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01 | PRESIDENTIAL COLUMN

President's Note

Welcome to the June Newsletter and the most important aspect of my column this month is to pass on the whole of the ATTA community's thanks and gratitude to Colin Fong who is stepping down as the Editor in Chief of ATTA News after many many years. Colin, your contribution to ATTA has been outstanding and the amount of time and effort you have put in over countless editions of ATTA News cannot be summed up in a few words, I know just from my involvement in the newsletters for a short period of time the huge effort that it takes to get this newsletter out each month and I know I am going to miss your contribution ... the sweat is already forming on my brow as I

start to nervously panic that we no longer have you onboard, so from all of us: Colin, THANK YOU. Going forward, if anyone has a contribution for the newsletter, please reach out to myself at annette.morgan@cbs.curtin.edu.au or use the ATTA News email address (media@atta.network) we need to all ensure we keep up Colin's amazing standard, so I look forward to receiving contributions from you.

Secondly it is with great pleasure that the ATTA Executive announces several appointments in that Jonathan Barrett from the Victoria University of Wellington has been appointed a Vice President and Stephanie Bruce as the Executive Assistant.



In next month's edition we will announce the arrangements for the conference due to be held in Christchurch next January.

Till then, enjoy your month and HAPPY TAX YEAR!

Annette

02 | ATTA'S 33RD ANNUAL CONFERENCE

Both the ATTA 2021 conference organising committee and the ATTA Executive have reached the unprecedented decision that we are postponing the January 2021 conference to 19-21 January 2022 (equivalent dates) due to the impact of COVID-19. The decision comes with a background of borders being closed and likely at best to open to Australia only (meaning a large portion of our attendees from outside the region could not come), and with many academics and graduate students facing reduced conference budgets and thus being unable to attend.

Adrian Sawyer

03 | ATTA PROFILE: PROF DALE PINTO

How long have you been an ATTA member?

A very long time ... way back when we used to travel to other parts of the country and world in planes and attend things called 'conferences' in person. Seriously, I can trace my membership back to the mid-to late 90s.

What inspired you to pursue a career in tax?

Al Capone. I actually fell into tax by accident. In Year 11, I really didn't like my Chemistry teacher (and he probably didn't like me either) so I chose Accounting and ended up doing Accounting and Business Law and while I found Accounting tedious (debit/credit) I had a great tax lecturer (Bob Jackson) who inspired me to pursue tax – so much so that I did a MTax at the University of Sydney Law School and then a PhD at the University of Melbourne Law School in Tax. My supervisor was Professor Graeme Cooper, a Titan of Tax, who further inspired me.



Prof Dale Pinto
Taxation Discipline Lead
Curtin University

What is your most rewarding or memorable tax-related experience?

In a teaching context, being able to make students understand complex concepts – sometimes by explaining it four or five times. From a career perspective, showing students that a career in tax involves more than just filling in depreciation schedules and takes in really interesting advisory work. From a professional perspective, I will never forget the after-dinner speech given by Professor John Prebble at an ATTA conference – had everyone in stitches. On a personal level, completing my PhD in e-commerce and international tax.

What's your favourite quote?

Apart from "Nothing in this world nothing can be said to be certain, except death and taxes", Oliver Wendell Holmes, former Justice of the United States Supreme Court, when he said, "Taxes are what we pay for a civilized society." And who could forget Kerry Packer's appearance at a Parliamentary Committee in 1991:

"I don't know anybody that doesn't minimise their tax," Mr Packer growled as he stirred his delicate parliamentary china cup of tea with a teaspoon. "I'm not evading tax in any way shape or form. Of course I'm minimising my tax. If anybody in this country doesn't minimise their tax they want their head read. As a government I can tell you you're not spending it that well that we should be paying extra."

How do you relax away from work?

I spend as much time as I can with my two boys, two golden retrievers, two cats and two cockateils (weiros) and my lovely wife Cathy. I really enjoyed being an Uber dad when my boys were not driving themselves. I also really enjoyed watching my boys rowing though it meant I missed many ATTA conferences as I would be cooking breakfast and lunch at many January rowing camps.

What is something people wouldn't normally know about you?

That I had long, flowing hair when I was in high school – true!

Do you have a recent "shower thought" to share?

No one has ever been inside an empty room.

04 | ARRIVALS, DEPARTURES AND HONOURS

Diane Kraal and Anna Mortimore



In April 2021 the Reliable Affordable Clean Energy for 2030 (RACE for 2030) Co-operative Research Centre awarded major funding of \$220,000 for the project, 'Business Fleets and EVs: Taxation changes to support home charging from the grid, and affordability.'

Dr Diane Kraal (Monash University) and Dr Anna Mortimore (Griffith University) are the project leaders.

In summary, the project concerns increasing business fleet uptake of battery electric vehicles (BEVs) in Australia. Currently BEVs only comprise 1% of vehicles in business fleets. Nationally, transport CO2 emissions are 18% of the total. This case study will address the EV barriers seen by business in transitioning to cleaner energy and a reduction of emissions. The project primarily investigates the potential of EV home charging by company and government fleet employees. Home charging is seen as a step towards dealing with a number of issues preventing the acquisition of EVs in Australia. The researchers will report results from this 'fast track' project by October 2021, in time for the main United Nations COP26 program, in Glasgow UK, November 2021.

Overall, business fleets are a potentially effective pathway for early adoption of BEVs, but their site re-charging infrastructure facility numbers are low. Taxation changes can provide an immediate solution by using fleet employee's home charging, which can include smart chargers to gain off-peak rates & avoid grid congestion. Around 47% of fleet vehicles are home garaged. This project will assess how taxation changes ie. Fringe Benefits Tax (FBT) and income tax can facilitate the charging of business fleet EVs from individual fleet employees' homes. It will draw on current international legislation and active programs.

Diane and Ann's project has cash support from the Victorian Government, the NSW Government, the SA Government, AGL Energy Ltd, Monash University, Griffith University and the Commonwealth Government.

The Reliable Affordable Clean Energy for 2030 (RACE for 2030) Co-operative Research Centre catalyses collaborative innovation to develop and demonstrate energy technologies and business models, which can substantially improve energy productivity across businesses, homes and energy supply networks, embed changes engagement, education and training; and support development of Australian energy technology businesses. Higher education partners include Monash University, UTS, Curtin, UTAS, Griffith, RMIT, QUT and UniSA. There are a range of business and government 'industry' partners.

The record amount of funding comprises:

- \$87.1 mil - Partner Cash Contributions (80+ industry partners)
- \$68.5 mil - Commonwealth Funding
- \$194 mil - Partner In-kind (incl. +500 FTE staff time)



05 | BULLETIN BOARD

Vacancy: Lecturer/Senior Lecturer

Job no: 0053137

Work type: Continuing

Location: Parkville

Division/Faculty: Melbourne Law School

Role & Superannuation rate: Academic - Full time - 17% super

Salary: \$107,547 - \$127,707 p.a. (Lecturer Level B) or \$131,739 - \$151,900 p.a. (Senior Lecturer Level C), plus superannuation.

About Melbourne Law School:

Melbourne Law School (MLS) is Australia's first all-graduate law faculty. Melbourne Law School was the first faculty in Australia to teach law, and awarded this country's first law degrees.

About the role:

Melbourne Law School at the University of Melbourne, Australia's leading law school, seeks to appoint an academic (level B-C) with expertise in taxation law to contribute to our highly collegial and research-intensive professional life, and leading taxation program. We will also consider an appointment at Level A (Assistant Lecturer).

We specifically encourage applications from current or aspiring academics who are able to contribute to our JD teaching, integrate teaching with research and community engagement activities, and contribute to the vibrant tax teaching, research and policy engagement at the Law School and the general communal life and culture at the Law School and within the University of Melbourne as a whole.

Full details of appointment can be found in the Position Description attached.

Applications (consisting of a curriculum vitae, cover letter and statement addressing the selection criteria) must be submitted online (click on the 'apply' button below). You must also indicate the Level at which you are applying.

Enquiries to Professor Alison Duxbury at law-hr@unimelb.edu.au

Melbourne Law School is an equal opportunity employer, and welcomes applications from scholars able to enrich the diversity of our community. In particular, we encourage Aboriginal and Torres Strait Islander people to apply. Indigenous Australians seeking support to apply for a vacancy are encouraged to contact the University by emailing their contact details and position number to law-hr@unimelb.edu.au

[Position Description available here.](#)

Advertised: 09 Jun 2021 12:05 AM AUS Eastern Standard Time

Applications close: 30 Jul 2021 11:55 PM AUS Eastern Standard Time

[Apply now](#)

ATTA News Publishing Deadlines

Please note the following dates are approximate.

July edition of ATTA News:

- Items to the Editor by: 7 July 2021
- Publicly available on: 21 July 2021

August edition of ATTA News:

- Items to the Editor by: 6 August 2021
- Publicly available on: 21 August 2021

Do you have a Bulletin Board item?

Please email your Bulletin Board items to the [Editor](#) for inclusion in forthcoming editions of ATTA News.

06 | CALL FOR SUBMISSIONS

Scholarly Journals

New Zealand Journal of Taxation Law and Policy: Special Issue

Ranking: A

Manuscript Deadline: 30 June 2021

Theme: Tax and COVID-19

As editors from time to time we have a special issue dedicated to a theme or event. We are planning on having a special issue provisionally scheduled for the December 2021 issue on the theme of 'Tax and COVID-19'. We are open to submissions that address this evolving theme from any perspective and from jurisdictions outside of New Zealand. For contributions to be considered for this special issue we would like to receive them by 30 June 2021. For further details and/or an expression of interest please contact the editors.

Adrian Sawyer (adrian.sawyer@canterbury.ac.nz) and *Lin Mei Tan* (l.m.tan@massey.ac.nz)
Editors

Australian Tax Review

[2021 | Volume 50](#)

Ranking: A

Manuscript Deadline: TBA

The General Editors are Prof Dale Pinto, Curtin University and Prof Kerrie Sadiq, Queensland University of Technology. The Australian Tax Review is a highly regarded refereed taxation journal published since 1971. It has maintained its "A" ranking in the 2019 Australian Business Deans Council journal quality list. It is seeking the submission of high-quality articles for one of the four issues which are planned to be published during 2021. All submissions will be subject to the journal's usual rigorous double-blind refereeing process.

Please send submissions to *Dale Pinto* (Dale.Pinto@cbs.curtin.edu.au).

Austaxpolicy.com Blog (Tax and Transfer Policy Institute)

[TTPI Working Papers and Policy Briefs](#)

Manuscripts Submission Deadline: Continually

Publication Date: Continually

tax.policy@anu.edu.au

Journal of the Australasian Tax Teachers Association
[2021 | Volume 16](#)

Ranking: B

Manuscript Deadline: 30 July 2021

Theme: N/A

The Editorial Board of the Journal of the Australasian Tax Teachers Association (JATTA) invites contributions from academic staff, legal scholars, practitioners, justice professionals and postgraduate researchers for possible publication in the 2021 issue of JATTA.

JATTA is a general law journal which also publishes articles that deal with taxation law, education and practice. JATTA publishes articles of between 8,000 – 12,000 words in length. There is no prescribed number of articles for each issue of JATTA. All submissions should be made by email and appear in double spaced 12 point Times New Roman font, preferably adhering to the Australian Guide to Legal Citation (4th edition). An Abstract of approximately 100 words should be submitted on a separate page.

Authors should review the JATTA Publication Ethics and Malpractice Statement prior to submitting an article for consideration.

All submissions for the current edition should be sent to the General Editors, Mr Donovan Castelyn and Ms Stephanie Bruce, via email at donovan.castelyn@curtin.edu.au; stephanie.bruce@curtin.edu.au.

Curtin Law and Taxation Review
[2021 | Volume VII](#)

Ranking: B

Manuscript Deadline: 30 July 2021

Theme: N/A

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 2021 issue of the CLTR.

The CLTR is a general law journal which also publishes articles that deal with taxation law and practice. The 2021 editorial team plans to publish articles, in addition to book reviews and case notes in the forthcoming issue. A competitive editorial policy will apply to the selection of articles and authors should review the CLTR Publication Ethics and Malpractice Statement prior to submitting an article for consideration.

Please submit articles (or queries) for this issue via email to Donovan Castelyn (Editorial Lead) and Stephanie Bruce (Editorial Assistant) at donovan.castelyn@curtin.edu.au and stephanie.bruce@curtin.edu.au.

We anticipate publishing the CLTR in November 2021.

Journal of Australian Taxation
[2021 | Volume 23 | Special Issue](#)

Ranking: B

Manuscript Deadline: 30 June 2021

Theme: Tax (Financial) Advisers, Tax Practitioners and Tax Academics

Areas of interest:

- Superannuation and self-managed superannuation funds
- Changes to the Tax Agents Services Act
- Limited recourse borrowing arrangements
- Education requirements for financial advisers
- Taxation of trustees and beneficiaries in a trust
- Estate planning taxation issues
- Taxation of investments

Each year we have a special issue dedicated to a theme or event. This year the special issue is focused on Financial advisers, Financial (Taxation) advisers and taxation academics and professionals relating to taxation issues specific to the financial planning industry. The special issue is scheduled to be published in November 2021. Submissions are invited from all interested professionals and academics that address this theme from any perspective and from jurisdictions outside of Australia and New Zealand. For contributions to be considered for this special issue we would like to receive them by 30 June 2021. For further details and an expression of interest please contact the editor: John McLaren (john.mclaren@utas.edu.au).

Journal of Australian Taxation
[2021 | Volume 23 | Regular Issue](#)

Ranking: B

Manuscript Deadline: 30 August 2021

Theme: N/A

The regular issue is scheduled to be published in November 2021. Submissions are invited from all interested professionals and academics.

For further details and an expression of interest please contact the editor: John McLaren (john.mclaren@utas.edu.au).

Conferences/Seminars/Symposiums

The 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 2021 conference. The conference is going to be held online through Zoom on 4th and 5th December 2021, due to Australia's COVID-19 travel restriction.

The conference is jointly organised by [The University of Sydney Business School](#), the [Journal of Chinese Tax and Policy](#), the [Department of Public Economics of Xiamen University](#).

The organising committee welcomes any paper dealing with the conference theme: *Digital tax and New Directions in Tax Reform*

Possible Topics/Streams

- VAT liability for foreign service providers (Netflix) and foreign platforms (Aliexpress, Amazon)
- Digital services tax to collect income tax from foreign advertising platforms (Google, Facebook)
- VAT exemptions for small business
- PIT reform in China including the removal of concessions for expatriates
- Impact of the proposed new VAT Law
- Distribution of income tax and VAT revenues across provinces

Please note, the topics are not limited to the above themes, please feel free to submit your paper if it is related to the major theme. 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 original Chinese version if the work has been translated.
- If translation is required for the paper, please contact the Journal of Chinese Tax and Policy.

Please send all submissions to jctpjournal@gmail.com before 21 July 2021.

Registration costs

There is no fee for participants.

Contact

Xi Nan (Nancy), Jun Zhao (David), Shaoxin Wang (Alina)
Email: jctpjournal@gmail.com

Eva Huang
Editor, the Journal of Chinese Tax and Policy
Email: eva.huang@sydney.edu.au

Oxford University Centre for Business Taxation Doctoral Conference 2021

The [Oxford University Centre for Business Taxation](#) is now calling for papers for its annual Doctoral Conference held on Monday 13 and Tuesday 14 September 2021. Due to the uncertainty regarding ongoing travel restrictions, the conference will be held online again this year, with 4 papers to be presented on each day.

The Oxford University Centre for Business Taxation welcomes submissions on any topics related to business taxation in its broadest sense, including papers from economics, law, accounting and other disciplines, as well as interdisciplinary contributions. Preference will be given to current PhD students, but early careers researchers within three years of completing their PhD are encouraged to submit their papers.

The conference offers presenters the opportunity to receive feedback in a friendly environment from Michael Devereux, Centre Director, and other leading academics and CBT researchers.

There will be a Best Paper Award with a prize of £500.

Submissions can either be completed papers (including an abstract of maximum 2000 characters, spaces included) or extended abstracts of work in progress (preferably at least two pages) which must be completed in time for the conference. The deadline for submissions is 13 June 2021.

Papers must be submitted using the electronic form on the Oxford University Centre for Business Taxation [website](#). Papers will be selected, and invitations extended, by mid-July.

Further information is also available on the [website](#).

07 | TAX LAW DEVELOPMENTS



Australia

Federal Court of Australia

[Commissioner of Taxation v Zou \(No 2\) \[2021\] FCA 633](#)

Davies J – 2 June 2021

Catchwords:

- Taxation - requirement to give security for the payment of an existing or future tax related liability under s 255-100 of sch 1 Taxation Administration Act 1953 (Cth) - notice to provide security given in accordance with s 255-105 - non-compliance with the notice and security not provided - order to provide security made under s 255-115

[Deputy Commissioner of Taxation v Chemical Overseas Limited \[2021\] FCA 602](#)

Logan J – 3 June 2021

Catchwords:

- Taxation - parties promoted by consent orders giving judgment for the applicant and providing for an associated freezing order - whether Court should exercise discretion to make such orders - orders made in terms proposed
- Noting the undertaking of the applicant at schedule a to annexure a to these orders, the court orders by consent that:
 1. There be judgment for the Applicant in the sum of \$4,196,250.36.
 2. Each party pay its own costs of the proceeding.
 3. There be a freezing order against the Respondent in the terms specified in Annexure A to these orders until further order.

[Peter Greensill Family Co Pty Ltd \(Trustee\) v Commissioner of Taxation \[2021\] FCAFC 99](#)

Davies, Moshinsky and Colvin JJ – 10 June 2021

Catchwords:

- Taxation – interaction between div 855 of the Income Tax Assessment Act 1997 (Cth) (1997 Act), sub-div 115-C of the 1997 Act and div 6 and div 6E of the Income Tax Assessment Act 1936 (Cth) (1936 Act) considered – where capital gains made by a resident trust estate from non taxable Australian property distributed to non-resident beneficiary – where trustee assessed in respect of those gains pursuant to s 115-220 of the 1997 Act and s 98 of the 1936 Act – where foreign resident beneficiary also assessed in respect of those gains pursuant to s 115-215(3) of the 1997 Act – whether s 855-10 of the 1997 Act applied to the foreign resident beneficiary to disregard the capital gains – whether s 855-10 has any operation in the calculation of the amounts required to be calculated under ss 115-215 and 115 220 in sub div 115-C – construction of s 855-10 and sub-div 115-C – appeal dismissed

South Australia

[Commissioner of State Taxation v Takhar \[2021\] SASCA 58](#)

Doyle, Livesey and Bleby JJ – 10 June 2021

Catchwords:

- Taxes and duties - Land tax - Objections and appeals
- Taxes and duties - Land tax - Exemptions - Primary production land

Held (by the Court), refusing permission to amend the Notice of Appeal and dismissing the appeal:

1. The phrase, "the business of primary production" in s 2 of the Land Tax Act is capable of referring to a broad business of primary production carried across several parcels of land. Acts done and the intention held with respect to the land are both relevant objects of inquiry. Where the inquiry is as to the use of the land for the business of primary production, it is appropriate to consider the deployment of the land in that broader context.
2. The primary judge did not err in his conclusion that the Burton land was used for the business of primary production as at 30 June 2013.
3. It was open to the primary judge to characterise the arrangement between the respondents and Mr Krieg, who had provided all of the services, paid the expenses and made the decisions with respect to cropping the Burton land as a joint venture.
4. The primary judge did not err in his construction of the definition of 'relevant business' in s 5(13) of the Land Tax Act.

Colin Fong

New Zealand

The Inland Revenue Department (IRD) has been paying attention to the tax treatment of cryptocurrencies and other distributed ledger technology (DLT) products. While the language of DLT, such as ‘airdrops’ and ‘forks’, may be novel and obscure, in practice, IRD is seeking to apply well-established principles, notably income under ordinary concepts and disposal of personal property, to the developing technology. As DLT is increasingly applied beyond cryptocurrencies, we can expect IRD to provide further guidance but significant changes to the law are not expected.

The IRD portal on DLT can be found at:

- [‘Cryptoassets’ Inland Revenue \(2021\)](#)

An issues paper on airdrops and forks can be found at:

- [‘IRRUIP14: Income tax – tax treatment of cryptoassets received from blockchain forks and airdrops’ Inland Revenue \(2021\)](#)

Jonathan Barrett

United Kingdom

[The Advocate General representing the Commissioners of Her Majesty’s Revenue and Customs v K E Entertainments Ltd United Kingdom Supreme Court: \[2020\] UKSC 28](#)

Judgment delivered: 24 June 2020

Coram: Lords Reed, Hodge, Lloyd-Jones, Sales and Leggatt

Catchwords:

- Taxation – VAT – Council Directive (EC) 2006/112 (“Principal VAT Directive”) – Where appellant taxpayer operates bingo clubs where customers pay fee entitling them to participate in number of games of bingo (“session”), and where prizes paid to winners – Where no obligation to play every game in session – Where under Principal VAT Directive and UK national legislation (primarily Value Added Tax Act 1994 and Value Added Tax Regulations 1995), VAT ordinarily charged on full amount paid by customer – Where in case of commercial gambling, taxable amount is net sum retained by organiser once winnings paid out – Where bingo fees accordingly divided into stake (contribution of each customer to cash prizes) and participation fee (total fee received minus stake) – Where at all relevant times VAT payable on participation fee and not on stake – Where prior to 2007 tax authorities’ guidance indicated participation fees for bingo should be calculated separately for each game (not for each session) – Where in February 2007 authorities issued guidance indicating participation fees should be calculated on sessional basis – Where new guidance more favourable to bingo operators – Where guidance stated providers who calculated VAT on game-by-game basis could make claim for overpayment subject to three year time limit – Where appellant calculated VAT on game-by-game basis until 2007 – Where following change in guidance, appellant made claim under s 80 of Value Added Tax Act 1994 for repayment of sums overpaid in previous three years on basis of game-by-game approach – Where in 2011, First-tier Tribunal (Tax Chamber) determined appeal brought by another bingo operator and held taxpayer entitled to adjustment without time limit – Where present appellant, relying on that decision, sought repayment for period 1996-2004 – Where tax authorities rejected claim – Whether taxpayer entitled to make adjustment sought.

Held (5:0): Appeal dismissed.

[Cardtronics UK Ltd v Sykes United Kingdom Supreme Court: \[2020\] UKSC 21](#)

Judgment delivered: 20 May 2020

Coram: Lords Reed, Kerr and Carnwath, Lady Black, Lord Kitchin

Catchwords:

- Taxation – Rates – Where banking companies contracted with retailers to install and operate ATMs in supermarkets or shops owned by retailers – Where ATMs fell into different categories – Where some ATMs external to store, accessible at all times, connected to store’s electricity supply, chained to store’s cash room floor, with money being owned and dispensed by bank but kept in store’s cash room – Where some ATMs similar to previous category, but inside store and only accessible during store’s business hours – Where some ATMs similar to first category, but located in small convenience stores such that maintenance and loading of ATM affected operation of store to greater extent – Where some ATMs moveable – Where for purposes of General Rate Act 1967, hereditament defined as “property which is or may become liable to a rate, being a unit of such property which is, or would fall to be, shown as a separate item on the valuation list” – Where Local Government Finance Act 1988 adopted definition from 1967 Act and provided “whether a hereditament is occupied, and who is the occupier” to be determined by reference to 1967 Act – Where Valuation Tribunal for England held ATMs were situated on hereditaments that were rateably occupied separately from host stores – Where Upper Tribunal (Lands Chamber) held other than moveable ones, ATMs situated on hereditaments distinct from the host stores, but only those in first category were rateably occupied separately from host stores – Where Court of Appeal held none of ATMs rateably occupied separately from host stores – Whether sites of ATMs separate hereditaments from stores – If so, whether banking companies, retailers, or ATM operators in rateable occupation of separate hereditaments

Held (5:0): Appeals dismissed.

[Fowler v Commissioners for Her Majesty’s Revenue and Customs United Kingdom Supreme Court: \[2020\] UKSC 22](#)

Judgment delivered: 20 May 2020

Coram: Lord Hodge, Lady Black, Lord Briggs, Lady Arden, Lord Hamblen

Catchwords:

- Taxation – Income tax – Double taxation – Where respondent taxpayer diver resident in South Africa – Where in 2011-12 and 2012-13 tax years respondent undertook diving engagements in waters off UK’s continental shelf – Where art 7 of Double Taxation Treaty between UK and South Africa provides persons self-employed only taxed in place of residence – Where art 14 provides employees may be taxed in place of employment – Where parties assumed for purposes of appeal respondent was employee – Where s 15 of Income Tax (Trading and Other Income) Act 2005 (UK) provides employed seabed divers “treated” as self-employed for purposes of UK income tax – Where First-tier Tribunal (Tax Chamber) accepted respondent’s argument he was not liable to pay income tax in UK – Where Upper Tribunal (Tax and Chancery Chamber) allowed tax authorities’ appeal – Where majority of Court of Appeal allowed appeal – Whether treatment of respondent as self-employed for income tax purposes (pursuant to s 15) means he must be treated as self-employed under Treaty, with consequence that he is not liable to pay income tax in UK.

Held (5:0): Appeal dismissed.

Commissioners of Her Majesty's Revenue & Customs v Parry United Kingdom Supreme Court: [2020] UKSC 35

Judgment delivered: 19 August 2020

Coram: Lords Reed and Hodge, Lady Black, Lords Kitchin and Sales

Catchwords:

- Taxation – Inheritance tax – Where Mrs Staveley had pension fund with pension scheme – Where shortly before her death, she transferred funds from pension scheme into personal pension plan (“PPP”) – Where she did not take any pension benefits during her life and so death benefit was payable under PPP – Where Mrs Staveley had nominated her two sons as beneficiaries of death benefit, subject to discretion of pension scheme administrator – Where, after her death, death benefit paid to two sons Where tax authorities determined inheritance tax payable on death benefit on basis that both (i) transfer of funds from pension scheme to PPP and (ii) Mrs Staveley’s omission to draw any benefits from plan prior to death, were lifetime transfers of value under Inheritance Tax Act 1984 – Where First-tier Tribunal (Tax Chamber) held inheritance tax payable on (ii) but not (i) – Where Upper Tribunal (Tax and Chancery Chamber) held no inheritance tax payable on either transaction – Where Court of Appeal held inheritance tax payable on both – Whether either or both transactions were lifetime transfers of value with consequence that they gave rise to charge to inheritance tax.

Held (5:0; 3:2 (Lords Hodge and Sales dissenting in part)): Appeal allowed in part.

Commissioners for Her Majesty's Revenue and Customs v London Clubs Management Ltd United Kingdom Supreme Court: [2020] UKSC 49

Judgment delivered: 27 November 2020

Coram: Lord Carnwarth, Ladies Black and Arden, Lords Kitchin and Sales

Catchwords:

- Taxation – Excise duty – Definition of “banker’s profits” – Where gaming duty payable calculated by reference to “banker’s profits” in accordance with ss 11(8)(b) and 11(10) of Finance Act 1997 – Where “banker’s profits” defined as “value, in money or money’s worth, of stakes staked” less value of prizes – Where respondent issued non-negotiable chips and promotional vouchers worth face-value when played in casino game (“Non-Negs”) – Where Non-Negs not redeemable for cash and cannot be used to buy goods or services – Where respondent initially included face value of Non-Negs in calculation of duty – Where respondent subsequently excluded Non-Negs and applied to appellant for repayment of alleged overpayment of duty – Where appellant rejected claim – Where Upper Tribunal found in favour of respondent and Court of Appeal dismissed appeal – Whether Non-Negs have “value, in money or money’s worth”

Held (5:0): Appeal dismissed.

Balhousie Holdings Ltd v Commissioners for Her Majesty's Revenue and Customs (Scotland) Supreme Court of the United Kingdom: [2021] UKSC 11

Judgment delivered: 31 March 2021

Coram: Lords Hodge and Briggs, Lady Arden, Lords Sales and Carloway

Catchwords:

- Taxation – Value Added Tax – Zero-rated supplies – Where Sch 8 of Value Added Tax Act 1994 provided certain supplies as being “zero-rated”, including residential care homes – Where company in appellant’s VAT group, Balhousie Care Ltd (BCL), acquired residential care home from developer and received zero-rated supply over care home – Where BCL financed purchase through sale and leaseback arrangement with third party – Where BCL sold care home to third party and simultaneously third party leased care home back to BCL – Where respondent imposed “selfsupply charge” pursuant to para 36(2) of Sch 10 Pt 2 of Act, allowing respondent to recover benefit of zero-rated supply if appellant disposed of “entire interest” in care home – Where Inner House of Court of Session held BCL disposed of its entire interest – Whether sale and leaseback involve disposal of BCL’s “entire interest” in care home – Whether sale and leaseback transactions should be considered as one transaction or as separate transactions.

Held (5:0): Appeal dismissed.

The above UK summaries came from Overseas Decisions Bulletin (High Court of Australia Library)

08 | TAX AND RELATED MEETINGS

Domestic

Various domestic events happening in the foreseeable future are listed below.

Melbourne Law School Tax Research Seminars Online

The tax research seminar online series hosted by the Melbourne Law School, aimed to provide a regular and congenial forum for presentation and discussion of new academic tax law, policy and theory research by colleagues in Australia, New Zealand and the region. The seminars are run online as a Zoom meeting, with 25 to 30 minutes paper presentation followed by comments from a discussant and then ample time for questions and discussion. [View the updated 2021 schedule.](#)

Upcoming Seminars:

- 29 July 2021 - The US Tax Cuts and Jobs Act- will it survive the new President and Congress? Presented by Ms Viva Hammer (University of Melbourne) and chaired by Professor Miranda Stewart.
- 26 August 2021 - Characteristics of Tax Avoidant Companies. Presented by Dr Bronwyn McCredie (QUT) and chaired by Professor Miranda Stewart

If you are interested in attending these events please email law-tax@unimelb.edu.au or register via the links provided above.

[Critical Junctures/Critical Perspectives – A Call for New Voices in Tax Reform](#)

Date: 15-16 July 2021

Location: Online from Melbourne

Cost: TBA

The symposium invites papers from scholars from all disciplines (for example, law, politics, economics, sociology) to offer critical perspectives on taxation. Topics might include (but are not limited to): the role of taxation in addressing wealth and income inequality; taxation and gender inequality; the differential impact of tax policy on marginalised groups such as Indigenous people, migrant and refugee communities and LGBTIQ+ groups; and the role of taxation in addressing environmental issues. The symposium will be hosted online from Melbourne and be held from 15-16 July 2021. Eligible participants will be invited to submit their written papers for possible inclusion in a special issue of the Australian Tax Review in 2022. Enquiries and abstracts of no more than a page should be submitted to kathryn.james@monash.edu. The deadline for submission of abstracts was 7 March 2021.

[11th Queensland Tax Researchers Symposium](#)

Date: Friday, 9 July 2021

Location: (Virtual and Face-to-Face)

Cost: Free

Plans are well under way for the Tax Symposium, with 13 speakers speaking on topics from tax complexity, cryptocurrencies and tax Literacy.

Free registration is now open. While it is free to attend you need to register by 25 June 2021 at the latest (indicating whether you will be attending face-to-face or online).

While it is free to attend there are limited spaces (as light refreshments will be served). Note the symposium will be followed by the launch of Griffith's Tax Major (at 5.30pm) - which you are welcome to attend as well (just indicate this on the registration form).

ATTA 2022 Conference

Date: 19-21 January 2022

Location: University of Canterbury

Please see more information contained at item 2 above or email [Andrew Maples](#).

[The Tax Institute](#)

[Law Council of Australia](#)

[Australian Conference Alerts](#)

Melbourne Law School, University of Melbourne Annual Tax Lecture 2021

Date: Thursday, 11 November 2021 at 6:00pm - 7:15pm (AEDT).

Mark your calendar for the Tax Group 16th Annual Tax Lecture. Mr Mark Leibler AC, the Senior Partner at Arnold Bloch Leibler, will speak about the tax and the rule of law. More details to follow.

[14th International Conference on Tax Administration](#)

Date: 23-24 November 2021

Location: Hilton, Sydney

Cost: TBA

Theme: Tax Administration at the Frontier

For the first time this prestigious biennial event that brings together leading tax administrators, academics and practitioners from around the globe will be a combination of face to face and virtual participation. In keeping with these challenging times we have chosen these dates to maximise the option of you being able to join us in person but with the flexibility to join us virtually if you can't.

The theme of the 2021 conference is: 'New Frontiers in Tax Administration'. During this two-day event, conference speakers will explore key tax administration issues including:

- cutting-edge initiatives in service delivery and compliance including digital and data use, tap and go, and artificial intelligence;
- data policy, ethical data exploitation, cyber security and new developments in regulating data platforms;
- globalisation of revenue administration; and
- tax dispute resolution and new approaches to protecting the financially vulnerable including the elderly, impaired and those in remote areas.

Presenters who previously had papers accepted please note we will be in touch to advise you of the new deadline for papers in case you want to refresh yours to take account of recent extraordinary developments!

Conference organisers have secured with the Hilton a special delegate rate of 10% off the advertised day rate. To book, please visit [here](#) or call on +61 (0)2 9266 2000 referring to group code GUNSWD for a discounted rate (10% off from hotel best available rate).

Contact: [Maree Magafas](#), UNSW Business School

International

Various international events happening in the foreseeable future are listed below.

<p><u>5th International Taxpayer Rights Conference</u></p> <p>Date: Postponed to 6-7 October 2021 Location: Pretoria, South Africa Cost: USD\$325 Theme: Taxpayer Rights, Human Rights: Issues for Developing Countries</p>	<u>Canadian Tax Foundation</u>	<u>Institute for Fiscal Studies</u>
	<u>Institute for Austrian and International Tax Law</u>	<u>International Bureau of Fiscal Documentation</u>
	<u>International Fiscal Association</u>	<u>International Tax Planning Association</u>
<p><u>International Fiscal Association Congress</u></p> <p>Date: Postponed to 10-15 September 2022 Location: Cancun, Mexico Cost: Unknown Theme: TBA</p>	<u>International Events and Law Conferences</u>	<u>Practising Law Institute</u>
	<u>New York Bar Association</u>	<u>Hieros Gamos Worldwide Law Events</u>
	<u>International Bar Association</u>	<u>American Bar Association</u>

09 | RECENT PUBLICATIONS

Readers are encouraged to inform the Editor of recently written publications for inclusion in these pages. Bold indicate ATTA members.

Domestic

Tax and Transfer Policy Institute (TPI)

[Austaxpolicy.com Blog](#)

- Budget Forum 2021: Structural Changes, but No Sustainability Reset, Miranda Stewart, 13 May 2021
- Does Subnational Tax Autonomy Alleviate Regional Inequality? Paul Van Rompuy, 10 May 2021 |
- Daigou: Cross-Border Digitalised Hidden Economy Transactions Are Now Detectable, **Eva Huang and Xi Nan**, 06 May 2021
- [Budget Forum 2021] Could It Pack a Punch? Maybe, but There's a Lot at Stake: The Reactivation of the Corporate Collective Investment Vehicle, **Alex Evans**, 27 May 2021
- [Budget Forum 2021] Australia's Planned Patent Box: A Means of Stimulating Innovation? **Sonali Walpola** and Tracy Wang, 25 May 2021
- [Budget Forum 2021] Looming Tax Cuts Prevent Genuine Expenditure Reform, Maria Racionero, 19 May 2021
- [Budget Forum 2021] Fiscal Policy in the COVID-19 Era, Chris Murphy, 10 June 2021
- Assessing the Impact of Tax Havens Using Public Country-by-Country Reporting: Evidence from the European Union, **Rodney Brown**, 08 June 2021
- There's a New Temporary COVID Disaster Payment – Who Can Get It? Who Is Missing Out? Peter Whiteford, 04 June 2021

(2021) 36(2) Australian Tax Forum

Statutory depreciation regimes for intangible assets - **Christina Allen**

Treasury review of the petroleum resource rent tax: gas transfer pricing arrangements - **Diane Kraal**

Parameters for applying the two methods of taxation: the historical justifications - **Alex C Evans**

Estimating aggregate tax compliance costs: a bivariate state space approach - Hao Wu and **Binh Tran-Nam**

Land value is a progressive and efficient property tax base: evidence from Victoria - Cameron K Murray and Jesse Hermans

(2021) 150 Taxation Today June

Natalie Wilson and Tim Plunkett, "New Housing Package Aims to Improve Housing Affordability"

David Sutton, Jeremy Parker and Anthony Lake, "The Taxation of Residential Property, Tax Complexity, Equity and Economic Efficiency: How do current legislative developments compare with CGT?" [Part 2]

Other Works of Interest

Martin, Peter 'Other Australians earn nothing like what you think. If you're on \$59,538, you're typical' *The Conversation* 8 June 2021 <https://theconversation.com/other-australians-earn-nothing-like-what-you-think-if-youre-on-59-538-youre-typical-162251>

International

British Tax Review Issue 1, 2021

- Book Review: *The Allocation of Multinational Business Income: Reassessing the Formulary Apportionment Option* (Kluwer Law International, 2020), by **R Krever** and F Vaillancourt (eds) - Stjepan Gadžo

Elliffe, Craig 'International tax frameworks: assessing the 2020s compromise from the perspective of taxing the digital economy in the great lockdown' (2020) 74:9 *Bulletin for International Taxation* 532-49

Forman, Jonathan B and **Mann, Roberta F** 'Borrowing from millennials to pay boomers: can tax policy create sustainable intergenerational equity?' (2020) 36:3 *Georgia State University Law Review* 799-843.

10 | QUOTABLE QUOTES

"But we should use sticks as well as carrots. Indeed, the government already deems one particularly big stick appropriate for driving vaccine coverage. "No job, no pay" withholds government benefits from those who don't vaccinate their kids. If it works on kids for MMR, why not on adults for SARS-Cov-2? And let's not stop at government benefits. We should extend it all the way up the income and age distributions with a "No job, no franking credits" policy. There are few bigger sticks for the target demographic."

Source: [Steven Hamilton and Richard Holden, Sydney Morning Herald](#)

"A study by the US progressive think tank the Institute for Policy Studies has called 2020 a "billionaire bonanza", with the long trend in growth in the ultra-rich uninterrupted by the pandemic. The Biden administration has proposed increasing taxes on the wealthy as a way of funding services such as child care and education.

In Australia, the Morrison government has no such plans.

But if COVID-19 has taught us anything, it is that with real political will governments have the power to intervene in the economy at a fundamental level. Lockdowns, border controls, wage subsidies and massive borrowing and expenditure to stimulate the economy have all been bold and unprecedented policies.

Yet when it comes to demanding that the ultra-rich pay a little more and address economic inequality, the same level of political will is nowhere to be seen.

If we really are all in this together, it's time for that to change."

Source: [Carl Rhodes, The Conversation](#)