015 | Vic 3rd Annual Tax Forum | 8 October 2015 - 9 October 2015
<<http://www.treasury.gov.au/PublicationsAndMedia/Speeches/2015/An-inside-perspective-on-the-Tax-White-Paper>>

Broderick, Matthew; **Morrison, David** and Ramage, Emma 'Commercial litigation under the Personal Property Securities Act 2009 (Cth): Part I' (2015) 33 *Company and Securities Law Journal* 372-388

Colebatch, Tim 'Turnbull and tax reform: How, what, when?' *Inside Story* 28 September 2015
<<http://insidestory.org.au/turnbull-and-tax-reform-how-what-when>>

(2015) 13 (2) *eJournal of Tax Research* September 2015

Reconceptualising Australia's transfer pricing rules: An approach based on adopting economic presence as a basis for taxation - **Nicole Wilson-Rogers** and **Dale Pinto**
South East Asian tax administration issues in the drive to attract foreign direct investment: Is a regional tax authority the way forward? Timothy Brand, **Alistair Hodson** and **Adrian Sawyer**
Judicial dissent in taxation cases: The incidence of dissent and factors contributing to dissent - **Rodney Fisher**

Calm waters: GST and cash flow stability for small businesses in Australia - Melissa Belle Isle and **Brett Freudenberg**

Interest withholding tax reduction: Does absence make the heart grow fonder? Andrew Smailes
Evaluating Australia's tax dispute resolution system: A dispute systems design perspective - Melinda Jone

How compliant are the large corporate taxpayers: The Bangladesh experience - Zakir Akhand
Regulatory compliance, case selection and coverage—calculating compliance gaps - Stuart Hamilton

Grattan, Michelle 'Turnbull says he pays his full tax, as Labor pursues his investments', *The Conversation* 14 October 2015 <<https://theconversation.com/turnbull-says-he-pays-his-full-tax-as-labor-pursues-his-investments-49148>>

Kenny, Paul *Tax 1*, 2015 *Tax 11*, 2015, *Tax specialisations*, 2013 Quick reference cards, Chatswood, NSW, LexisNexis Butterworths (Tax Institute was a co-publisher of *Tax specialisations*)

Knapp, Jeffrey '“Companies deserve human rights’ among litany of weak tax disclosure excuses’, *The Conversation* 1 October 2015 <<http://theconversation.com/companies-deserve-human-rights-among-litany-of-weak-tax-disclosure-excuses-48374>>

McConnell, Pat 'Making money is taxing', *The Conversation* 16 October 2015
<<https://theconversation.com/making-money-is-taxing-49283>>

Mortimore, Anna 'Australia's weaker emissions standards allow car makers to 'dump' polluting cars' *The Conversation* 30 September 2015 <<https://theconversation.com/australias-weaker-emissions-standards-allow-car-makers-to-dump-polluting-cars-48172>>

O'Dwyer, Kelly MP, Minister for Small Business and Assistant Treasurer, 'Address to the Victorian 3rd Annual Tax Forum, Tax Institute, Melbourne, 9 October 2015
<<http://kmo.ministers.treasury.gov.au/speech/010-2015>>

Passant, John

John has resumed his weekly radio interview with Sharon Firebrace on Razor Sharp which is replayed on 3 KND (sort of) on Wednesday mornings. By the way, KND stands for Kool N Deadly. Interesting since John is neither. Sharon also puts the whole interview up on her site. To hear the whole 37 minute interview, use this link. The interview covers the Abbott-Turnbull government and much much more. <<http://enpassant.com.au/2015/09/30/my-razor-sharp-interview-on-29-september-with-sharon-firebrace>>

From *Independent Australia*: Why is Russia bombing Syria? With Vladimir Putin's Russia carrying out air strikes in Syria, John Passant reposts in En Passant an excellent explanation of the backdrop to the conflict and consequences of this new stage in the violence by Eric Ruder from Socialist Worker US.

<https://independentaustralia.net/article-display/why-is-russian-bombing-syria,8239#.Vhbr5no2ZF.facebook>

6 October: John Passant and Sharon Firebrace on Razor Sharp chat about the economy, the reform agenda, the economic summit, the TPP and ChAFTA, democracy, privatisation, the need to fight for your own interests and much much more.

<https://sharonfirebrace.files.wordpress.com/2015/10/6-10-15-john-passant-australian-national-university-tony-abbott-is-superseded-by-a-slicker-malcolme-turnbull-to-deliver-expansionry-powers-wealth-to-corporations-to-the-detriment-of-the.mp3>

13 October: John Passant and Sharon Firebrace on Razor Sharp discuss the Abbott-Turnbull government, increasing authoritarianism (metadata, arrest without charge,) the economy, taxing the rich and the ongoing need to resist the attacks on the poor and working class.

<https://sharonfirebrace.files.wordpress.com/2015/10/13-10-15-john-passant-the-turnbull-govt-embroiled-in-star-chamber-economic-political-policy-which-urges-the-public-to-apply-99-is-greater-than-1.mp3>

(Letter to the editor) "Tony Abbott has been promoted to the backbench. Will he be up to the task?" Sydney Morning Herald 14 October 2015 p 15

(Letter to the editor) 'The economy: Come on, Mr Turnbull, show us your taxes', *The Age* 16 October 2015 <<http://www.theage.com.au/comment/the-age-letters/the-economy-come-on-mr-turnbull-show-us--your--taxes-20151015-gk9z36.html>>

(Letter to the editor) 'The PM is no ordinary taxpayer, which is why clarification is need', *Canberra Times* 16 October 2015 <<http://www.canberratimes.com.au/comment/the-pm-is-no-ordinary-taxpayer-which-is-why-clarification-is-need-20151016-gkaqmn.html>>

Potter, Michael 'A misguided approach to multinational tax avoidance', St Leonards, NSW, Centre for Independent Studies, 8 October 2015 <<https://www.cis.org.au/commentary/articles/a-misguided-approach-to-multinational-tax-avoidance>>

Sharkey, Nolan 'Taxing at the source is fair in law, so why not in practice?', *The Conversation* 31 August 2015 <<https://theconversation.com/profiles/nolan-sharkey-64745>>

Sikka, Prem 'OECD's new tax proposals won't stop companies shifting profits to tax havens', *The Conversation* 6 October 2015 <<http://theconversation.com/oecd-s-new-tax-proposals-wont-stop-companies-shifting-profits-to-tax-havens-48466>>

(2015) 87 *Taxation Today* – (September)

- Key Issues in the Design of Capital Gains Tax Regimes: The Impact on Tax Practice [Part 1] – Aaron Quintal, David Snell and Nicholas Chan
- Widening the Net: New GST Proposals for Digital Purchases, Cross-border Services and Low Value Imports – Campbell Pentney

(2015) 88 *Taxation Today* – (October)

- Key Issues in the Design of Capital Gains Tax Regimes: The Impact on Tax Practice [Part 2] – Aaron Quintal, David Snell and Nicholas Chan
- New Zealand's Capital Gains Tax is Another Step Closer – Shelley-ann Brinkley

(2015) 89 *Taxation Today* – (November)

- The Value of a Financial Transactions Tax in New Zealand [Part 1] – Dylan Hobbs and **Lisa Marriott**
- Land Value Tax: A Fiscal Solution to Housing Problems – Zbigniew Dumienki

Ting, Antony 'OECD plan means governments no longer taxing in the dark', *The Conversation* 6 October 2015 <<http://theconversation.com/oecd-plan-means-governments-no-longer-taxing-in-the-dark-48681>>

Whiteford, Peter 'Who really benefits from Australia's tax and social security system?' *The Conversation* 9 October 2015 <<http://theconversation.com/who-really-benefits-from-australias-tax-and-social-security-system-48808>>

Overseas

Alm, James & Martinez-Vazquez, Jorge (ed) *Tax reform in developing countries*, Cheltenham, UK, Edward Elgar Publishing Ltd, 2015

Avi-Yonah, Reuven S *Advanced introduction to international tax law*, Cheltenham, UK, Edward Elgar Publishing Ltd, 2015

Bird, Richard M & Martinez-Vazquez, Jorge (ed) *Taxation and development: the weakest link?* Cheltenham, UK, Edward Elgar Publishing Ltd, 2014

Bulletin for International Taxation Issue No 10 - 2015

Denmark - Crowdfunding in Scandinavia - Susi Hjorth Bærentzen

Brazil/Netherlands - No Brazilian Withholding Tax on Payments for Technical Services? MF Furtado, H. Verboom and C. Lütter

Australia - The Australian Offshore Banking Unit Regime: Modernizing the Rules - Anton Joseph International/Switzerland/United States - Taxation without Representation: The Case of Resident Non-Citizens - Giedre Lideikyte-Huber

International - What Can the Tax Community Learn from Dispute Resolution Procedures in Non-Tax Agreements? Jeffrey Owens, Laura Turcan, Jasmin Kollmann, Alicja Majdanska and Sudin Sabnis

International/OECD - Human Capital in Value Creation and Post-BEPS Tax Policy: An Outlook - Romero JS Tavares and Jeffrey Owens

OECD/International - OECD Base Erosion and Profit Shifting Action 6: The General Anti-Abuse Rule - Carlos Palao Taboada

Qatar - Qatar and International Taxation: Part I - An Overview of the Legal and Tax Systems - Roberto Scalia

(2015) 63 (1) *Canadian Tax Journal*

J.L. Ilsley and the Transition to the Post-War Tax System: 1943-1946 — Colin Campbell

Warfare State, Welfare State, and the Selling of the Personal Income Tax, 1942-1945 — Shirley Tillotson

The Disjunction Between Corporate Residence and Corporate Taxation: Is Improvement Possible? — Geoffrey Loomer

Policy Forum: Effective Tax Rates for Multinationals—The Role of Tax Incentives and Tax Planning — W. Steven Clark and Alexander Kemm

Douglas J. Sherbaniuk Distinguished Writing Award / Prix d'excellence en rédaction Douglas J. Sherbaniuk

Canadian Tax Foundation Regional Student-Paper Awards / Prix régionaux du meilleur article par un étudiant de la Fondation canadienne de fiscalité

Finances of the Nation: Survey of Provincial and Territorial Budgets, 2014-15

Current Cases: (TCC) Devon Canada Corporation v. The Queen; (TCC) Henco Industries Limited v. The Queen; (TCC) J.K. Read Engineering Ltd. v. The Queen

International Tax Planning: Recommended Improvements to the Upstream Loan Rules

Personal Tax Planning: Testamentary Trusts: The New Rules

Planification fiscale personnelle: Fiducie testamentaire : Les nouvelles règles

Corporate Tax Planning: Paid-Up Capital Planning

(2015) 63 (2) *Canadian Tax Journal*

Reforming Old Age Security: Effects and Alternatives — Nicholas-James Clavet, Jean-Yves Duclos, Bernard Fortin, and Steeve Marchand

Is There a Sixth Comparability Factor in Canadian Transfer Pricing? — Robert Robillard

Risk-Based Overrides of Share Ownership as Specific Anti-Avoidance Rules — Tim Edgar

Policy Forum: Editor's Introduction—Resource Taxation — Kevin Milligan

Policy Forum: Resource Rent Taxation—Experiences from Australia — Wayne Mayo

Policy Forum: Taxation of Machinery and Equipment and Linear Property in Alberta — Brian Conger and Bev Dahlby

Current Cases: (TCC) George Weston Limited v. The Queen; (TCC) Invesco Canada Ltd. v. The Queen; (ONSC) Canada (Attorney-General) v. Brogan Family Trust

International Tax Planning: Reinstated Foreign Accrual Tax and the Multi-Period Perspective

Personal Tax Planning: Tuition Expenses and Tutoring Fees as Medical Expenses

Planification fiscale personnelle: Dépenses de tutorat et frais de scolarité admissibles comme frais médicaux

Selected US Tax Developments: Classification of Foreign Trusts for US Tax Purposes: They May Be Called Trusts, but Don't Trust the Label

Chaudhry, Sajid M & Mullineux, Andrew W (ed) *Taxing banks fairly*, Cheltenham, UK, Edward Elgar Publishing Ltd, 2014

Chaudhry, Sajid M; Mullineux, Andrew W & Agarwal, Natasha *Balancing the regulation and taxation of banking*, Cheltenham, UK, Edward Elgar Publishing Ltd, 2015

Derivatives & Financial Instruments Number 5 - 2015

International - Bitcoin Transactions: Recent Tax Developments and Regulatory Responses - Aleksandra Bal

International - Insurance Premium Tax: Trends and Recent Developments - Tom Hilverkus

Spain - New Anti-Hybrid and Anti-Abuse Tax Measures - Enric Girona

Netherlands - Tax Treatment of AT1 Capital - Gabriël van Gelder and Sebastian Frankenberg

Recent developments

Australia - Offshore Banking Units: Welcome Changes to Applicable Rules - Anton Joseph

United States - The IRS Bifurcates Many Swaps with Non-Periodic Payments - Paul Carman

Netherlands - Fiscale Eenheid X: The VAT Exemption on Management of Real Estate Funds -

Jochum Zutt and Myrte van Berkum

Evans, Chris and **Joseph, Sally-Ann** 'Tax, Governance, and administration: challenges and opportunities in China, Indonesia, and Thailand' (2015) 19 (1) *Asia-Pacific Journal of Taxation* 44-64

Harris, Peter and de Cogan, Dominic (ed) *Studies in the history of tax law*, Volume 7, Oxford, Hart, 2015 Hardback 9781849467988 £90.00, ePub 9781509902095 £49.99, Adobe PDF ebook 9781509902088 £89.99, Library ebook 9781509902088

1 The Sources of Addington's Income Tax - John F Avery Jones

2 Retention of Tax at Source and Business Financing - Richard Thomas

3 The Rise of the Finance Act: 1853 – 1922 - John HN Pearce

4 The Board of Referees: 'A Most Useful Addition to Fiscal Machinery' - Dominic de Cogan, Lynne Oats and Mark Billings

5 Tax and the Tax Profession: Assessing Social Standing and Prestige - Jane Frecknall-Hughes and

Margaret McKerchar

6 Tax and Pharmacy: A Synergy in Professional Evolution - Chantal Stebbings

7 Plaintive Aristocrati: The Upper Crust in Tax Cases - Philip Ridd

8 The Negotiation and Drafting of the First Australia – United States Double Taxation Treaty of 1953 -

C John Taylor

9 The Drafting of the 1925 League of Nations Resolutions on Tax Evasion - **Sunita Jogarajan**

10 In the Beginning: Taxation in Early Colonial New Zealand - **Michael Littlewood**

11 Customs Revenue in the British Colony of New South Wales 1827 – 1859: And Inquiries

Concerning Frederick Garling, Artist and Customs Department Employee - **Diane Kraal**

12 The Development of Centralised Income Taxation in Australia, 1901 – 1942 - **Richard Krever** and Peter Mellor

13 A Historical Account of Taxes on Goods and Services in the Transition to Post-Socialist China - Yan Xu

14 David Hume: Philosophical Historian of Tax Law - John Snape

15 Reviving Capital Transfer Tax Scholarship - Ann Mumford

16 The Tax State, Benefit and Legitimacy - **Miranda Stewart**

International Transfer Pricing Journal Number 5 - 2015

International - The EU JTPF Shifts Gears on Dispute Resolution - Isabel Verlinden and Madlen Haupt

International - Planning for Multilateral Tax Controversy in the Post-BEPS World - Cym H. Lowell and Matthew Herrington

International - The Concept of "Options Realistically Available" under the OECD Transfer Pricing Guidelines - Siddharth Parekh

International - Transfer Pricing and Customs Valuation: WCO Guide Published - Joel Lachlan Cooper
Recent developments

Canada - Canada Revenue Agency Guidance on Intra-Group Services and the Role of Multiple-Year Data - J Scott Wilkie
 India - Tribunal Rules that Transfer Pricing Provisions Are Not Applicable to Guarantees if No Costs Are Incurred - P Raj Kumar Jhabakh
 India - Ruling in Marubeni Case on Benchmarking and Determining Arm's Length Consideration for the International Provision of Agency and Marketing Support Services - Vispi T Patel and Kejal P Visharia
 Italy - Unresolved Issues Surrounding Transfer Pricing Legislation: The Anti-Avoidance Purpose and Penalty Protection – Part 2 - Alessandro Albano
 Norway - Use of Secret Comparables Condoned by Norwegian Supreme Court - Joachim M Bjerke and Simen S Sjøgaard
 Taiwan - Business Restructuring Amendments to Transfer Pricing Assessment Rules and New APA Procedure - Yishian Lin

Kreiser, Larry; Skou, Mikael; Olsen, Birgitte Egelund; Speck, Stefan, Milne, Janet E & **Ashiabor, Hope** (ed) *Environmental pricing: studies in policy choices and interactions*, (Critical Issues in Environmental Taxation series), Cheltenham, UK, Edward Elgar Publishing Ltd, 2015, ISBN: 978 1 78536 024 4

Kreiser, Larry; Skou, Mikael; Olsen, Birgitte Egelund; Speck, Stefan, Milne, Janet E & **Ashiabor, Hope** (ed) *Carbon pricing: design, experiences and issues*, (Critical Issues in Environmental Taxation series), Cheltenham, UK, Edward Elgar Publishing Ltd, 2015, ISBN: 978 1 78536 022 0

Oberson, Xavier *International exchange of information in tax matters*, Cheltenham, UK, Edward Elgar Publishing Ltd, 2015

OECD *Action plan on base erosion and profit shifting*, OECD Publishing, 2013
 <<http://www.oecd.org/ctp/BEPSActionPlan.pdf>>

South Australia Dept of Premier & Cabinet *GST equivalent taxation of financial services (Supplementary financial tax)*, September 2015 <<http://taxsifu.com.au/wp-content/uploads/2015/09/SADPC15-GSTfinancialservices-0914final.pdf>>; Appendix A: Cash Flow and TCA comparison <<http://taxsifu.com.au/wp-content/uploads/2015/09/SADPC15-Appendix-A-0914final.pdf>>

15 Quotable quotes

“Australia's personal income tax base is like a giant Swiss cheese, riddled with holes that allow people to pay less tax on particular types of income, earned in particular ways, and/or to pay it later, than they would pay on the same amount of income earned in the form of wages and salaries, or interest. And these holes in the personal income tax system are disproportionately used by high income earners. In many of these cases there is no compelling public policy rationale for any kind of preferential tax treatment, while in others there is no reason why the tax treatment needs to be as preferential as it is in order to achieve the stated public policy rationale. For example, while I have no quarrel with the use of trusts to facilitate the orderly transfer of business assets from one generation of owners to the next, or to protect assets from vengeful ex-spouses or indigent offspring, I can't think of any legitimate public policy reason why trusts should also allow people to pay less tax than they would otherwise.

Source: Eslake, Saul ‘Australia's tax system is like 'Swiss cheese'’ *Sydney Morning Herald* 22 September 2015 < <http://www.smh.com.au/business/the-economy/australias-tax-system-is-like-swiss-cheese-saul-eslake-20150922-gjs8lt.html>>

“Contrary to the seemingly widespread belief, Australia has no tax revenue problem and we should be careful about hiking them lest we create some unintended problems, writes Michael Potter.

It seems plenty of commentators think Australia has a tax revenue problem and we need to increase taxes to "restore" them to historical levels.

These views are wrong, and this becomes evident with a simple examination of official data.

The budget forecasts Federal Government tax revenue will be 22.3 per cent of GDP this financial year. This is:

- Well above the 10-year average of 21.7 per cent;
- Just below the 20-year average (22.5 per cent);
- Equal to the 30-year average (22.3 per cent); and,
- Above the 40-year (post-Whitlam) average (22.0 per cent).

It is much better to take averages of a number of years, including booms and slumps, such as the 30- and 40-year average, than to take an average that includes the mining boom only (as some have done), or - even worse - look only at a single year, which the former secretary to the Treasury, Dr Ken Henry, has done in saying the current tax level is well below the levels in 2002. He does not take into account that taxes were unusually high in 2002 with the introduction of the GST, because some taxing powers were transferred to the federal government.

Why choose a year such as 2002, when tax revenue was abnormally high? We could equally choose 2011, when tax revenue was abnormally low in the aftermath of the Global Financial Crisis. Or 1993, in the aftermath of the "recession we had to have".

This is why a comparison with averages over a longer time are better. On that basis, increases in tax cannot be justified.

In fact, the tax to GDP ratio is scheduled to increase to levels well above the historical average. Mainly due to bracket creep, the tax to GDP ratio is forecast to be 23.4 per cent in 2018-19, a substantial 1.4 percentage points above the 40-year average.

Therefore, to maintain the tax to GDP ratio at the historical average, by 2018-19, we would need tax cuts worth about \$24 billion per year (in today's money).

So the tax to GDP ratio argues for tax cuts, not tax increases."

Source: Potter, Michael 'No, Australia doesn't have a tax revenue problem', *The Drum* ABC TV 28 September 2015 < <http://www.abc.net.au/news/2015-09-28/potter-australia-doesnt-have-a-tax-revenue-problem/6810346>>

"Turnbull is off to a good start. He has declared his commitment to making tax reform work – as he did a decade ago, when he produced options for lower tax rates paid for by closing loopholes. They were applauded by economists, but rejected with ridicule by then treasurer Peter Costello.

Costello saw tax reform through the prism of realpolitik. He once remarked, "People don't think it's tax reform if you're increasing their taxes." And since virtually all worthwhile tax reforms would make some people worse off, and they would complain, the near-death experience of the GST killed his interest in doing anything more.

Well, realpolitik still rules. No one should underestimate the difficulty of designing a tax reform package that will work both politically and economically. Massive difficulties stand in the way, particularly if the Turnbull government tries to do it the way we usually do politics in Australia: on a partisan basis.

You see it all the time. If one side proposes a tax change, the other side opposes it. That was also true in the 1980s and 1990s, when the Coalition opposed virtually every revenue-raising element of Labor's tax reforms: the fringe benefits tax, the capital gains tax, compulsory superannuation and so on. And it was true when Labor opposed the introduction of the GST in any form."

Source: Colebatch, Tim 'Turnbull and tax reform: How, what, when?' Inside Story 28 September 2015
<<http://insidestory.org.au/turnbull-and-tax-reform-how-what-when>>

"Ignore High Tax Cheer Squad

The Rudd government massively increased government spending as a response to financial crisis. It was supposed to be temporary. Eight years later it is still going. Now there is a cheer squad for higher taxes amongst people who want to keep that spending going and possibly have even more.

The leadership of this cheer squad -resides mainly in big government "think tanks" like the Grattan and Australia -Institutes, and congregates with other professional conference-goers to generate publicity. They represent no one but themselves.

Real voters who have to pay taxes are not taken in by it, which is why these people never actually test their theories by running for election. Scott Morrison is absolutely right when he says the budget problem is a spending problem. Don't be sucked into increasing taxes."

Source: Costello, Peter 'What Malcolm Turnbull must do now', *Daily Telegraph* 29 September 2015 p 13 <<http://www.dailytelegraph.com.au/news/opinion/what-malcolm-turnbull-must-do-now/story-fni0cwl5-1227547769458>>

"Leigh Sales: ...and, you know, we've got limited time. So let me try to just pick up on a few of those things. Fiscal consolidation: you spoke about the deficit. Is the problem in the revenue or too much government spending or both?

Ken Henry: OK. So in 2002, when the budget was in balance - and I start with 2002 because that's when the first Intergenerational Report was published - in 2002 we had balance. Both of them were 25 per cent of gross domestic product.

Today spending is 26 per cent of gross domestic product and revenue is 23.5 per cent of gross domestic product. So it's - a bit more than half of it is explained by a deterioration in revenue performance; by the tax system not delivering in the way that the tax system has delivered in the past.

Leigh Sales: Two premiers, the Premiers of South Australia and New South Wales, have raised the prospect of lifting the rate of the GST from 10 per cent to 15 per cent. Would that cover that shortfall?

Ken Henry: Over time - oh, that shortfall: yes. That shortfall: yes.

But then there's the shortfall: the emergent shortfall that I referred to earlier as a consequence of population ageing and so on, which is another five percentage points of gross domestic product. It's on top - double - what we're presently confronting.

And we don't have the tax system to be able to increase revenue by that much. Rather, we have a tax system which apparently is generating a smaller proportion of gross domestic product as government revenue, as the years go by.

The task of tax reform now is incredibly, incredibly difficult but also incredibly, incredibly important. The last really big tax reform exercise we had in Australia is, of course, when the GST was introduced. And of course, I was involved in that.

And on that occasion, part of the calculus - and this is political economy stuff - was: how much will we have to over-compensate Australian households for, in order to have sufficient political support for the introduction of this Goods and Services Tax package? And the estimate was - well, it's just a judgment call, of course: one half of one per cent of gross domestic product.

Now, to put that in today's terms: that's about \$8 billion a year, every year, forever. That's in over-compensation, right? So firstly, you need a budget that has the capacity - it's sufficiently in surplus - to deliver that \$8 billion a year in over-compensation.

The situation we're in now is that we're going to need a much bigger tax reform package than that. And this tax reform package is going to have to be revenue positive, not revenue negative. It's going to have to boost the budget surplus. We've never done this before."

Source: *7:30 Report*, ABC TV, 22 September 2015
<<http://www.abc.net.au/7.30/content/2015/s4317759.htm>>

"Business leaders put comprehensive tax reform at the heart of the agenda, with the Business Council of Australia saying it would launch a campaign on the need for tax reform within weeks. Business groups want a tax reform discussion with "everything on the table", including the GST, a lower company tax rate, personal tax rates and a dramatic simplification of regulations.

While there is agreement that the tax system needs dramatic change, there are significant differences among the groups on the shape of tax reform.

The Australian Council of Trade Unions and the Australian Council of Social Service - oppose changes to increase or broaden the GST but want -higher taxes on top-end superannuation, a crackdown on tax avoidance and a closing of the loopholes exploited by high--income earners."

Source: Maher, Sid 'Tax reform the key to Malcolm Turnbull's vision', *The Australian* 1 October 2015
<<http://www.theaustralian.com.au/national-affairs/treasury/tax-reform-the-key-to-malcolm-turnbulls-vision/story-fn59nsif-1227551481082?sv=11ac8013fa7b27a4eb6d7f23e75b25e0>>

"We are doing everything possible to fix the problem and will be making further announcements in the near future."
Volkswagen's managing director admits some of the company's cars were fitted with emissions rigging-software

Source: *The New Daily* <editor@e.thenewdaily.com.au> 8 October 2015

"The Financial Review, for example, trumpeted that the paper found the GST was "less regressive than critics suggest". Just who these critics were was left unsaid - certainly the PC was not among those suggesting the findings were surprising.

Indeed, the working paper noted that "GST represents a slightly larger share of disposable income for low-income earners than for high-income earners." It also found that "behind these averages lies substantial variation within income groups."

And certainly there were variances - but few that made the GST look progressive. For those earning up to \$25,000 a year, the median level of GST paid as a percentage of disposable income is 5.7 per cent, compared to 4.4 per cent for those earning between \$150,000 and \$175,000 a year:

...

But the top 5 per cent GST payers of those in the poorest income bracket pay 21.8 per cent of their income in GST, compared to just 8.5 per cent for the top 5 per cent GST payers earning between \$150,000 to \$175,000."

Source: Jericho, Greg 'The latest PC report won't vindicate a GST hike', *The Drum* ABC TV
<<http://www.abc.net.au/news/2015-10-14/jericho-the-latest-pc-report-wont-vindicate-a-gst-hike/6852212>>

“The year is 2025 - nine years after a plebiscite narrowly approved same-sex 'marriage' and Parliament amended the Marriage Act and many other laws to remove all references to 'a man and a woman', 'husband and wife' and 'mother and father'. After an initial flurry of rather colourful same-sex 'weddings', numbers have now plateaued to only a few hundred each year. Sociologists debate the long-term effects on public understandings of marriage and family.

...

Religious organisations are now required to extend spousal benefits to same-sex 'married' employees, have lost their charitable status, and now pay the same taxes and rates levied on any other business.”

Source: Fisher, Anthony ‘Should bakers be required to bake gay wedding cakes? The state of our democracy and of religious liberty in contemporary Australia’, *Acton Lecture on Religion and Freedom*, Centre for Independent Studies, St Leonards, 14 October 2015
<https://www.sydneycatholic.org/people/archbishop/addresses/2015/20151014_215.shtml>

Herman Wouk, the prizewinning author of the *Caine Mutiny* quipped:
“Income tax returns are the most imaginative fiction being written today.”

Source: McConnell, Pat ‘Making money is taxing’, *The Conversation* 16 October 2015
<<https://theconversation.com/making-money-is-taxing-49283>>

ATTA News November 2015

<https://www.business.unsw.edu.au/about/schools/taxation-business-law/australasian-tax-teachers-association/newsletters>

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ATTA website: <https://www.business.unsw.edu.au/about/schools/taxation-business-law/australasian-tax-teachers-association>

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1 Presidential column

I am writing this column after returning from a period overseas, which included attending a conference in Hong Kong on Renovating the Revenue Regime, and the Business Research Deans meeting in Perth. My travels will take me to UNSW and attending the Journal of Chinese Policy and Taxation Conference in December. Marking is now the focus (as it will be for many of us); hopefully marking will be (nearly) finished by the time you read this month's newsletter.

I was reminded by Colin Fong that August 24, 2015, was the 10th anniversary of Justice Graham Hill's death. Justice Hill was our first patron, with his contributions to tax law and practice recognised formally by Justice Michael Kirby in an address he gave in 2007: Remembering Justice Graham Hill. This was the Inaugural Justice Graham Hill Memorial Lecture given at the annual conference of the Taxation Institute of Australia, in Hobart, on 15 March 2007.

In this month's newsletter the call for papers for the 2016 International Conference on Tax Administration is included, along with visiting fellowships in the School of Taxation and Business Law in UNSW and in the Crawford School at ANU.

Planning is now well advanced for the 2016 ATTA Conference, with the Organising Committee nearing finalisation of the Conference Programme. Everyone should have received their notification concerning acceptance of their abstract. I expect most are finalising their papers so as to be eligible for a prize. In order to be eligible papers need to be submitted by 13 December 2015, which is fast approaching. If you have not already registered, I would encourage you to do so.

My congratulations go to a number of ATTA members for their superb achievements, including: Toni Chardon (USQ) for her teaching citation, Fiona Martin (UNSW) for receiving an Australian Research Council/Discovery Early Career Researcher Award in 2016, Pearl Rozenberg (USyd) for her innovative approach to encouraging correct behaviour and Binh Tran-Nam (UNSW) on his promotion as professor. Further details of their achievements appear in the newsletter.

Adrian Sawyer

2 2016 ATTA Conference

The 28th Annual ATTA conference will be hosted by the UNSW School of Taxation and Business Law and will be held at UNSW Kensington Campus from 20th to 22nd January 2016. The theme of the conference will be 'Tax and Time Travel: Looking Backwards and Looking Forwards'. The draft conference handbook is available on the ATTA website.

Plenary Speakers

Plenary speakers for the conference will be:

Professor Diane Ring (Boston College)

Greg Smith (Senior Fellow, Melbourne University and Commonwealth Grants Commission)

Justice William Young (Supreme Court of New Zealand)

Jan Farrell (Australian Deputy Commissioner of Taxation Case Leadership PG & I)

Social Program

A welcome reception will be held at the Figtree Courtyard near the conference venue.

The conference dinner will be held at the Australian Museum. The after dinner speaker will be Ross Gittins (Sydney Morning Herald Economics Editor)

The Trans-Tasman Cricket Match and BBQ will be the final social event of the conference.

Registration:

Registration is now open. There are a number registration options including:

- Early Bird: \$510 (3 day conference attendance with welcome drinks and dinner) Registration and payment due by 13 December 2015
- Full Fee (after 13 December 2015): \$560 (3 day conference attendance with welcome drinks and dinner)
- PhD Students (Full time): \$360 (3 day conference and dinner attendance) - (note PhD students are recommended not to formally register until the PhD scholarships are determined)
- ATO rate: \$360 (Days 2 and 3 conference attendance)
- Industry: \$175 (Day 2 conference attendance with morning and lunch)
- Dinner only: \$160 (Day 2 conference dinner)

If you have any questions please contact Maree Magafas at m.magafas@unsw.edu.au, +61 (2) 9385 9549 or visit the conference website at: www.business.unsw.edu.au/2016atta

3 OUP ATTA Doctoral Series 2015

We are pleased to announce that Oxford University Press Australia and ATTA will provide the opportunity to publish a book based upon a thesis in the OUP ATTA Doctoral Series. Expressions of interest are therefore called for doctoral submissions to be considered for the sixth publication in the Series. The Series was previously sponsored by CCH, and past authors have included Lisa Marriott, Brett Freudenberg, John Bevacqua, Fiona Martin and Theuns Steyn.

Applicants need to follow the guidelines listed below which have been agreed to by the Doctoral Series Editorial Board (DSEB), consisting of Professors Adrian Sawyer, Kerrie Sadiq and Dale Pinto.

1. To be eligible for submission for possible publication in the OUP ATTA Doctoral Series, a doctoral thesis must be at least at the stage of having been approved for award of the degree, but need not be awarded at the time of submission.
2. To be eligible, the academic must be affiliated with an Australian or New Zealand University. The content should relate to any taxation topic with particular relevance to Australia and/or New Zealand.
3. Submissions must be made to the DSEB by the relevant cut-off date for a year to be considered for possible publication in the series in that year. For 2015, the cut-off date is 30 November 2015. The successful applicant will be announced at ATTA in January 2016.
4. Theses from any period will be considered by the DSEB for possible publication in the series. However, the currency, relevance and topical interest of the thesis will be among the considerations taken into account by the DSEB in selecting a thesis for possible publication.

5. If a thesis which is submitted by an author needs to be updated/edited in the view of the DSEB then the author undertakes to carry out any updates/edits to the satisfaction of the DSEB within time frames which the DSEB specifies.
 6. Doctoral submissions may include PhD or SJD theses which have been through the examination process.
 7. The DSEB may decide not to publish any submissions received in a particular year. There will not be more than one winner in any year.
 8. Any publication is subject to a contractual agreement between the author and OUP and will be subject to OUP's standard approval processes including approval by the Delegates of the Press.
 9. The decisions of the DSEB are final and no correspondence will be entered into.
- Please send submissions on or before the 2015 cut-off date of 30 November 2015 to Professor Dale Pinto (dale.pinto@cbs.curtin.edu.au). The submission should include:
- a) a copy of the thesis
 - b) a brief statement on the status of the award (whether awarded or approved)
 - c) details of the supervisors of the degree and
 - d) copies of the examiners' formal reports on the thesis.

The Doctoral Series Editorial Board

4 Arrivals, departures and honours

Congratulations to **Catherine Brown**, of the University of Calgary, on the completion of her doctorate on the topic of *Non-discrimination and trade in services: should tax treaties play a broader role in the global trade in services?* from Monash Business School under the supervision of Professor Rick Krever.

Here is some news from Sydney Law School:

"September 2015 has also seen the launch of the Ross Waite Parsons Postgraduate Coursework Law Scholarship, which will support 10 outstanding new Masters students for up to two years with awards of \$10,000."

The Advanced Analytics Institute of University of Technology Sydney hosted a visit by the Shanghai Regional Tax Office from 2-13 November 2015. This visit was co-ordinated by Mr Colin Wise with assistance from **John Taggart**. They were particularly interested in analytics and data mining and its implications for taxation in China.

"Honorable Mention

Pearl Rozenberg

Sub-Dean and Director Academic Integrity, Business School

University of Sydney, New South Wales, Australia

Pearl has driven the uptake of Turnitin across the Business School, and now the University, by developing with her team an innovative approach to correct behavior, not punish it. This multilayered approach includes embedded education in first year units. All students are required to take and pass an Academic Honesty module in which she presents educational videos and online quizzes as well as corresponding administrative and academic development that efficiently complements student learning."

Source: Turnitin 2015 Global Innovation Awards <http://www.turnitin.com/en_us/global-innovation-awards#ausnzhe>

Alvin Cheng joined the University of Nottingham Ningbo China (UNNC) in 2014, having previously been working for the University of Waikato and Unitec Institute of Technology, New Zealand. Alvin is a Chartered Accountant and holds a doctorate degree in Accounting with working experience in a Chartered Accountancy firm. His current research focus is on the taxation of capital gains in China.

Congratulations Dr **Toni Chardon** for receiving a teaching citation for Outstanding Contribution to Student Learning from USQ.

Congratulations to Associate Professor **Fiona Martin**, UNSW Taxation and Business Law, who has been awarded an Australian Research Council/Discovery Early Career Researcher Award (DECRA) for 2016. Her research project is entitled: "Cutting red tape around donations: A new model for deductible gifts" (\$282,000). This project intends to simplify the categorisation of recipients of tax deductible gifts so that it is easy to give and receive gifts and so gifts go only to those organisations that are in keeping with public policy. The proposed framework will be simple, take into account public policy and be adaptable to the community's changing needs and values. Well done to Fiona for this fine achievement.

Congratulations to **Binh Tran-Nam** on his promotion as professor in the School of Taxation and Business Law, University of New South Wales, effective from 1 January 2016. At the same time he is also a professor at RMIT University Vietnam.

Judith Pinny is currently working as a Project Manager for the External Reporting Board in New Zealand. The External Reporting Board (XRB) develops and implements New Zealand's accounting strategy for financial reporting. The XRB also prepares and issues accounting standards, and audit and assurance standards. Her recent work in standard-setting includes the new Revenue Standard, the Disclosure Initiative and the new reporting requirements for Registered Charities. She continues to retain an interest in tax issues.

5 Call for Papers

2016 International Conference on Tax Administration

The 12th International Conference on Tax Administration will be held at the Crowne Plaza Hotel, Coogee on 31st March & 1st April 2016. The theme of the conference will be Global Trends and Developments in Service Delivery. Those interested in presenting a paper at this conference are encouraged to submit a proposal that accords with this theme (for example, digitalisation, simplification, benchmarking, alternative tax dispute resolution, citizen-focused tax administration, fostering voluntary compliance, tax administrative responses to BEPS, etc).

Your proposal should include the following details:

- title of the paper;
- author(s) brief bio and contact details;
- an abstract of between 200-500 words of the contents of the proposed paper including its findings; and
- status of the paper (for example, whether it is part of ongoing research or whether it has been previously published, etc).

Proposals should be sent to Binh Tran-Nam at b.tran-nam@unsw.edu.au with the subject 'Tax Admin Conference Call for papers' by end of Monday 4 January 2016 (Sydney time).

A Steering Committee will select papers for the conference and will advise you of its decision by mid-January 2016. Full papers will be required to be submitted by early March using the conference

template. Selected papers will be published either as book chapters in an edited book or refereed articles in a special issue of the *eJournal of Tax Research* (an A ranked journal in the Australian Business Dean Council's Journal Quality List 2013). Papers submitted on time will be eligible for the Cedric Sandford Medal.

Enquiries about the conference should be directed to Binh Tran-Nam, Chris Evans <cc.evans@unsw.edu.au> and Michael Walpole <m.walpole@unsw.edu.au>.

Fresh submissions are being welcomed by the peer-reviewed journal *Advances in Taxation*

Advances in Taxation publishes relevant, quality manuscripts from around the world on any aspect of federal, state, local, or international taxation including tax compliance, tax planning, tax policy issues, and current issues in tax.

The journal welcomes and encourages interdisciplinary research and a wide variety of research methods, including archival, experimental, survey, qualitative, case-based, legal and literature review approaches that are appropriate to the project.

Potential authors should note that manuscripts should be rigorous and of interest to a broad cross-section of scholars interested in taxation. The Editor will consider occasional publication of manuscripts related to tax education and good replications by doctoral students/faculty of earlier studies where there is an extension of the original paper e.g. through sample period, country of sample or other contribution.

Manuscripts are peer reviewed by two external academic experts and comments are sent back to authors within two to three months.

For information, *Advances in Taxation* is ranked in the top 25 accounting journals (see link below). <http://www.byuaccounting.net/tenure/journalsincluded.php>

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The Second International Conference on Higher Education Advances (HEAd'16). This conference is an excellent forum for researchers and practitioners to exchange ideas, experiences, opinions and research results relating to the preparation of students, teaching/learning methodologies and the organization of educational systems.

The HEAd'16 conference will be held on June 21-23, 2016 at the Faculty of Business Administration and Management of the Universitat Politècnica de València (UPV), which has been recently ranked as the best technical university in Spain by the Academic Ranking of World Universities (ARWU) 2015. Papers are due: January 29, 2016. For more details see: <http://www.headconf.org/submission-instructions>

6 ATTA Member Rides for MS

Well, I did not quite make my 2-hour goal; fell short by 10 minutes.

Did manage to crash into a railing though, and am still feeling the after-effects. I would still just have missed my 2-hour goal in any event.

Thanks to those who have donated. It is appreciated. There is still time to donate: <https://register.gongride.org.au/MS-Sydney-to-the-Gong-Ride/DaleBoccabella>

Dale Boccabella

7 Australian and New Zealand tax and related doctoral theses

In the *ATTA News* for December 2002, March 2004, April 2005, June 2006, June 2007, July 2008, September 2009, December 2010, November 2011, December 2012 and December 2013, December 2014 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 doctoral theses 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 December 2015. 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 or where it can be found. If you wish to preview the list before publication, please let me know by email.

Colin Fong

8 New Zealand developments

Recent activity in New Zealand includes:

- The passing of the second reading of the Taxation (Bright-line Test for Residential Land) Bill. The core components of the proposal remain similar to those originally proposed, with the key item being the introduction of a bright-line test for residential land acquired after 1 October 2015 that is sold within a two year period. The gains on such acquisitions and sales, where the house is not the owner's main home, inherited or the transfer of relationship property, will be taxable as income.
- The passing of the second reading of the Taxation (Annual Rates for 2015-16, Research and Development, and Remedial Matters) Bill. This Bill allows for start-up firms to cash out losses arising from certain research and development expenditure at the company tax rate. This will take the form of a tax credit capped at \$500,000 for year one and increasing by \$300,000 over the next five years to reach a cap of \$2million. The aim of this is to encourage innovation. The Bill also addresses some black-hole expenditure, allowing capitalised development expenditure to be deducted, either over time or as a one-off deduction, depending on whether a depreciable intangible asset is created.
- Clarification of the treatment of allowances paid to employees who hold a first aid qualification. The issue here is whether such payments are taxable as employment income, as they are typically not paid to reimburse employees for costs incurred in employment. However, where allowances are made to employees to reimburse costs for first aid related costs incurred in performing duties in the workplace, this is exempt income.
- Clarification of the treatment of software where taxpayers purchase, lease, licence, develop or commission software for use in a business. The key points are that purchased software will usually be a capital asset and depreciated. The usual rules around the \$500 threshold, deduction of maintenance costs and capitalisation of upgrade costs apply. Clarification is also provided on the treatment of losses of software under finance leases, periodic payments for the right to use software, software developed in-house for use in a business and commissioned software.

Lisa Marriott

9 Visiting Fellowships

School of Taxation and Law, UNSW, Research Fellowships:

The School of Taxation and Business Law, UNSW, Australia is now calling for applications for up to 3 research fellows for 2016.

Details are:

Selection is based on the applicant's research proposal and on their ability to contribute to the School of Taxation & Business Law research profile. A track record in collaborating with Taxation & Business Law academics will be considered as an advantage.

The successful applicant will receive up to \$5,000 AUS to cover airfare, accommodation etc for the duration of their stay at the School.

They are expected to spend at least 4 weeks at the School of Taxation and Business Law. Access to a work area, computer and the internet will be provided.

They are also expected to present a research seminar and undertake research with one of the School's academics.

Application

Applications are invited from overseas academic and professional researchers working in taxation, business law and related disciplines. To apply, applicants must send by email:

1. A letter of application, indicating the area they wish to research under the Fellowship and anticipated publication(s), how they will collaborate with Taxation & Business Law academic(s), and their preferred timing to undertake the Fellowship.
2. A current curriculum vitae

Applications are due by 28 February 2016 and to be sent to:

The Research Fellowship Conveners
School of Taxation and Business Law
UNSW Australia
Sydney NSW 2052
Australia
Email: ataxfellows@unsw.edu.au

TTPI 2016 Australian Visiting Fellow Awards

Applications for the 2016 Australian Visiting Fellow Awards are now open. These awards fund a one or two week visit by Australian tax and welfare scholars from around the country to TTPI at Crawford School, to build our national public finance research network. Visiting fellows will carry out research and we will aim to build collaborative projects in future. Guidelines and the application form are available here. <<https://taxpolicy.crawford.anu.edu.au/taxpolicy-grants>>
To apply, please submit by 14 December 2015.

10 Recent Australian tax cases

The following cases are from the last month of Australian cases on tax and related matters, with the catchwords taken from the AustLII, Federal Court and Jade websites.

Federal Court of Australia

Study and Prevention of Psychological Diseases Foundation v Commissioner of Taxation [2015] FCA 1117
Administrative Law - consideration of an appeal under s 44 of the Administrative Appeals Tribunal Act 1975 (Cth) from a decision of the Tribunal affirming a decision of the Commissioner of Taxation to revoke the following endorsements of the applicant from the date of grant: as an entity exempt from income tax as a "charitable institution" having...
21 Oct 2015 Administrative Law, Greenwood J

MNWA Pty Ltd v Deputy Commissioner of Taxation (No 2) [2015] FCA 1128

Taxation - applications pursuant to s 459G(1) of the Corporations Act 2001 (Cth) to set aside statutory demands under s 459J(1)(b) - whether the defendant issued statutory demands for an improper purpose. Contracts - where the plaintiffs and defendant conducted negotiations concerning the plaintiffs' tax liabilities - where the...

23 Oct 2015 Taxation; Contracts, Griffiths J

Chevron Australia Holdings Pty Ltd v Commissioner of Taxation (No 4) [2015] FCA 1092
Constitutional law – power to make laws with respect to taxation – whether Income Tax Assessment Act 1997 (Cth) Subdiv 815-A was retroactive – whether ss 815-10 to 815-30 invalid as imposing an arbitrary exaction and therefore not answering the description of a law with respect to taxation – Constitution s 51(ii). ...

23 Oct 2015, Robertson J

Blank v Commissioner of Taxation [2015] FCAFC 154 (29 October 2015) (Kenny, Robertson and Pagone JJ)

Income tax – appellant participated in profit participation schemes as employee of company group in foreign countries and in Australia – employee allocated “profit participation units” (PPUs) and equal number of shares in holding company – amount payable to appellant on termination of employment – whether amount assessable as ordinary income or as a capital gain – whether amount deferred compensation – PPU a mechanism for calculation of amount of profit share to be paid to appellant – conditional executory promise to appellant to pay amount on termination – amount was reward for service as deferred compensation – amount assessable as ordinary income – part of amount withheld for discharge of foreign tax liabilities – when income derived – that part of amount was derived when paid by agreement with appellant to foreign tax authorities – whether income exempt under section 23AG of Income Tax Assessment Act 1936 (Cth) as foreign earnings derived from foreign service – apportionment under section 23AG not possible – whether CGT event C2 happened – cost base of asset if CGT event C2 happened – valuation of appellant’s rights under profit participation scheme – whether prejudice caused to respondent if appellant allowed to re-open case – both appeal and cross-appeal dismissed

Oswal v Commissioner of Taxation (No 2) [2015] FCA 1143

Practice and Procedure - security for costs -applicants commenced proceedings under Part IVC of the Taxation Administration Act 1953 (Cth) challenging tax assessments by respondent - where applicants natural persons - where applicants ordinarily resident overseas - where applicants entered into litigation funding agreements in relation to various...

5 Nov 2015 Practice and Procedure, Nicholas J

Rosgoe Pty Ltd v Commissioner of Taxation [2015] FCA 1231

Income tax – private ruling – review by Administrative Appeals Tribunal (Tribunal) of Commissioner of Taxation’s (Commissioner) disallowance of objection to – where Tribunal affirmed as correct objection decision holding that sale of property owned by applicant was not the mere realisation of a capital asset but rather occurred in ...

13 Nov 2015 Income Tax ; Administrative Law, Logan J

New South Wales – Supreme Court

Hardwick v Federal Commissioner of Taxation [2015] NSWSC 1557, 21 October 2015

Common Law, Beech-Jones J

Decision:

(1) The proceedings be dismissed.

(2) The plaintiff pay the defendants' costs of the proceedings.

Summary dismissal – plaintiff prosecuted in Local Court for failing to lodge tax returns – commences proceedings in Supreme Court – alleges s 8C of Taxation Administration Act 1953 unconstitutional – alleges no power to require tax return on “approved form” from plaintiff as information would be provided to child support registrar – jurisdiction – whether Supreme Court can entertain claim that s 8C unconstitutional – whether Court can consider application for writ against Commonwealth officer in relation to prosecution pending in State Court – cross-vesting jurisdiction in relation to writ against federal officer – “special federal matter” – whether “special reasons” for not transferring proceedings to Federal Court – proceedings frivolous and Federal Court should not be burdened – whether constitutional guarantee of freedom of contract – whether s 8C of Taxation Administration Act

unconstitutional – whether plaintiff had right to his own approved form of tax return – all claims untenable – proceedings dismissed.

Grain Growers Limited v Chief Commissioner of State Revenue [2015] NSWSC 925, 14 July 2015
Equity Division - Revenue List, Black J

Held that wages paid or payable by Grain Growers to employees in some activities exempt from payroll tax. Held that wages paid or payable by Grain Growers to employees working in the successor functions to the BRI and Agrecon companies, and to management and administrative employees partly supporting those functions are not exempt from payroll tax. Parties to make further submissions as to the form of orders to give effect to Grain Growers' partial success in the appeal and as to costs.

Charities – charitable purposes – other purposes beneficial to public – where company provided services to the agricultural industry – where company's purpose includes promotion of the interests of Australian grain growers – whether company has as its sole or dominant purpose a charitable purpose. Taxation – payroll tax – exemptions – where taxpayer a non-profit organisation – whether taxpayer exempt from payroll tax on wages paid to its employees under s 48 of the Payroll Tax Act 2007 (NSW).

Taxation – payroll tax – exemptions – where taxpayer was involved in the promotion of the agriculture industry – where taxpayer acquired two companies engaged in commercial purposes related to the agriculture industry – whether employees of taxpayer in relation to those businesses are mixed roles engage in work 'of a kind ordinarily performed' for a charitable purpose under s 48(2) of the Payroll Tax Act 2007 (NSW).

Supreme Court of South Australia - Full Court

Commissioner of State Taxation V T & S Liapis Pty LTD [2015] SASCFC 151 (23 October 2015)
(The Honourable Justice Gray, The Honourable Justice Sulan and The Honourable Justice Stanley)
Taxes and Duties - Land Tax - Exemptions - Primary Production Land

Victoria - Supreme Court of Victoria - Court of Appeal

Mould v Commissioner of State Revenue [2015] VSCA 285 (27 October 2015) (Warren CJ, Tate JA and Digby AJA)

Taxation — Land tax — Exemption of primary production land in an urban zone in greater Melbourne — Whether primary production was sole business of trustee owner — Whether trustee carried on a business of leasing residential properties — Relevance of passivity of ownership of rental properties — Appeal dismissed — Land Tax Act 2005 s 67.

Colin Fong

11 IBFD Frans Vanistendael Award for International Tax Law

IBFD wishes to promote outstanding scientific research output on international tax law. For this purpose, it decided to introduce the IBFD Frans Vanistendael Award for International Tax Law, named after its previous, esteemed Academic Chairman, Prof. Dr Frans Vanistendael. With his academic production at the highest scientific standards, Professor Vanistendael has long distinguished himself as one of the most far-sighted scholars in the field of international tax law.

The winning article of the first edition of the award was J. (Jürgen) Lüdicke & J.F. Avery Jones, The Origins of Article 5(5) and 5(6) of the OECD Model, 6 *World Tax Journal* 3 (2014).

Applications for the second edition of the IBFD Frans Vanistendael Award are open until 15 January 2016. Please send your application to academic@ibfd.org and include a short motivational letter.

I. Funding, focus and requirements

The proposed dotation is EUR 10,000 plus a flat financial reimbursement for travel and accommodation expenses incurred to attend the award ceremony.

Eligible publications are all articles and book chapters on international tax law (including EU tax law), in paper or digital format (with an ISBN or ISSN number), published in English between 1 January 2015 and 31 December 2015, which have provided an outstanding contribution to the development of international tax law.

II. Application and selection process

The applications for the Frans Vanistendael Award will be evaluated by an international jury, the members of which will soon be announced.

Members of the jury are not eligible for the award.

III. Award information

The jury will decide on the winner of the award by a two-third majority. In case that majority is not reached after two rounds of votes, the decision is taken by simple majority. The award will be conferred in September 2016 during the IBFD seminar at the IFA Congress in Madrid, Spain.

The following publications were shortlisted for the first edition of the award:

- Y. Brauner, BEPS: An Interim Evaluation, 6 World Tax Journal 1 (2014)
- Y. Brauner, Formula Based Transfer Pricing, 42 Intertax 10, pp. 615-631 (2014)
- Y. Brauner, What the BEPS?, 16 Florida Tax Review 55 (2014)
- W. Cui, Taxing Indirect Transfers: Improving an Instrument for Stemming Tax and Legal Base Erosion, 33 Virginia Tax Review 4 (2014)
- C. Fleming, R. Peroni & R. S. Shay, Formulary Apportionment in the U.S. International Income Tax System: Putting Lipstick on a Pig?, 36 Michigan Journal of International Law 1 (2014)
- M.A. Kane, Transfer Pricing, Integration and Synergy Intangibles: A Consensus Approach to the Arm's Length Standard, 6 World Tax Journal 3 (2014)
- J. (Jürgen) Lüdicke & J.F. Avery Jones, The Origins of Article 5(5) and 5(6) of the OECD Model, 6 World Tax Journal 3 (2014)
- C. Peters, On the Legitimacy of International Tax Law (IBFD 2014)
- A. Ting, iTax - Apple's International Tax Structure and the Double Non-Taxation Issue, British Tax Review 1 (2014)

<<http://www.ibfd.org/Academic/IBFD-Frans-Vanistendael-Award-International-Tax-Law>>

12 Tax and related meetings

Local

Crawford School and HC Coombs Policy Forum *Designing effective and innovative public policy in a complex environment* conference, Monday 23 November 2015. Professor **Cass Sunstein**, Harvard University is the leading speaker with many other luminaries. Registration and details are available here <<https://crawford.anu.edu.au/news-events/events/6419/designing-effective-and-innovative-public-policy-complex-environment>>

ATTA's **28th Annual Conference** will be hosted by UNSW Taxation & Business Law, 20th to 22nd January 2016. The theme of the conference is *Tax and Time Travel: Looking Backwards and Looking Forwards*. The conference will celebrate 28 years of ATTA in Australasia. Further information about the conference is included above in this newsletter. If you have any questions please contact John Taylor at c.taylor@unsw.edu.au or <www.business.unsw.edu.au/2016atta>

The **Tax Institute's** website www.taxinstitute.com.au lists many conferences, conventions, seminars, and breakfast clubs. For further enquiries, contact Phillipa Cardigan (02) 8223 0045 or email phillipacardigan@taxinstitute.com.au or register online at www.taxinstitute.com.au

Call the National Events team on 1300 733 842 for more details.

Please contact the National Events Team on 1300 733 842 or by email,

nationalevents@taxinstitute.com.au Follow us on Twitter @TaxInstituteOz.

Danielle Thurston, Event and Member Services Executive The Tax Institute Phone: 02 8223 0000;

Direct: 02 8223 0014 Fax: 02 8223 0077 daniellethurston@taxinstitute.com.au

Overseas

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

Canadian Tax Foundation <http://www.ctf.ca/ctfweb/en>

Institute for Fiscal Studies Conferences and seminars <http://www1.ifs.org.uk/conferences/index.shtml>

Institute for Austrian and International Tax Law 2015/2016 events:

The topics of the seminar sessions and other events can always be found at www.wu.ac.at/taxlaw. Please see the website for most up-to-date information on them.

International Bureau of Fiscal Documentation. Various courses in Amsterdam, the Netherlands or in Malaysia or elsewhere. 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

For courses go to <http://www.ibfd.org/Training>

IBFD International Tax Courses - A selection of related courses in 2015

Transfer Pricing and Attribution of Profits to Permanent Establishments 16-18 December 2015 (NL)

International Tax Planning - Post BEPS 24-26 February 2016, Singapore

Principles of International Taxation 29 February - 4 March 2016, Amsterdam

Principles of Transfer Pricing 25-29 April 2016, Kuala Lumpur

Treaty Aspects of International Tax Planning 22-24 May 2016, Dubai

Int. Taxation of Oil and Gas and Other Mining Activities 30 August - 2 September 2016, Singapore

More international tax courses

Tax Treaties

For entire course portfolio, see < http://www.ibfd.org/Training/Find-course?utm_source=course-promo-april&utm_medium=email&utm_campaign=ITA0520-04-2015&utm_content=Course-finder>

See also <http://www.ibfd.org/Training/Find-course>

International Conference of Chinese Tax and Policy, Xiamen University, Xiamen, China, 12-13 December 2015 and jointly organised by The University of Sydney Business School

(<http://sydney.edu.au/business>), the Journal of Chinese Tax and Policy

(<http://sydney.edu.au/business/research/journals/jctp>), the Department of Public Economics of Xiamen University (<http://czz.xmu.edu.cn/user/index.asp>) and the Taxation Law and Policy Research Institute of Monash University (<http://www.buseco.monash.edu.au/blt/tlpri/>).

The conference theme: Individual Income Tax Reform in China. All accepted papers have the priority to be selected for publication in the *Journal of Chinese Tax and Policy*, subject to an international blind peer-review process.

International Fiscal Association Congresses <http://www.ifa.nl/pages/default.aspx>

2016 Madrid, Spain (25 August - 30 August 2016)

<https://www.ifa.nl/activities/annual_congresses/Pages/2016_Madrid_Congress_19.aspx?source=%2fPages%2fdefault.aspx>

Subject 1:

Dispute resolution procedures in international tax matters

Subject 2:

The notion of tax and the elimination of international double taxation or double non-taxation

Tentative Seminar Programme

IFA/OECD

IFA/EU

Recent developments in international taxation

Latin-American tax seminar

Tax judges seminar

Taxation of activities performed in breach of legal regulations (Illegal activities)

Taxation of venture capital: Funds, managers and investment structure

International taxation of sportsmen, sport organizations and sports events

How has BEPS affected to MNEs relocation?

VAT and direct taxation of digital economy: Old problems, new solutions?

2017 **Rio de Janeiro, Brazil**

2018 **Seoul, Korea, Rep of**

2019 **London, United Kingdom**

International Atlantic Economic Society (IAES) conference 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

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

Other useful tax and law related conference websites include the

International Bar Association:

http://www.ibanet.org/Conferences/conferences_home.aspx

IBFD Course calendar

<http://www.ibfd.org/portal/app?bookmarkablePage=org.ibfd.portal.presentation.TaxCourses>

International Events and Law Conferences

<http://internationaleventsandlawconferences.yolasite.com>

Conferences in Australia <http://www.conferencealerts.com/country-listing.php?page=1&ipp=All&country=Australia>

New South Wales Bar

Association http://www.nswbar.asn.au/docs/professional/prof_dev/CPD/programme/index.php

Law Council of Australia <http://www.lawcouncil.asn.au/lawcouncil/index.php/conferences>

Practising Law Institute <http://www.pli.edu/>

New York County Lawyers Association <http://www.nycla.org>

American Bar Association Taxation CLE topics

http://www.americanbar.org/cle/cle_courses_by_topic/taxation.html

New York Bar Association <http://www.nysba.org/>

Hieros Gamos Worldwide Law Events Calendar <http://www.hg.org/legal-events.asp>

For Australian ones <http://www.hg.org/legal-events-australia.asp>

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 ATTA people in the media

Dirkis, Michael

On Radio 702 ABC Sydney with Robbie Buck, 5 November 2015 about 7:12am discussing the possibility of increasing the GST rate from 10% to 15% and the effect on households with lower incomes.

Mather, Joanna 'ATO spends \$10 million on Chevron fight', *Australian Financial Review* 10 November 2015 p 3. Dirkis was quoted about the ATO matching its opponent in this transfer pricing case.

Passant, John

'The GST debate' ABC Canberra Radio 666 from 10.16 am to 10.30 am Friday 6 November 2015
<<https://www.youtube.com/watch?v=-te4qoKiNP8&feature=share>

Stewart, Miranda

Molloy, Fran 'Crypto-currency careers add up', *Sydney Morning Herald Business and Management Education* 7-8 November 2015 p 3. Stewart quoted about careers regarding digital currencies.

Ting, Antony

Chenoweth, Neil 'Chevron aftermath: Is this the future of tax?' *Australian Financial Review* 10 November 2015 p 44-45. Ting was quoted about the 2013 changes to the transfer pricing rules on pp 44 and 45.

Warren, Neil

Uren, David 'Morrison channels Howard on GST', *The Australian* 10 November 2015 p 5. Warren quoted about bracket creep and the possibility of an increase in the rate for the GST.

14 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 Council of Social Service *Tax talks 5: the effects of a higher GST on households: Overview of modelling undertaken by NATSEM for ACOSS*, 5 November 2015
<http://apo.org.au/files/Resource/tax-talks-5_effects-of-a-higher-gst-on-households_final.pdf>

(2015) 44 (4) *Australian Tax Review* November 2015

Editorial - Australia's tax system: An institution in decay?

Current note - Tax policy in two (or ten) minutes

Tax base erosion through thin capitalisation: Consequences of Australian reforms and the tax accounting interface – Dean Hanlon and **Les Nethercott**

Internal derivatives and the attribution of income and expenditure to permanent establishments of Australian banks – Simon Croese

The constitutional validity of a statutory remedial power for the Commissioner of Taxation – **Nicole Wilson-Rogers**

Book review - Value Added Tax: A Comparative Approach – reviewed by **Richard Krever**

Colebatch, Tim 'Tax: what are the options?' *Inside Story* 13 November 2015

<<http://insidestory.org.au/tax-what-are-the-options>>

Davis, Kevin 'Dividend imputation and the Australian financial system: What have been the consequences?' Funding Australia's Future: stage 3, (Melbourne), Australian Centre for Financial Studies, 21 October 2015

<<http://australiancentre.com.au/sites/default/files/NewsDocs/FAF%20Dividend%20Imputation.pdf>>

Eldridge, John 'Three superannuation reforms that would promote fairness and equity', *The Conversation* 11 November 2015 < <https://theconversation.com/three-superannuation-reforms-that-would-promote-fairness-and-equity-50448>>

Evans, Chris 'Why tax breaks are not the answer to encourage Australian startups', *The Conversation* 4 November 2015 < <https://theconversation.com/why-tax-breaks-are-not-the-answer-to-encourage-australian-startups-49811>>

Fitzgerald, Tomas 'GST compensation trades one inefficiency for another and won't achieve 'fairness'', *The Conversation* 5 November 2015 <<https://theconversation.com/gst-compensation-trades-one-inefficiency-for-another-and-wont-achieve-fairness-50070>>

Grattan, Michelle 'Business Council heaps praise on Turnbull – and appeals for business tax relief', *The Conversation* 5 November 2015 < <https://theconversation.com/business-council-heaps-praise-on-turnbull-and-appeals-for-business-tax-relief-50251>>

Grattan, Michelle 'Grattan on Friday: Can Malcolm Turnbull manage months of a deregulated tax debate?' *The Conversation* 13 November 2015 < <https://theconversation.com/grattan-on-friday-can-malcolm-turnbull-manage-months-of-a-deregulated-tax-debate-50620>>

Jaffe, Adam & Le, Trinh *The impact of R&D subsidy of innovation: a study of New Zealand firms*, Research Report, Wellington, Motu Economic and Public Policy Research, 29 June 2015 <http://motu-www.motu.org.nz/wpapers/15_08.pdf>

Jericho, Greg 'We deserve a better quality of tax debate', *The Drum*, ABC TV 19 November 2015
< <http://www.abc.net.au/news/2015-11-18/jericho-we-deserve-a-better-quality-of-tax-debate/6948008>>

Khadem, Nassim 'Plonk v premium: winemakers grapple with tax dilemma', *Sydney Morning Herald Business Day* 31 October – 1 November pp 8-9

Lanis, Roman; Loyeung, Anna & Govendir, Brett 'The accounting trick that helps multinationals avoid paying tax', *The Conversation* 30 October 2015 <<https://theconversation.com/the-accounting-trick-that-helps-multinationals-avoid-paying-tax-49664>>

Lewis, Peter 'Is this political karma? Cost of living and the GST', *The Drum ABC TV* 4 November 2015 <<http://www.abc.net.au/news/2015-11-04/lewis-cost-of-living-and-the-gst/6909356>>

Menezes, Flavio 'Increasing GST to cut income tax would be a zero sum game', *The Conversation* 6 November 2015 <<https://theconversation.com/increasing-gst-to-cut-income-tax-would-be-a-zero-sum-game-50241>>

(2015) 21(3) *New Zealand Journal of Taxation Law & Policy* September

Adrian Sawyer and Lin Mei Tan, "Editorial"

Mark Keating and Kirsty Keating, Commissioner's Official Opinion: A "Get out of Gaol Free Card"?

Bret N. Bogenschneider, "Why is Econometrics Incomprehensible to Tax Lawyers?"

Alison Pavlovich, "Trustee Tax Residence in New Zealand: Is it Relevant and How is it Determined?"

Ranjana Gupta, "An empirical examination of moderating impact of switching costs and alternative attractiveness in tax practitioner services relationship"

Passant, John 'Turnbull on transparency: Shielding the rich and shrouding gulags in secrecy', *Independent Australia* 22 October 2015 <<https://independentaustralia.net/politics/politics-display/turnbull-on-transparency-shielding-the-rich-and-shrouding-gulags-in-secrecy,8284>>

Passant, John 'Anthony Albanese is not too left wing to win government. Indeed, he's about right. *New Matilda* 2 November 2015, <<https://newmatilda.com/2015/11/02/anthony-albanese-is-not-too-left-wing-to-win-government-because-hes-not-left-wing>>

Passant, John 'Raising the GST will hurt the workers and the poor: There are other, fairer options' *Independent Australia* 3 November 2015 <<https://independentaustralia.net/politics/politics-display/raising-the-gst-will-hurt-workers-and-the-poor-there-are-other-better-options,8335>>

Phillips, Ben & Taylor, Matthew *The distributional impact of the GST*, University of Canberra, National Centre for Social and Economic Modelling, 5 November 2015, 48 pp. This paper, commissioned by the Australian Council for Social Service, with support from the Carnegie Foundation, provides the distributional household impact of the existing Goods and Services Tax (GST) and a range of alternatives for expanding the rate and breadth of the GST. <<http://www.natsem.canberra.edu.au/storage/ACOSS%20GST%20Report.pdf>>

Sadiq, Kerrie and Mack, Janet "“Re-thinking” the influence of regulatory capture in the development of government regulation' (2015) 43 *Australian Business Law Review* 379-99

Smith, Nicholas Ross & Dumieński, Zbigniew 'A land value tax could fix Australasia's housing crisis' *The Conversation* 10 November 2015 <<https://theconversation.com/a-land-value-tax-could-fix-australasias-housing-crisis-49997>>

(2015) 90 *Taxation Today* – (December)

- The Value of a Financial Transactions Tax in New Zealand [Part 2] – Dylan Hobbs and **Lisa Marriott**
- Feasibility Expenditure Bound for the Supreme Court – Geoffrey Clews

Overseas

Asia-Pacific Tax Bulletin Number 5 - 2015

Australia - Australia's Strategic Direction: An International Focus - Mark Konza

Australia - Employee Share Schemes – Benefiting the Start-Ups - Anton Joseph

British Tax Review Number 4 2015

Case Notes

HMRC v Pendragon plc and others: the Supreme Court slays the Supreme Prince - David Ewart
Alice and the Pendragon - John Avery Jones
Anson v HMRC: sour grapes and maple syrup—has the UK just adopted check-the-box? Angelo Nikolakakis

Articles

Stability and its Significance in UK Tax Policy and Legislation - John Snape
Transferable Personal Allowance: A Small Step in the Right Direction - Leonard Beighton and Don Draper

Bulletin for International Taxation Number 11 - 2015

Tax treaty monitor - International/OECD - The Retroactive Effect of Changes to the Commentaries on the OECD Model - Dirk M. Broekhuijsen and Koen M. van der Velde
Lebanon - The Tax and Legal System of Lebanon – The Undiscovered Potential of a Country at a Crossroads - Damian Gwózdź
International - Do Tax Treaties Embody the Application of Sovereign Immunity? – An Assessment with Regard to Sovereign Wealth Funds - **Sally-Ann Joseph**
European Union/Netherlands/OECD - The Netherlands Court of Audit: An Audit on Tax Avoidance Harry Koot and Marjan de Rijke
International/OECD - OECD's Action Plan on Tax Base Erosion and Profit Shifting: Part 1 - What Should Be Africa's Response? Annet Wanyana Oguttu
Qatar - Qatar and International Taxation: Part II – The Income Tax Law and the Qatar Financial Centre Tax Regulations - Roberto Scalia
United States - The Adverse Effects of Corporate Inversions in the United States - James GS Yang
Brazil - The Brazilian Thin Capitalization Rules and Tax Treaties: A Critical Approach - Alexandre Luiz Moraes do Rêgo Monteiro

European Taxation Number 10 - 2015

Germany - Identifying Selective Advantages in the Context of the German Inheritance and Gift Tax Act Reform - Nina Vogel and Swen Bäuml
Poland - The Legal Status of Inheritance and Gift Tax Treaties in Central and Eastern Europe – A Polish Perspective - Jan Szczepański
EU Update: Commission - Laura Ambagtsheer-Pakarinen; Court of Justice - Laura Ambagtsheer-Pakarinen
What's going on in ...
Austria - Tax Reform 2015/2016 - Karin Spindler-Simader
Germany - The Shielding Effect of EU/EEA Foundations in Multi-Layer Structures in the Context of Section 15 of the German Foreign Transactions Tax Law - Till Moser and Sven Hentschel
International - Symposium on Cross-Border Information - René Offermanns
Spain - Oil and Gas Operational Structure Based on Joint Operation Agreements Gives Rise to Multiple Permanent Establishments within a Single Country - Roberto Bernales and Bart Kusters
Turkey - The Constitutional Court's Inaugural Decision Regarding the Fair Trial Rights of Taxpayers - Billur Yaltı

European Taxation Number 11 - 2015

European Union - A Comprehensive Analysis of ECJ Case Law on Discriminatory Treatment of Cross-Border Inheritances – Part 1 - Vasileios (Vassilis) Dafnomilis
European Union/Germany - Unilateral Withholding Tax To Counteract Base Erosion and Profit Shifting - Gustav M Obermair and Lorenz Jarass
European Union - “Ceci n'est pas une Pipe”: The Notion of Tax Court under Article 267 of the TFEU - Ricardo García Antón
EU update – Commission - Laura Ambagtsheer-Pakarinen; Court of Justice - Laura Ambagtsheer-Pakarinen
What's going on in ...
European Union - EU Introduces Plans Regarding a Fair and Efficient Corporate Tax System - Roderick Veldhuizen and Tamas Adorjan
Greece - Greece's Tax Measures under the Microscope: Too High a Price for the Avoidance of a Disorderly Default? Konstantinos Petoumenos
Malta - Constitutional Court Delivers Landmark Double Jeopardy Decision - Robert Attard

Halsbury's Laws of Canada Taxation (Goods and Services) (2015 Reissue) written by Brian C Pel & Ron Maddock, Toronto, LexisNexis Canada and available via LexisNexis Canada

OECD *International VAT/GST guidelines*, Third Meeting of the OECD Global Forum on VAT, 5-6 November 2015 Paris, France <<http://www.oecd.org/ctp/consumption/international-vat-gst-guidelines.pdf>>

Schwarz, Jonathan *Schwarz on Tax treaties*, 4th ed, Kluwer Law, October 2015, Softcover
ISBN: 9789041166685 Price: EUR 212.00 / USD 286.00 / GBP 170.00

Trenta, Cristina *Rethinking EU VAT for P2P Distribution*, The Hague, Kluwer Law, ISBN: 9789041161376, September 2015, Hardcover, Price: EUR 160.00 / USD 216.00/ GBP 128.00.
EUCOTAX Series on European Taxation Vol. 45

Weyzig, Francis 'Still broken: governments must do more to fix the international corporate tax system', Oxfam GB for Tax Justice Network, Global Alliance for Tax Justice, PSI and Oxfam International under ISBN 978-1-78077-973-7, 10 November 2015 < <http://www.world-psi.org/sites/default/files/documents/research/still-broken-corporate-tax-en.pdf>>

World Tax Journal Number 3, 2015

The Taxation of Technical Services under the United Nations Model Double Taxation Convention: A Rushed – Yet Appropriate – Proposal for (Developing) Countries? Andrés Báez Moreno
A Utility-Based Explanation of Tax Asymmetries - Martin Fochmann and Martin Jacob
Legitimacy and the Making of International Tax Law: The Challenges of Multilateralism - Irma Johanna Mosquera Valderrama
The Arm's Length Comparable in Transfer Pricing: A Search for an "Actual" or a "Hypothetical" Transaction? Amir Pichhadze

15 Quotable quotes

"James Packer defended his gambling empire on Wednesday, calling the casino owner Crown Resorts a "role model" business that meant more to him than anything except his family.

Speaking at the annual general meeting, Mr Packer said Crown paid more tax as a percentage than any other business in Australia's top 50 companies and he painted the big business tax avoiders as the real villains of corporate Australia.

I think we are a role model Australian company.

"If you look at Transurban or Sydney Airport ... they are basically paying no tax," Mr Packer said.

"If you are the [Australian Business Awards] employer of the year three out of the last five years, if you are paying more tax than any other top 50 business in Australia and if you spend the amount of capex we do, I think we are a role model Australian company.

It's a very different approach to his father's infamous response to the federal print media committee hearing back in 1991, when the late Kerry Packer said "of course" he tried to reduce his tax.

"If anybody in this country doesn't minimise their tax they want their head read," Mr Packer said.

"As a government I can tell you you're not spending it that well that we should be paying extra."

Speaking on Wednesday Mr Packer jnr urged the federal government address corporate tax evasion.

"One of the issues that the federal government will face going forward, with the mining boom ending in the way it has there is a real risk the revenue trajectory will continue to disappoint on the downside," Mr Packer said."

Source: Low, Catie 'Crown a 'role model Australian company' says gambling tycoon James Packer', *Sydney Morning Herald* 21 October 2015 <<http://www.smh.com.au/business/crown-a-role-model-australian-company-says-gambling-tycoon-james-packer-20151021-gkenfs.html>>

“Met the commitment to government of reducing our staffing levels by more than 3,000 (since 1 July 2013) with little or no negative impact on revenue or servicesff
Reduced lease space by almost 41,000 square metres and our vacant workpoints by more than 1800ff
Reduced unscheduled absences rate from 15.2 days to 14.9”

Source: Commissioner of Taxation *Annual report* 2014-2015 p vii

“Carly Fiorina proposed taking the U.S. tax code from its current 73,000 pages down to three pages, she said on Wednesday.

"Three pages is about the maximum that a single business owner or a farmer or just a couple can understand without hiring someone," she said in the Republican debate hosted by CNBC.

She said that a simpler and shorter tax code could help level the playing field between the wealthy and the Americans who can't afford to hire lawyers and accountants.”

Source: Nasr, Reem 'Fiorina: Our tax code should be 3 pages', CNBC, Wednesday, 28 Oct 2015 <<http://www.cnb.com/2015/10/28/fiorina-our-tax-code-should-be-3-pages.html>>

“The Turnbull government may still be politely arguing everything is on the table when it comes to tax reform. But the knives on that table are getting a lot sharper. Eventually, they will have to connect with some substantive policy meat.

That's also why the business community is determined not to let Labor get away with running the political equivalent of a "just say no campaign".

Jennifer Westacott from the Business Council of Australia gave an unusually sharp jab to Bill Shorten and (certain) Labor premiers on their approach to debating tax reform by attacking any increase in the GST.

She says bluntly that "it's time to stop treating people like mugs for purely political reasons".

"Politicians need to respect the Australian community enough to let them have an informed conversation about the optimum tax reform package," she says.

"Mr Shorten is certainly not canvassing real tax reform with a simplistic solution of cracking down on multinational tax avoidance and superannuation concessions. The ALP's own modelling on their multinational tax proposal shows that it would yield just over \$7 billion over 10 years, and more importantly these measures do not address the fundamental need for the tax system to promote growth.""

Source: Hewett, Jennifer 'Turnbull must cut tax policy meat', *Australian Financial Review* 3 November 2015 p 2 <<http://www.afr.com/opinion/columnists/turnbull-must-cut-tax-policy-meat-20151102-gkoxky>>

“And as that adventure unfolds, Turnbull needs only look to the experiences of two Johns on either side of the Tasman - John Hewson who 22 years ago crashed and burned as he tried to introduce a GST in

Australia and John Key, who five years ago, raised the rate of the GST in New Zealand from 12.5 per cent to 15 per cent seemingly without losing a vote - and then winning two elections since.

Hewson took on the challenge from opposition, guaranteeing he would be constantly sailing into a head wind. He kept his plans a closely guarded secret, and then unleashed the "big bang"; a 650 page "Fightback" document that was so detailed - and so dense - that it was daunting even to economists and threatening to just about everybody else.

Prime Minister Paul Keating delivered the knockout line: "If you don't understand it, don't vote for it; and if you do understand it, you'd never vote for it."

The public was unprepared for such radical reform and Hewson went on to lose the "unlosable" election.

John Key, by contrast, starting talking about increasing the rate a long way out. Like Turnbull Thursday, he began with generalities and incrementally worked towards specifics.

Admittedly, Key did not have to persuade sceptical premiers or an intransigent Senate. But handled properly - and with the prospect of a mandate on board - they might not be an impediment to Turnbull either.

Key wrapped the logic behind the changes in a fiscally neutral package - in other words - the main objective was to reduce personal tax rates to 33 per cent and company taxes to 28 per cent."

Source: Cassidy, Barrie 'Captain Turnbull sets sail against the uncertainties of the GST', *The Drum* ABC TV 6 November 2015 <<http://www.abc.net.au/news/2015-11-06/cassidy-captain-turnbull-sets-sail-against-the-uncertainties/6917136>>

"This year's hard-fought NSW Bar Association council elections were humorous on many levels, but the exposé of some 'voting-challenged' members of the Bar is definitely a high point.

Folklaw has heard of judges that **cannot use email** and some that are bamboozled by **social media**, but the latest revelation is that some barristers have difficulty following 'how to vote' instructions.

No fewer than 34 members of the Bar had their votes disqualified this year, even though a 'How to Vote' instruction booklet was issued with each ballot paper.

A total of 1,518 barristers sent in ballots before the vote closed last Thursday.

Of these, 25 made the rookie mistake of forgetting to write down their name.

These mystery barristers may have harboured strong feelings about the nominees, but we will never know as their votes were invalidated before the envelope was even opened.

Some barristers – six to be precise – appear to have difficulty counting, as they cast more than 21 votes.

Another barrister clearly could not make up their mind; their vote was disregarded because their intention was not made clear."

Source: Nelson, Felicity 'Barristers struggle with 'how to vote' instructions', *Lawyers Weekly* 11 November 2015 <http://www.lawyersweekly.com.au/folklaw/17484-barristers-struggle-with-how-to-vote-instructions?utm_source=lawyersweekly&utm_campaign=lawyersweekly_Bulletin11_11_2015&utm_medium=email>

“All through 1998, beginning in February with a love-in at Thredbo for Coalition MPs, the problems with the existing system were identified and articulated by Howard and Costello beyond vomit-inducing stage.

Morrison has begun this process by identifying the toll bracket creep will exact on average wage earners; however, more needs to be done here to make the case for reform. The why is as important as the what.

Key to success in 1998 was the careful preparation of the package by a special unit within Treasury, with input from staff in the offices of the prime minister and treasurer, over almost a year, in defiance of hourly, daily demands for detail from the media, the opposition and interest groups.

After it was finally ticked off by cabinet, it was outlined to a full party meeting before being released on August 13 — a full year after Howard released the guiding principles.

Emboldened by the response, Howard called an election six months early on Sunday, August 30, for October 3, 1998.”

Source: Savva, Niki ‘Malcolm Turnbull and Scott Morrison follow John Howard on GST’, *The Australian* 12 November 2015 <<http://www.theaustralian.com.au/opinion/columnists/malcolm-turnbull-and-scott-morrison-follow-john-howard-on-gst/story-fnahw9xv-1227605228343>>

GST ... everything’s on the table for Mal...started out at 10% ... GST ... 15% ... GST

Source: Carnahan, Denis (parody performed by) Fazzari, Rocco (animation) GST: it’s dynamite <<http://media.smh.com.au/video-news/video-national-times/gst-its-dynamite-7005386.html>>

“The Turnbull government is set to overhaul the way university research is funded by dramatically downgrading the importance of publishing articles in little-read academic journals.

Prime Minister Turnbull wants to end the "publish or perish" culture in which academics are pressured to focus on constant publishing rather than producing work with commercial and community benefit.

In 2013, Australia ranked last in the developed world on the proportion of businesses which collaborate with research institutions on innovation.

Under one proposal, the government would entirely scrap the use of research publications from the way it allocates \$1 billion a year in block research grants and PhD research funding, sources said.”

Source: Knott, Matthew ‘Academic publications to become less important when funding university research’, *Sydney Morning Herald* 16 November 2015 <<http://www.smh.com.au/federal-politics/political-news/academic-publications-to-become-less-important-when-funding-university-research-20151112-gkxkgl.html>>

“The ‘70s have a great deal to answer for – John Farnham, Billy McMahon, and Australia’s foolish decision to scrap death duties.

If you earned \$100,000 last year by selling your labour, you gave \$24,975 to Canberra in income tax.

If you earned the same by selling an investment flat at a profit, Canberra took a big share of it in capital gains tax. But if a wealthy aunt happened to die and left you a hundred grand in the will, you paid no tax on it. Nothing.”

Source: Dick, Tim 'A tax on large inherited windfall gains should be a part of any fair taxation system' *Sydney Morning Herald* 16 November 2015 <<http://www.smh.com.au/comment/tim-dick-a-duty-to-be-fair-20151115-gkzbrx.html>>

John Daley is not opposed to tax reform: he's a firm supporter, but he warns that the government will need to be acutely aware of the dangers. His own wishlist is a pretty good blueprint to work off:

1. The states should replace the old land tax and stamp duty on conveyancing with a beefed-up property tax levied at 0.4 per cent of the value of virtually all property. (For a million-dollar property, that's \$4000 a year.) That would raise a net \$7 billion a year, which could pay for the coming cuts in federal grants to hospitals.
2. The GST should be increased to 15 per cent, as proposed. Of the extra \$27 billion in revenue, use up to \$9 billion to raise welfare benefits to overcompensate the poorest 20 per cent of Australians. Then use the rest to cut the 19, 32.5 and 37 per cent marginal tax rates to 15, 28 and 34 per cent. That would provide a tax cut of \$752 a year for someone earning \$37,000, \$2687 for someone earning \$80,000, and peak at \$5687 for those earning \$180,000 or more.
3. Income tax loopholes should be tackled by halving the 50 per cent discount for capital gains, quarantining investment losses from wage and salary income (in effect, banning negative gearing) and tightening the tax rules for superannuation by sharply limiting taxpayers' ability to move other money into super accounts, and reinstating a 15 per cent tax on superannuation earnings for retirees.
4. An emissions trading scheme should be introduced with a modest carbon price.

You can be sure that Turnbull will not take up that final option, at this stage. But everything else is on the table. And, despite the government's high ratings in the opinion polls, as soon as it starts deciding what to put in its package, however well it does so, it will become vulnerable. Sadly, that will be the end of a lovely honeymoon.

Source: Colebatch, Tim 'Tax: what are the options?' *Inside Story* 13 November 2015 <<http://insidestory.org.au/tax-what-are-the-options>>

"Mr Morrison claims that Australia relies more on income tax from companies and individuals than any other country in the OECD, except Denmark.

OECD data does show that Australia derives a higher proportion of its total taxation revenue from income tax collected from companies and individuals than any country except Denmark.

However, Australia is one of only two countries in the OECD that do not collect social security taxes, a significant source of direct tax revenue in other countries.

Experts told Fact Check social security contributions were essentially the same as other direct taxes on personal income.

When all direct taxes are considered, they represent 63 per cent of Australia's total tax revenue, almost the same as the OECD average.

Mr Morrison's claim that Australia relies more on personal and corporate taxes than almost all other OECD countries is not the full story."

Source: 'Fact check: Comparing Australia's income tax take with other OECD countries', ABC News 17 November 2015 <<http://www.abc.net.au/news/2015-11-17/fact-check-tax-rate-vs-the-oecd-scott-morrison/6925134>>

“So all this data would suggest that the tax debate starts from a point where an increase in the GST – by itself – is markedly less acceptable to voters than the original imposition of the tax was in 1997.”

Source: Tingle, Laura ‘Fairfax Ipsos poll: Latest poll will calm Coalition GST nerves’, *Australian Financial Review* 17 November 2015 p 5 <<http://www.afr.com/news/politics/poll-will-calm-coalition-gst-nerves-20151116-gl05yh>>

“It’s such a chauvinistic sport, a lot of the owners wanted to kick me off. I just want to say to everyone else that they can get stuffed if they think that women aren’t strong enough, because we just beat the world.” (Quoting Michelle Payne who became the first female jockey to win the Melbourne Cup on Prince of Penzance at odds of 100-1)

Source: Dumas, Daisy ‘#Get stuffed’, *Sydney Morning Herald News Review* 7-8 November 2015 pp 25; 28-29 at 25

ATTA News December 2015

<https://www.business.unsw.edu.au/about/schools/taxation-business-law/australasian-tax-teachers-association/newsletters>

Editor: Colin Fong, *UNSW Law*, UNSW Australia, Sydney c.fong@unsw.edu.au

ATTA website: <https://www.business.unsw.edu.au/about/schools/taxation-business-law/australasian-tax-teachers-association>

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1 Presidential column

With a sense of *deja vu*, I am writing this column after returning from an overseas trip, this time to attend the *Chinese Tax and Policy Conference* hosted by Xiamen University in China. In my column last month I mentioned attending the conference hosted by the Taxation Law Research Programme (TLRP) in the Faculty of Law at the University of Hong Kong. A conference report for: *Renovating the Hong Kong Revenue Regime*, is available; further details appear in this Newsletter.

It is hard to believe that another year has almost gone as I finish up and take some time off before returning to work in the New Year. The 2016 ATTA Conference is not far away now, with the Organising Committee having finalised the programme with the Conference Handbook available on the ATTA website. This looks to be a great conference, not only with the line-up of speakers and topics, but also with the various social events. While the close off date has passed for submitting papers to be eligible for a prize, I would encourage those still working on their papers to get these to the Organising Committee as soon as you can.

My congratulations go to Miranda Stewart (Director of the Tax and Transfer Policy Institute at ANU) who has been appointed on the Permanent Scientific Committee of the International Fiscal Association. There is an updated list of completed and in progress PhDs and SJDs at the end of this Newsletter. My congratulations go to all that have completed their dissertation in the last year and all the best for those on their journey towards completion.

Adrian Sawyer

2 2016 ATTA Conference

The 28th Annual ATTA conference will be hosted by the UNSW School of Taxation and Business Law and will be held at UNSW Kensington Campus from 20th to 22nd January 2016. The theme of the conference will be 'Tax and Time Travel: Looking Backwards and Looking Forwards'. The draft conference handbook is available on the ATTA website.

Plenary Speakers

Plenary speakers for the conference will be:

Professor Diane Ring (Boston College)

Greg Smith (Commonwealth Grants Commission)

Justice William Young (Supreme Court of New Zealand)

Jan Farrell (Australian Deputy Commissioner of Taxation Case Leadership PG & I)

Social Program

A welcome reception will be held at the Figtree Courtyard near the conference venue.

The conference dinner will be held at the Australian Museum. The after dinner speaker will be Ross Gittins (Sydney Morning Herald Economics Editor)

The Trans-Tasman Cricket Match and BBQ will be the final social event of the conference.

Registration:

Registration is now open. There are a number registration options including:

- Full Fee (after 13 December 2015): \$560 (3 day conference attendance with welcome drinks and dinner)
- PhD Students (Full time): \$360 (3 day conference and dinner attendance) - (note PhD students are recommended not to formally register until the PhD scholarships are determined)
- ATO rate: \$360 (Days 2 and 3 conference attendance)
- Industry: \$175 (Day 2 conference attendance with morning and lunch)
- Dinner only: \$160 (Day 2 conference dinner)

If you have any questions please contact Maree Magafas at m.magafas@unsw.edu.au, +61 (2) 9385 9549 or visit the conference website at: www.business.unsw.edu.au/2016atta

3 Draft ATTA AGM agenda

Date & time: Friday 22 January 2016 @ 11.35am

Venue: Colombo Theatre A, University of New South Wales

Present:

Apologies:

1. Minutes of the previous meeting:
2. Matters arising from the minutes.
3. Reports
President's report:
Treasurer's report:
Secretary's report: Includes update on membership procedures and revised ATTA constitution.
4. Election of Office bearers: Due in 2017.
5. Confirmation of State/Territory/NZ representatives:
6. Appointment of auditor
7. ATTA Conference 2017.
8. Expression of interest for hosting ATTA 2018.
9. General business:

4 Arrivals, departures and honours

Niv Tadmore, Partner at Clayton Utz, was appointed to the executive committee (global) of the International Fiscal Association and **Miranda Stewart**, director of the Tax and Transfer Policy Institute at ANU, was appointed on the Permanent Scientific Committee.

The Taxation Law Research Programme (TLRP) in the Faculty of Law held its Fourth International Conference, entitled Renovating the Hong Kong Revenue Regime on Saturday, 31 October 2015. A report of the Conference is now available online at:
<http://www.aiifl.com/wp-content/uploads/file/Newsletter-TLRP_Special_Newsletter-Nov2015.pdf>

Dr Maarten Rothengatter passed away recently. His doctoral thesis was on *'Taxing taxis'--Limits and possibilities for regulating tax compliance behaviours of taxi drivers: an Australian case study* and was conferred by the University of Queensland in 2008. For more details on his life see *Advocate: Newsletter of the National Tertiary Education Union*, Vol. 22, No. 3, Nov 2015: 59. Availability: <<http://search.informit.com.au/documentSummary;dn=623444715743845;res=IELBUS>> See also Personal Researcher Page of Maarten Rothengatter <http://works.bepress.com/maarten_rothengatter>

Kim Brooks (Dalhousie University, Schulich School of Law) presented 'The Troubling role of tax treaties' (with **Richard Krever** (Monash University, Department of Business Law & Taxation)) at McGill University on 23 November 2015 as part of its Spiegel Sohmer Tax Policy Colloquium Series.

Meg Vine is an associate lecturer at the University of New England. In 2016 she will be co-ordinating an Advanced Taxation unit and Masters level unit on Capital Gains Tax. Before joining UNE, Meg worked at the Australian Taxation Office. She joined the ATO as part of the undergraduate program and worked in a variety of areas. Before leaving the ATO, Meg was a legal interpretation officer in Indirect Taxes specialising in alcohol excise, fuel tax and wine equalisation tax cases. Her current research interests include taxation law and policy, animal law and tort law

5 Call for Papers

2016 International Conference on Tax Administration

The 12th International Conference on Tax Administration will be held at the Crowne Plaza Hotel, Coogee on 31st March & 1st April 2016. The theme of the conference will be Global Trends and Developments in Service Delivery. To register for the conference please visit:
www.business.unsw.edu.au/taxadmin

Those interested in presenting a paper at this conference are encouraged to submit a proposal that accords with this theme (for example, digitalisation, simplification, benchmarking, alternative tax dispute resolution, citizen-focused tax administration, fostering voluntary compliance, tax administrative responses to BEPS, etc).

Your proposal should include the following details:

- title of the paper;
 - author(s) brief bio and contact details;
 - an abstract of between 200-500 words of the contents of the proposed paper including its findings;
- and

- status of the paper (for example, whether it is part of ongoing research or whether it has been previously published, etc).

Proposals should be sent to Binh Tran-Nam at b.tran-nam@unsw.edu.au with the subject 'Tax Admin Conference Call for papers' by end of Monday 4 January 2016 (Sydney time).

A Steering Committee will select papers for the conference and will advise you of its decision by mid-January 2016. Full papers will be required to be submitted by early March using the conference template. Selected papers will be published either as book chapters in an edited book or refereed articles in a special issue of the eJournal of Tax Research (an A ranked journal in the Australian Business Dean Council's Journal Quality List 2013). Papers submitted on time will be eligible for the Cedric Sandford Medal.

Enquiries about the conference should be directed to Binh Tran-Nam, Chris Evans <cc.evans@unsw.edu.au> and Michael Walpole <m.walpole@unsw.edu.au>.

Fresh submissions are being welcomed by the peer-reviewed journal *Advances in Taxation*

Advances in Taxation publishes relevant, quality manuscripts from around the world on any aspect of federal, state, local, or international taxation including tax compliance, tax planning, tax policy issues, and current issues in tax.

The journal welcomes and encourages interdisciplinary research and a wide variety of research methods, including archival, experimental, survey, qualitative, case-based, legal and literature review approaches that are appropriate to the project.

Potential authors should note that manuscripts should be rigorous and of interest to a broad cross-section of scholars interested in taxation. The Editor will consider occasional publication of manuscripts related to tax education and good replications by doctoral students/faculty of earlier studies where there is an extension of the original paper e.g. through sample period, country of sample or other contribution.

Manuscripts are peer reviewed by two external academic experts and comments are sent back to authors within two to three months.

For information, *Advances in Taxation* is ranked in the top 25 accounting journals (see link below). <http://www.byuaccounting.net/tenure/journalsincluded.php>

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The Second International Conference on Higher Education Advances (HEAd'16). This conference is an excellent forum for researchers and practitioners to exchange ideas, experiences, opinions and research results relating to the preparation of students, teaching/learning methodologies and the organization of educational systems.

The HEAd'16 conference will be held on June 21-23, 2016 at the Faculty of Business Administration and Management of the Universitat Politècnica de València (UPV), which has been recently ranked as the best technical university in Spain by the Academic Ranking of World Universities (ARWU) 2015. Papers are due: January 29, 2016. For more details see: <http://www.headconf.org/submission-instructions>

6 New Zealand developments

Tax developments in New Zealand over the past month include:

- Publication of Inland Revenue document IR 278 *Payments and gifts in the Māori community*. This clarifies some of the tax issues around koha/gifts, payments in kind and unconditional gifts.
- The announcement of a new prescribed interest rate for the purposes of calculating FBT on low-interest loans (now 5.99%).
- The publication of Revenue Alert RA 15/01 *Employee Share Purchase Agreements – arrangements that have the effect of reducing the taxable benefit to employees under a share purchase agreement*. Revenue Alerts serves to inform about an issue that is of concern to Inland Revenue. This particular issue relates to arrangements to sell or issue shares in a company to an employee. Under current tax law, employees are required to return benefits obtained under a share purchase arrangement as income from employment. The benefits are usually the difference between the value of the shares and the amount paid or payable for the shares. The Inland Revenue has identified some employee share purchase arrangements that ‘could be seen as altering the tax treatment Parliament intended to apply to a share purchase agreement’. Specifically, the Inland Revenue has noted concerns under the specific provisions relating to share purchase agreements and section BG 1 (tax avoidance) where early acquisition dates are established in order that subsequent increases in the value of the shares are not taxable.
- Public Rulings BR Pub 15/11 and BR Pub 15/12 have been released. These outline the Commissioner’s operational position on FBT and car parks. Car parks that are provided on an employer’s premises are not currently subject to FBT. In a change from the previously published Commissioner’s position, these publications confirm that where an employer can establish that they have the exclusive right to use a car park – rather than only having a license to use a car park – this may be considered ‘on premises’ and therefore not subject to FBT. This means that employers may ask Inland Revenue to apply this decision to tax positions taken over the past four years.
- The government has confirmed that GST will be introduced for most intangibles that may be purchased from overseas websites. This extends to paid television subscriptions, digital downloads and services such as accounting or law services that are provided remotely. Therefore, overseas suppliers who are selling to New Zealand consumers will need to register for GST if they are providing taxable supplies in excess of \$60,000 in a 12 month period. These changes will take place from 1st October 2016.

Lisa Marriott

7 Visiting Fellowships

School of Taxation and Business Law, UNSW, Research Fellowships:

The School of Taxation and Business Law, UNSW, Australia is now calling for applications for up to 3 research fellows for 2016.

Details are:

Selection is based on the applicant's research proposal and on their ability to contribute to the School of Taxation & Business Law research profile. A track record in collaborating with Taxation & Business Law academics will be considered as an advantage.

The successful applicant will receive up to \$5,000 AUS to cover airfare, accommodation etc for the duration of their stay at the School.

They are expected to spend at least 4 weeks at the School of Taxation and Business Law. Access to a work area, computer and the internet will be provided.

They are also expected to present a research seminar and undertake research with one of the School's academics.

Application

Applications are invited from overseas academic and professional researchers working in taxation, business law and related disciplines. To apply, applicants must send by email:

1. A letter of application, indicating the area they wish to research under the Fellowship and anticipated publication(s), how they will collaborate with Taxation & Business Law academic(s), and their preferred timing to undertake the Fellowship.
2. A current curriculum vitae

Applications are due by 28 February 2016 and to be sent to:

The Research Fellowship Conveners
School of Taxation and Business Law
UNSW Australia
Sydney NSW 2052
Australia
Email: ataxfellows@unsw.edu.au

8 Recent Australian tax cases

The following cases are from the last month of Australian cases on tax and related matters, with the catchwords taken from the AustLII, Federal Court websites and BarNet Jade alerts.

High Court of Australia

Macoun v Commissioner of Taxation [2015] HCA 44 (02 December 2015) (French CJ, Bell, Gageler, Nettle and Gordon JJ)

Income tax – International Organisations (Privileges and Immunities) Act 1963 (Cth) – Exemption from taxation on salaries and emoluments received from certain international organisations – Whether monthly pension payments exempt from taxation.

International law – Treaty interpretation – Privileges and immunities of specialized agencies – Whether Convention on the Privileges and Immunities of the Specialized Agencies requires Australia not to tax monthly pension payments received by former officer of specialized agency.

Words and phrases – "emolument", "pension", "salary".

Commissioner of Taxation v Australian Building Systems Pty Ltd (In Liquidation) [2015] HCA 48 (10 December 2015) (French CJ, Kiefel, Gageler, Keane and Gordon JJ)

Taxes and duties – Income tax and related legislation – Obligations of agents and trustees – Where liquidators caused company to sell property resulting in a capital gain – Whether retention obligation in s 254(1)(d) of Income Tax Assessment Act 1936 (Cth) arises before assessment – Whether liquidators are trustees of trust estate for the purposes of Div 6 of Pt III of Act.

Statutes – Construction – Same or similar phrases within a statute – Whether construction of a phrase in one provision controls construction of the same or similar phrase in another provision – Relevance of context and purpose.

Words and phrases – "agent", "answerable as taxpayer", "assessment", "capital gain", "collecting provision", "due", "due and payable", "income, profits or gains", "is or will become due", "owing", "sufficient", "trustee".

Income Tax Assessment Act 1936 (Cth), ss 6(1), 254, 255, Pt III, Div 6.

Income Tax Assessment Act 1997 (Cth), ss 5-5, 104-10.

Federal Court of Australia

Deputy Commissioner of Taxation v Leaver [2015] FCA 1454 (17 December 2015) (Pagone J)

Practice and procedure - summary judgment - strike out - reasonable prospect of success - failure to disclose reasonable cause of action or defence or other case appropriate to the nature of the pleading - leave to re-plead Taxation - assessment - validity of assessment - conclusive evidence - conscious maladministration - bad faith - illegality - state of mind - requirement to plead particulars

Normandy Finance Pty Ltd v Commissioner of Taxation [2015] FCA 1420 (17 December 2015) (Edmonds J)

Income tax - payments of money from companies incorporated outside Australia and not resident in Australia to companies incorporated and resident in Australia - whether payments were loans as alleged by parties thereto or sham transactions as alleged by the Commissioner - if not, whether certain terms of loan agreements going to the payment of interest, security and borrowing fees were shams as a disguise or pretence to create impression that they were arm's length transactions - whether other transactions between such companies giving rise to indebtedness owing to overseas companies by Australian companies as alleged by the parties were what they appeared to be or were as alleged by the Commissioner sham transactions - concepts of "sham"; "loan" and "a company's state of mind" considered - whether capital loss incurred on alleged sale of receivable by trustee of a trust estate available to be set against capital gains of subsequent years of income - whether amount included in the s 95 net income of a trust of a year of income was a loan from a beneficiary company or merely recognition of unpaid present entitlements of anterior years of income - whether outgoings incurred by borrowing companies for interest and borrowing costs were incurred for income-producing purposes and for that reason deductible - imposition and remittance of penalties

Commissioner of Taxation v Donoghue [2015] FCAFC 183 (17 December 2015) (Kenny, Perram & Davies JJ)

Taxation - whether notices of assessment issued to taxpayer liable to be set aside - whether use of documents by the Commissioner which were said to be privileged constituted conscious maladministration for purposes of ss 175 and 177 of the Income Tax Assessment Act 1936 (Cth) - whether penalty assessments infected by same alleged...

Comptroller-General of Customs v Vestas - Australian Wind Technology Pty Ltd [2015] FCAFC 185 (16 December 2015) (Jessup, Logan and Perram JJ)

Taxation – customs and excise – appeal from decision of the Administrative Appeals Tribunal – whether tariff concession order in respect of wind turbine gearboxes could be made – meaning of substitutable goods in s 269B(1) of the Customs Act 1901 (Cth) considered – operation of s 269E of the Customs Act considered

Statutory interpretation – legislative history of Pt XVA of the Customs Act considered – whether definition of substitutable goods in s 269B(1) and ss 269C, 269D and 269E of the Customs Act incorporate temporal elements – whether s 269E of the Customs Act possesses a capacity limb

Commissioner of Taxation v ElecNet (Aust) Pty Ltd (Trustee) [2015] FCAFC 178 (14 December 2015) (Jessup, Pagone and Edelman JJ)

Taxation – Meaning of a “unit trust” in Division 6C of Income Tax Assessment Act 1936 (Cth) – Whether definition of “unit” for the purposes of a “prescribed trust estate” can inform the meaning of a “unit trust” – Functional understanding of a “unit trust” – Whether Electrical Industry Severance Scheme is a unit trust

Bywater Investments Limited v Commissioner of Taxation [2015] FCAFC 176 (11 December 2015) (Robertson, Pagone and Davies JJ)

Income tax – whether companies residents of Australia – place of central management and control – relevant principles

Income tax – profits from sale of shares – whether on revenue or capital account – where shares agreed to be trading stock

Income tax – trading stock – construction of s 70-40(2) of the Income Tax Assessment Act 1997 (Cth) – whether items taken into account for purposes of Division 70 – relevant principles

Income tax – shares – whether proved to be held beneficially

Orica Limited v Commissioner of Taxation [2015] FCA 1399

Income tax – tax avoidance – schemes to reduce income tax – dominant purpose of obtaining tax benefit – intra-group refinancing arrangement – generation of interest income to utilise tax losses – deductions claimed in relation to interest payments – matters to...

7 Dec 2015, Income Tax, Pagone J

Keris Pty Ltd (Trustee) v Deputy Commissioner of Taxation [2015] FCA 1381

Taxation - notice to provide security under s 255-100 in Sch 1 to the Taxation Administration 1953 (Cth) - whether the notice was validly issued - the proper construction of s 255-100 - the meaning of the words "future tax-related liability" in s 255-100. CONSTITUTIONAL LAW - whether s 255-100 is within the taxation power of the...

4 Dec 2015, Taxation; Constitutional Law, Siopis J

Pratten v Commissioner of Taxation [2015] FCA 1357

Administrative law – tax appeals pending in the Administrative Appeals Tribunal – availability of remedies under s 39B of the Judiciary Act 1903 (Cth) to set aside assessments – whether denial of procedural fairness in process of assessment an available ground – whether denial of procedural fairness made out on the facts – whether ...

4 Dec 2015, Administrative Law; Taxation, Robertson J

McCarthy v Commissioner of Taxation (No 2) [2015] FCA 1346

Administrative law – taxation – challenge under s 39B of the Judiciary Act 1903 (Cth) to the validity of tax assessments – whether claims against the Australian Crime Commission should be permitted to form part of those proceedings – whether Australian Crime Commission should be a party to those proceedings TAXATION –...

2 Dec 2015 Administrative Law; Taxation, Robertson J

Oswal v Commissioner of Taxation [2015] FCA 1366

Taxation – interlocutory applications seeking leave to appeal from a decision of the Federal Court of Australia ('FCA') ordering the applicants to pay security for costs – where applicants sought a stay of the primary judge's orders – where applicants contended the FCA had no power to order security for costs in circumstances where the applicants...

2 Dec 2015, Taxation, Griffiths J

Deputy Commissioner of Taxation v Gould [2015] FCA 1345

Practice and procedure - discovery - standard discovery - validity of tax assessments - documents obtained from foreign tax authority - alleged conscious maladministration and improper purpose - whether standard discovery necessary for pleaded case - 'fishing expedition'

1 Dec 2015 Practice and Procedure, Pagone J

Thomas v Commissioner of Taxation [2015] FCA 1339

Taxation - consideration of an application for leave to re-open the proceedings - consideration of the final form of the orders to be made consequent upon reasons for judgment published on 31 August 2015

26 Nov 2015, Taxation, Greenwood J

Chevron Australia Holdings Pty Ltd v Commissioner of Taxation (No 5) [2015] FCA 1310

Costs – whether interests of justice required that earlier orders as to costs in respect of two interlocutory hearings be vacated and the respondent be ordered to pay the applicant's costs of those interlocutory hearings – whether the respondent should not be entitled to his costs in relation to certain expert reports such that each party bear its ...

26 Nov 2015, Costs, Robertson J

Commissioner of Taxation v Devuba Pty Ltd [2015] FCAFC 168 (30 November 2015) (Greenwood, Jagot and Pagone JJ)

Income tax – capital gains tax – small business concessions – sale of shares giving rise to capital gain – claimed entitlement to reduce capital gain to nil by utilising small business concessions – whether CGT concession stakeholders in company held requisite small business participation percentage – whether significant individual – Dividend Access Share – whether taxpayer permitted to pay dividend to holder of Dividend Access Share – consideration of Memorandum and Articles of Association – effect of resolutions in relation to Dividend Access Share

New South Wales – Supreme Court

Vartuli v Chief Commissioner of State Revenue [2015] NSWCA 372 (30 November 2015) (Meagher JA at [1]; Ward JA at [2]; Gleeson JA at [3])

Taxes and duties - land tax - land used for primary production - whether use had a significant and substantial commercial purpose or character - s 10AA(2)(a) of the Land Tax Management Act 1956

Queensland – Supreme Court

Harvey v Commissioner of State Revenue [2015] QCA 258 (04 December 2015) (Margaret McMurdo P and Philippides JA and Burns J,)

Taxes And Duties – Stamp Duties – Arrangements Affecting Liability To Duty – where the appellant began residing at a property owned by Laworld Brisbane Pty Ltd whose sole director was Mr Harvey, the appellant’s husband – where the appellant and Mr Harvey agreed that Laworld would sell the appellant the property for \$1.5 million with completion on 15 June 2009 or 14 days from written confirmation by Laworld that the bank had agreed to release its security over the property – where on 16 May 2009 the appellant signed Laworld’s minute of the resolution already signed by Mr Harvey recording the terms and conditions of the agreement including a \$100 deposit; and that the property would be sold free of encumbrances with vacant possession but if settlement was not completed the appellant would vacate the property – where on 15 June 2009 Laworld as transferor, through Mr Harvey, and the appellant as transferee signed an instrument of transfer, Form 1, under the Land Title Act with consideration of \$1.5 million – where Laworld executed the Form 24 – where the Commissioner issued a notice of assessment of land tax to Laworld – where Laworld sought to reduce its liability because of the transfer to the appellant – where the appellant sought an exemption for the property under s 11(6A) Land Tax Act for principal place of residence – where in support of her claim for exemption, the appellant later provided the Office of State Revenue a copy of the Form 23 settlement notice relating to the transfer of the property – where the appellant also provided a letter from Laworld to the Office of State Revenue confirming that settlement took place on 15 June 2009, together with copies of the transfer and the Form 24 – where the Form 24 recorded both the date of possession and date of settlement as 15 June 2009 – where the bank did not agree to release its security over the property by 15 June 2009 or at any later time – where on 4 November 2009 the appellant lodged the Form 23 settlement notice at the Office of the Registrar of Titles – where on 18 November 2009 Laworld was issued with an amended notice of assessment of land tax, deleting the property from Laworld’s land tax assessment and assessing the land tax as nil – where the appellant was then issued an amended notice of assessment of land tax, allowing her a principal place of residence deduction for the property – where the Commissioner obtained a restricted valuation report stating that the indicative value range for the property as at 15 June 2009 was between \$5 million to \$5.5 million – where the Commissioner issued a default assessment to the appellant based on the consideration of the property being \$5.5 million – where the appellant objected to the assessment on the basis that her agreement with Laworld had been cancelled – where the Commissioner disallowed her objection – where the appellant later cancelled the 15 June 2009 transfer and applied for a reassessment on the grounds of that cancellation – where the appellant sought a mandatory injunction requiring the Commissioner to reassess the transfer to nil duty under s 156A(6) Duties Act or, in the alternative, a mandatory injunction requiring the Commissioner to reassess the agreement or agreements to nil duty under s 115(1) Duties Act, together with a declaration that she is not indebted for the amounts in the assessment and an injunction restraining the Commission from entering judgment or otherwise enforcing the assessment – where the primary judge dismissed her proceeding – where the appellant contends that the primary judge erred in finding that she relied on the transfer form in her application for exemption from land tax – where the appellant contends that the primary judge erred in holding the transfer as liable to duty as it was executed in escrow and the condition of the escrow was never fulfilled so it was not “signed” within the meaning of the Duties Act – where the appellant contends that the primary judge wrongly held that the Commissioner could determine the value of land in a valuation obtained otherwise than under s 505(2)(a) Duties Act and s 13(2) Taxation Administration Act – where the appellant contends that the primary judge erred in construing the justiciability of the validity and correctness of the Commissioner’s assessment – whether the appeal should be allowed Appeal And New Trial – Procedure – Queensland – Powers Of Court – Further Evidence – where the Commissioner failed to decide under s 132(2) Taxation Administration Act whether the agreement to transfer or the transfer form itself was the most applicable dutiable transaction within s 21(2) Duties Act – where the appellant contends that the primary judge should have found that this resulted in an assessment on both the agreement to transfer and the actual transfer and constituted jurisdictional error, thereby invalidating the assessment – where the appellant contends that s 69(1)(b) Taxation Administration Act is invalid as contrary to Chapter III of the Commonwealth Constitution – where the

appellant seeks leave to adduce evidence in support of her contentions – whether the application to adduce evidence should be granted

Victoria - Supreme Court of Victoria – Court of Appeal

ACN 005 057 349 Pty Ltd v Commissioner of State Revenue [2015] VSCA 332 (08 December 2015) (Hansen and Tate JJA and Robson AJA)

Taxation – Land tax – Commissioner of State Revenue raised a land tax liability under the Land Tax Act 1958 twice with respect to the same landholding – Duplication error – Admission of duplication error for 2008-2011 land tax years – Refusal by the Commissioner to refund excess payments for 1990-2002 land tax years – Duplication error occurred throughout, relevantly, 1990-2002 land tax years – Discretionary power of the Commissioner to amend assessments to ensure completeness and accuracy – Refusal to exercise power to amend – Conscious maladministration – Mandamus to compel amendments – Query whether requirement for claim for restitution necessary to establish liability – Payments made in the mistaken belief that the assessments accurately identified taxpayer’s landholdings, which they did not – Commissioner of State Revenue (Vic) v Royal Insurance Australia Ltd (1994) 182 CLR 51 discussed – Finance Facilities Pty Ltd v Federal Commissioner of Taxation (1971) 127 CLR 106 and Federal Commissioner of Taxation v Futuris Corporation Ltd (2008) 237 CLR 146 applied – Land Tax Act 1958 s 19.

Limitation of actions – Whether recovery of overpayments precluded by limitation periods – Postponement of limitation period – Whether mistake established – Whether mistake could have been discovered with reasonable diligence – Land Tax Act 1958 s 90AA – Limitation of Actions Act 1958 ss 5(1)(d) 20A and 27.

Interest – Whether compound interest recoverable – Exceptional circumstances – Conscious maladministration - Supreme Court Act 1986 ss 58 and 60.

Colin Fong

9 IBFD Frans Vanistendael Award for International Tax Law

IBFD wishes to promote outstanding scientific research output on international tax law. For this purpose, it decided to introduce the IBFD Frans Vanistendael Award for International Tax Law, named after its previous, esteemed Academic Chairman, Prof. Dr Frans Vanistendael. With his academic production at the highest scientific standards, Professor Vanistendael has long distinguished himself as one of the most far-sighted scholars in the field of international tax law.

The winning article of the first edition of the award was J. (Jürgen) Lüdicke & J.F. Avery Jones, The Origins of Article 5(5) and 5(6) of the OECD Model, 6 *World Tax Journal* 3 (2014).

Applications for the second edition of the IBFD Frans Vanistendael Award are open until 15 January 2016. Please send your application to academic@ibfd.org and include a short motivational letter.

I. Funding, focus and requirements

The proposed dotation is EUR 10,000 plus a flat financial reimbursement for travel and accommodation expenses incurred to attend the award ceremony.

Eligible publications are all articles and book chapters on international tax law (including EU tax law), in paper or digital format (with an ISBN or ISSN number), published in English between 1 January 2015 and 31 December 2015, which have provided an outstanding contribution to the development of international tax law.

II. Application and selection process

The applications for the Frans Vanistendael Award will be evaluated by an international jury, the members of which will soon be announced.

Members of the jury are not eligible for the award.

III. Award information

The jury will decide on the winner of the award by a two-third majority. In case that majority is not reached after two rounds of votes, the decision is taken by simple majority. The award will be conferred in September 2016 during the IBFD seminar at the IFA Congress in Madrid, Spain.

The following publications were shortlisted for the first edition of the award:

- Y. Brauner, BEPS: An Interim Evaluation, 6 *World Tax Journal* 1 (2014)
- Y. Brauner, Formula Based Transfer Pricing, 42 *Intertax* 10, pp. 615-631 (2014)
- Y. Brauner, What the BEPS?, 16 *Florida Tax Review* 55 (2014)

- W. Cui, Taxing Indirect Transfers: Improving an Instrument for Stemming Tax and Legal Base Erosion, 33 Virginia Tax Review 4 (2014)
 - C. Fleming, R. Peroni & R. S. Shay, Formulary Apportionment in the U.S. International Income Tax System: Putting Lipstick on a Pig?, 36 Michigan Journal of International Law 1 (2014)
 - M.A. Kane, Transfer Pricing, Integration and Synergy Intangibles: A Consensus Approach to the Arm's Length Standard, 6 World Tax Journal 3 (2014)
 - J. (Jürgen) Lüdicke & J.F. Avery Jones, The Origins of Article 5(5) and 5(6) of the OECD Model, 6 World Tax Journal 3 (2014)
 - C. Peters, On the Legitimacy of International Tax Law (IBFD 2014)
 - A. Ting, iTax - Apple's International Tax Structure and the Double Non-Taxation Issue, British Tax Review 1 (2014)
- <<http://www.ibfd.org/Academic/IBFD-Frans-Vanistendael-Award-International-Tax-Law>>

10 Tax and related meetings

Local

ATTA's **28th Annual Conference** will be hosted by UNSW Taxation & Business Law, 20th to 22nd January 2016. The theme of the conference is *Tax and Time Travel: Looking Backwards and Looking Forwards*. The conference will celebrate 28 years of ATTA in Australasia. Further information about the conference is included above in this newsletter. If you have any questions please contact John Taylor at c.taylor@unsw.edu.au or <www.business.unsw.edu.au/2016atta>

The **Tax Institute's** website www.taxinstitute.com.au lists many conferences, conventions, seminars, and breakfast clubs. For further enquiries, contact Phillipa Cardigan (02) 8223 0045 or email phillipacardigan@taxinstitute.com.au or register online at www.taxinstitute.com.au Call the National Events team on 1300 733 842 for more details. Please contact the National Events Team on 1300 733 842 or by email, nationalevents@taxinstitute.com.au Follow us on Twitter @TaxInstituteOz. Danielle Thurston, Event and Member Services Executive The Tax Institute Phone: 02 8223 0000; Direct: 02 8223 0014 Fax: 02 8223 0077 daniellethurston@taxinstitute.com.au

Overseas

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

Canadian Tax Foundation <http://www.ctf.ca/ctfweb/en>

Institute for Fiscal Studies Conferences and seminars <http://www1.ifs.org.uk/conferences/index.shtml>

Institute for Austrian and International Tax Law 2015/2016 events:

The topics of the seminar sessions and other events can always be found at www.wu.ac.at/taxlaw. Please see the website for most up-to-date information on them.

International Bureau of Fiscal Documentation. Various courses in Amsterdam, the Netherlands or in Malaysia or elsewhere. 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

For courses go to <http://www.ibfd.org/Training>

IBFD International Tax Courses - A selection of related courses in 2016

International Tax Planning - Post BEPS 24-26 February 2016, Singapore

Principles of International Taxation 29 February - 4 March 2016, Amsterdam

Tax Planning and Substance 17-18 March 2016 (NL)

Principles of Transfer Pricing 25-29 April 2016, Kuala Lumpur
Transfer Pricing and Intra-Group Financing 2-3 May 2016 (NL)
Treaty Aspects of International Tax Planning 22-24 May 2016, Dubai
US Advanced Corporate Taxation and Transfer Pricing 6-8 June 2016 (NL)
Current Issues in International Tax Planning 29 June-1 July 2016 (NL)
Int. Taxation of Oil and Gas and Other Mining Activities 30 August - 2 September 2016, Singapore
For entire course portfolio, see < http://www.ibfd.org/Training/Find-course?utm_source=course-promo-april&utm_medium=email&utm_campaign=ITA0520-04-2015&utm_content=Course-finder>
See also <http://www.ibfd.org/Training/Find-course>

International Fiscal Association Congresses <http://www.ifa.nl/pages/default.aspx>

2016 Madrid, Spain (25 August - 30 August 2016)

<https://www.ifa.nl/activities/annual_congresses/Pages/2016_Madrid_Congress_19.aspx?source=%2fPages%2fdefault.aspx>

Subject 1:

Dispute resolution procedures in international tax matters

Subject 2:

The notion of tax and the elimination of international double taxation or double non-taxation

Tentative Seminar Programme

IFA/OECD

IFA/EU

Recent developments in international taxation

Latin-American tax seminar

Tax judges seminar

Taxation of activities performed in breach of legal regulations (Illegal activities)

Taxation of venture capital: Funds, managers and investment structure

International taxation of sportsmen, sport organizations and sports events

How has BEPS affected to MNEs relocation?

VAT and direct taxation of digital economy: Old problems, new solutions?

2017 **Rio de Janeiro, Brazil**

2018 **Seoul, Korea, Rep of**

2019 **London, United Kingdom**

International Atlantic Economic Society (IAES) conference 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

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

Other useful tax and law related conference websites include the

International Bar Association:

http://www.ibanet.org/Conferences/conferences_home.aspx

IBFD Course calendar

<http://www.ibfd.org/portal/app?bookmarkablePage=org.ibfd.portal.presentation.TaxCourses>

International Events and Law Conferences

<http://internationaleventsandlawconferences.yolasite.com>

Conferences in Australia <http://www.conferencealerts.com/country-listing.php?page=1&ipp=All&country=Australia>

New South Wales Bar

Association http://www.nswbar.asn.au/docs/professional/prof_dev/CPD/programme/index.php

Law Council of Australia <http://www.lawcouncil.asn.au/lawcouncil/index.php/conferences>

Practising Law Institute <http://www.pli.edu/>

New York County Lawyers Association <http://www.nycla.org>

American Bar Association Taxation CLE topics

http://www.americanbar.org/cle/cle_courses_by_topic/taxation.html

New York Bar Association <http://www.nysba.org/>

Hieros Gamos Worldwide Law Events Calendar <http://www.hg.org/legal-events.asp>

For Australian ones <http://www.hg.org/legal-events-australia.asp>

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 ATTA people in the media

Passant, John

'Protesters face-off in Canberra: Reclaim Australia and anti-racism rallies at Parliament House,' Christopher Knauss, *The Canberra Times* 23 November 2015, page 4. Quoted at the anti-Reclaim, anti-racist and pro-Muslim Canberra rally on 22 November.
<<http://www.canberratimes.com.au/act-news/protesters-faceoff-in-canberra-reclaim-australia-and-antiracism-rallies-at-parliament-house-20151122-gl4vuw.html#ixzz3sC9oy4MR>>

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

Australian Taxation Office *Corporate tax transparency: 2013-14 report of entity tax information*, 17 December 2015 <<https://data.gov.au/dataset/corporate-transparency>>

Azzi, John 'The High Court has an opportunity to reverse the dangerous and unwise precedent set by the Federal Court in *FCT v Macoun*' (2015) 25 (1) *Revenue Law Journal* 1- 6

Berg, Chris 'How we're getting the whole GST debate so wrong', *The Drum ABC TV* 15 December 2015 <<http://www.abc.net.au/news/2015-12-15/berg-how-we-re-getting-the-whole-gst-debate-so-wrong/7028220>>

Blissenden, Michael 'Simple, fair and efficient: four ways to make our tax system work the way it is supposed to', *The Conversation* 11 December 2015 <<https://theconversation.com/simple-fair-and-efficient-four-ways-to-make-our-tax-system-work-the-way-it-is-supposed-to-52141>>

Carling, Robert & Potter, Michael 'Exposing the stealth tax: the bracket creep rip-off', St Leonards, Centre for Independent Studies, December 2015, Research Report No 8
<<https://www.cis.org.au/app/uploads/2015/12/rr8.2.pdf>>

Daley, John & Coates, Brendan 'Catch up' super contributions: a tax break for rich (old men)', *The Conversation* 2 December 2015 <<https://theconversation.com/catch-up-super-contributions-a-tax-break-for-rich-old-men-51116>>

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Daley, John; Wood, Danielle; Parsonage, Hugh 'What would make a GST increase 'fair'? *The Conversation* 7 December 2015 <<https://theconversation.com/what-would-make-a-gst-increase-fair-50237>>

Davis, Kevin 'Why levying GST on banking has been in the 'too hard' basket', *The Conversation* 2 December 2015 <<https://theconversation.com/why-levying-gst-on-banking-has-been-in-the-too-hard-basket-51490>>

Evans, Alex 'The tax system can play a role in Australian innovation', *The Conversation* 23 November 2015 <<https://theconversation.com/the-tax-system-can-play-a-role-in-australian-innovation-50975>>

Freebairn, John & **Stewart, Miranda** 'Don't ignore state taxes in the national overhaul', *Australian Financial Review* 17 December 2015 p 39

Grattan, Michelle 'Greens deal with government unveils tax affairs of some private companies' *The Conversation* 3 December 2015 <<https://theconversation.com/greens-deal-with-government-unveils-tax-affairs-of-some-private-companies-51742>>

Grattan, Michelle 'Differences with states on tax reform could be 'irreconcilable': Morrison', *The Conversation* 9 December 2015 <<https://theconversation.com/differences-with-states-on-tax-reform-could-be-irreconcilable-morrison-52093>>

Hodgson, Helen & Coleman, Marie 'Superannuation reform is the perfect opportunity to address gender inequity', *The Drum* ABC TV 30 November 2015 <<http://www.abc.net.au/news/2015-11-30/coleman-hodgson-superannuation/6986500>>

Hodgson, Helen 'FactCheck: might every household have to pay an extra \$4,500 in GST a year?' *The Conversation* 11 December 2015 <<https://theconversation.com/factcheck-might-every-household-have-to-pay-an-extra-4-500-in-gst-a-year-52147>>

(2015) 10 (1) *Journal of the Australasian Tax Teachers Association*
<<https://www.business.unsw.edu.au/about/schools/taxation-business-law/australasian-tax-teachers-association/journal>>

Foreword - **John Tretola**

Online Feedback to Students Studying Taxation and Business Law - How Does it Rate? **Fiona Martin** and Kayleen Manwaring

Why First-Year Law Students Should Read At Least One Appellate Tax Case! **Rachel Tooma**

Improving the Students' Tax Experience: A Team-Based Learning Approach for Undergraduate Accounting Students - **Paul Kenny**, Helen McLaren, **Michael Blissenden** and **Sylvia Villios**

A Public Policy Case Study of the Introduction of the Goods and Services Tax: tax reform can be successfully achieved - **John Alvey** and Amanda Roan

The Mineral Resource Rent Tax has Been Repealed: Is it Now Time for a Better-Designed Resource Rent Tax on all Extracted Minerals and Gas? **John McLaren** and **John Passant**

Taxing Capital in the Twentieth-First Century: A New Zealand Perspective - **Jonathan Barrett**

Taxation of Sovereign Wealth Funds - A Suggested Approach - **Sally-Ann Joseph**, **Michael Walpole** and **Robert Deutsch**

The Role of the OECD in the Current International Tax Law: Voluntary or 'Obligatory'?

Alireza Salehifar

Krever, Rick & McClelland, A 'Taxation: Paying for policy', in: A McClelland & P Smyth (eds), *Social policy in Australia: Understanding for action*, South Melbourne, Oxford University Press, 2014, pp 242-257

Lanis, Roman; Govendir, Brett & McLure, Ross 'So now we know which companies did not pay tax; time to target aggressive avoidance', *The Conversation* 18 December 2015

<<https://theconversation.com/so-now-we-know-which-companies-did-not-pay-tax-time-to-target-aggressive-avoidance-52490>>

Ma, David *Small business tax compliance burden: what can be done to level the playing field?*

Supervised by: Associate Professor Andrew Maples & Professor Adrian Sawyer, University of Canterbury Master of Commerce in Taxation thesis, 2015

<<http://www.ir.canterbury.ac.nz/bitstream/handle/10092/10457/MastersDavid.pdf?sequence=1&isAllo wed=y>>

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Maxwell, Ian 'There's tax cuts and there's tax cuts: getting big business to innovate', *The Conversation* 9 December 2015 <<https://theconversation.com/theres-tax-cuts-and-theres-tax-cuts-getting-big-business-to-innovate-50845>>

Menzies, Jennifer 'Turnbull faces his most taxing test yet: wooing the states to overhaul the GST', *The Conversation* 9 December 2015 <<https://theconversation.com/turnbull-faces-his-most-taxing-test-yet-wooing-the-states-to-overhaul-the-gst-51663>>

Middleton, Tom 'Banning, disqualification and licensing powers: ACCC, APRA, ASIC and the ATO – Regulatory overlap, penalty privilege and law reform' (2015) 33 *Company and Securities Law Journal* 555-80

Morrison, David 'Floundering around the phoenix: Is it possible to use court proceedings effectively?' (2015) 23 *Insolvency Law Journal* 143-49

Murray, Ian 'Accumulation in charitable trusts: Australian common law perpetuities rules' (2015) 9 *Journal of Equity* 30-65

Murray, Ian 'Charity accumulation: interrogating the conventional view on tax restraints' (2015) 37 *Sydney Law Review* 541-68 <http://sydney.edu.au/law/slr/slr_37/slr37_4/SLRv37n4Murray.pdf>

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Tax transparency code

The Chair of the Board of Taxation, Mr Michael Andrew, on 11 December 2015 announced that the Board has released a consultation paper and is inviting written submissions on the proposal for a tax transparency code.

The code will encourage greater public disclosure of tax information by businesses, particularly large multinationals.

Further information is available on the Board of Taxation website.

The closing date for submissions is 29 January 2016. Submissions can be sent by mail or e-mail to:

Tax transparency code

The Board of Taxation

c/- The Treasury

Langton Crescent

CANBERRA ACT 2600

Email: taxtransparency@taxboard.gov.au

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HMRC v Lloyds Bank Leasing (No 1) Ltd: the troublesome increase in the scope of the "sole or main object" test - Michael McGowan

South African Reserve Bank v Shuttleworth: exchange control exit tax—a regulatory charge or a tax? Jennifer Roeleveld

AB LLC and BD Holdings LLC v Commissioner of the South African Revenue Service: the creation of service permanent establishments - Craig West

S&I Electronics Ltd v HMRC and the state of MTIC VAT fraud - Max Schofield

Article - Capital Taxes - Time for a Fresh Look? Emma Chamberlain

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<http://www.ctf.ca/CTFWEB/EN/Publications/CTJ_Contents/2015CTJ3.aspx>

Country-by-Country Reporting and Commercial Confidentiality — Arthur J Cockfield and Carl D Macarthur
Top-End Progressivity and Federal Tax Preferences in Canada: Estimates from Personal Income Tax Data — Brian Murphy, Mike Veall, and Michael Wolfson
Editors' Introduction—Taxation of Small Businesses — Kevin Milligan and Tim Edgar
Policy Forum: Mountains and Molehills— Effects of the Small Business Deduction — Ted Mallet
Policy Forum: Personal Services Businesses — A Two-Sided Policy Problem — H. Michael Dolson
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International Tax Planning: George Weston and the Characterization of Gains on Derivatives —
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Germany - Convertible Bonds and Preference Shares: New Corporate Law Environment and Recent Tax Developments - Sven-Eric Bärsch and Thomas Lakenberg
International - The Application of Tax Treaties to Collective Investment Vehicles: Beneficial Owner Requirement Explained? Victor T Chew
International - The Société Générale Decision: ECJ Assesses Dutch Withholding Tax on Dividends of Non-Resident Corporate Portfolio Investors - Daniel Smit
United States - Comparison of the Proposed Changes to the OECD and US Model Conventions - Paul Carman
Australia - Infrastructure Projects, Public Project Partnerships and Taxation of Tax-Preferred Entities - Anton Joseph
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Supplies of Blood Plasma in the Light of VAT - Björn Ahrens and Marc Bothe
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13 Quotable quotes

"What would George Orwell have made of our "reform" agenda?"

The British author who railed against language abuse would be part appalled but possibly greatly amused at how Australia has come to represent everything he despised.

"In our time, political speech and writing are largely the defence of the indefensible," Orwell wrote in the most celebrated passage of his famous essay *Politics and the English Language*.

That was England more than six decades ago and it was a concept he expanded upon in his famous novel, *Nineteen Eighty-Four*.

These days in Australia, every self-serving lobby group that punts up an idea, regardless of how inequitable or outrageous, legitimises their claims simply by tacking on the word "reform".

Want to propose raising taxes for those who can least afford it while cutting imposts upon multinationals that refuse to comply with tax laws? Call it tax reform."

Source: Verrender, Ian 'How the tax debate has been derailed by 'reform'', *The Drum ABC TV* 23 November 2015 <<http://www.abc.net.au/news/2015-11-23/verrender-how-the-tax-debate-has-been-derailed-by-'reform'/6962576>>

Kitschke, Mr Brad, Director of Public Policy, Australia and New Zealand, Uber Australia Pty Ltd

McDonagh, Mr Sam, Country Manager, Australia and New Zealand, Airbnb Australia Pty Ltd

...

Mr McDonagh: I am the country manager of Airbnb Australia.

Senator Dastyari: That is wholly owned by Airbnb Ireland?

Mr McDonagh: Yes.

Senator Dastyari: If I am staying the night in Parramatta and I book accommodation through Airbnb, that transaction takes place in Ireland?

Mr McDonagh : That is correct. Airbnb is a global platform and all of those operations are managed out of Ireland.

Senator Dastyari: And it is the same for Uber except that it is in the Netherlands?

Mr Kitschke: That is correct. The platform services 64 countries. It needs to be global to do that.

Senator Dastyari: To put that into perspective, when I book an ad on Google, the transaction takes place in Singapore. For tax purposes none of the transaction happens in Australia even though I am getting in a car in Australia? The global partner directly pays the driver or the accommodation?

Mr Kitschke: That is correct.

Senator Dastyari: So the money does not ever come through your company?

Mr McDonagh: That is correct.

Senator Dastyari: If I put my house in south-western Sydney on Airbnb and someone chooses to stay there, I will get a payment from Airbnb Ireland?

Mr McDonagh : That is correct.

Senator Dastyari: And if I was doing the same thing with my car, for Uber, I would be getting a payment from Uber in the Netherlands?

Mr Kitschke: That is right. The platform facilitates the payment but essentially the relationship is between the driver and the rider. But the payment will come through Uber in the Netherlands.

Senator Dastyari: So I am paying the Netherlands and the Netherlands is paying my driver or I am paying Airbnb Ireland and Airbnb Ireland is paying my accommodation?

Mr Kitschke: Yes.

Mr McDonagh: Yes.

Senator Dastyari: There is no point harping on this. I think this is a significant tax area that we have to look at internationally. I think some of the BEPS process is looking at some of this. I am not going to blame you guys for this but frankly our tax structure is built on a very 1970s model of what is permanent. I do not dispute that you are not doing any different from what others such as Google have done in the past. But you can understand why we are saying this is something that should be looked at internationally if these transactions are officially not taking place on Australian soil for tax purposes.

...

Senator Dastyari: You do not know how much tax you paid last year.

Mr Kitschke: No.

Senator Dastyari: You came to a Senate corporate tax inquiry and did not work out how much tax you paid last year.

Mr Kitschke: I can find out the specifics for you and get back to you in a very short period of time.

Senator Edwards: It would be easy to suggest that the repatriation of the 25 per cent is manipulated on the way back to you guys in Uber Australia. You are repatriating expenses only plus 8½ per cent and you are keeping whatever the balance of the 25 per cent over there? Is that fair?

Mr Kitschke: As I said, the platform—the software—is based in the Netherlands. It needs to service 64 countries, and that is the reason why it is based there. It is the same for every other jurisdiction.

Senator Di Natale: What is the company tax rate in the Netherlands?

Mr Kitschke: I am not aware of that.

Senator Di Natale: Following on from Senator Dastyari, it is a corporate tax inquiry. These are pretty basic bits of information.

Mr Kitschke : I am more than happy to follow that up for you.

Senator Edwards: You can talk about the platform all day.

Senator Di Natale: Do you see the public policy issue here?

Senator Edwards: Which we are all in agreement with.

Senator Di Natale: A lot of people, I suspect, some—

Senator Dastyari: Mr McDonagh is dying for us to ask what the tax rate is in Ireland.

Mr McDonagh: It is 12 per cent.

Senator Edwards: I even know that one.

Senator Di Natale: The public policy problem is obvious here. I know that it is being tested at the moment about whether the service you provide is fundamentally different from the service provided by the taxi industry. You are in competition. You are offering what is broadly similar—and I know that will be tested. Obviously, the concern is that we have got one industry paying tax here in Australia and another that is not. The public policy problem is, if other businesses see the opportunities to do what you have done, we are going to start eroding our tax base. Do you acknowledge that that is an issue at least?

Mr Kitschke: That is an issue for governments, as I said before. We comply with all of the appropriate laws. It is not for me to make the judgement about whether or not that is appropriate. That is an issue for you as legislators.

Source: Australia Senate Economics References Committee - 18/11/2015 - Corporate tax avoidance <http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Economics/Corporate_Tax_Avoidance/Public_Hearings> for 18 November 2015

“For the first time in 35 years, Alaskans may have pay income tax as chronically low oil prices create a multibillion-dollar budget deficit.

In laying out his budget plan on Wednesday, Alaska Governor Bill Walker also proposed using the fund that provides annual cheques to most Alaskans to generate a stream of cash to help finance state government.

...

Alaska isn't alone among oil-producing states to experience hard times as oil prices stay low. But unlike states such as Texas or Louisiana, Alaska has few other industries to make up the difference.

...

Alaska is one of seven US states without an individual income tax, and it's the only state to have repealed an existing income tax, according to the Tax Foundation, an independent tax policy research organisation.

In 1980, after oil began coursing through the pipeline, the legislature voted to repeal the income tax. Two years later, the first dividends were paid.

The income tax, as proposed, would generate about \$US200 million a year, according to the Walker administration.”

Source: ‘Alaskans face first income tax in 35 years’, News.com.au 10 December 2015
<<http://www.news.com.au/finance/business/breaking-news/alaskans-face-first-income-tax-in-35-years/news-story/9c97caeff181428ed4782117c12dc9a0>>

Alleged law	In force?	Comment
It is illegal not to tell the tax man anything you do not want him to know, but legal not to tell him information you do not mind him knowing.	Not quite	This appears to be a simplification of the Tax Avoidance Schemes Regulations 2006. This requires the disclosure of arrangements securing a tax advantage where those benefiting wish to keep it confidential in order to facilitate repeated benefits: the desire for confidentiality is regarded as a hallmark of an unacceptable tax arrangement.

Source: Law Commission *Legal curiosities: fact or fable?* March 2013
<http://www.lawcom.gov.uk/wp-content/uploads/2015/03/Legal_Oddities.pdf>

7. A suggested tax on GST on digital goods and services was dubbed what by the media?

7. The Netflix tax

Source: *The Conversation*'s super summer quiz, 18 December 2015 <<https://theconversation.com/the-conversations-super-summer-quiz-52290>>

“Almost four in 10 large companies paid no tax last year, according to the first release of tax transparency data by the Australian Tax Office.”

Source: Aston, Heath; Khadem, Nassim & Butt, Craig ‘Four in 10 companies pay this much tax ... \$0’ Sydney Morning Herald 18 December 2015 p 5 <<http://www.smh.com.au/federal-politics/political-news/tax-transparency-coalition-urged-to-target-biggest-companies-for-billions-20151217-glq823.html>>

14 Australian and New Zealand tax and related doctoral theses

In the *ATTA News* for December 2002, March 2004, April 2005, June 2006, June 2007, July 2008, September 2009, December 2010, November 2011, December 2012 and December 2013, December 2014 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 doctoral theses 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. 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/graduation. If available electronically, please supply the URL or where it can be found. If you wish to preview the list before publication, please let me know by email.

Colin Fong

Completed ones

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

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