

EDITORIAL

Plain English

Some insist that the tax laws in Australia must be complex so that equity can be done, even if we cannot understand how it is done. Others say that simplification is fraught with troubles because it will bring with it new and even more diabolical interpretation problems. That's the devil you know argument. It is more unlikely, but some believe the system cannot be any simpler, that we have done our best in the circumstances. KPMG Peat Marwick in its October 1990 Bulletin, *Taxing Topics*, reported one Parliamentary Counsel as saying that the plain English redrafting of the Social Security Act meant it had to become much longer. The newsletter says: 'If the Government decides that tax simplification requires redrafting of the Tax Act, then we had all better quickly enrol ourselves in speed reading courses'.

We should not consult too seriously with those responsible for the drafting of the current commonwealth commercial laws. Fresh pens are needed. It is heartening to hear of Professor Kelly's pioneering work on Division 16E of the Income Tax Assessment Act, an unpalatable slug of words in our Act. He and his team at the Victorian Law Reform Commission are redrafting that Division. They show that simplification of language and expression, and a reduction in size of the Act, are possible. A simplification of concepts can follow later. Kelly wrote in Eric Ristrom's *Taxpayer* (11 August 1990 at p 230):

The costs that the Act imposes on taxpayers because of its incomprehensibility must be enormous. Think of the additional time that has to be spent training officials in the Tax Office to understand and administer its complex provisions.

Think of the time needed to train accountants, tax agents and lawyers in the private sector. Think too of the time that both groups, in turn, have to spend keeping on top of the huge mass of opaque material, either to administer it or advise clients about its application to particular circumstances.


And let's not forget about the completely artificial demand that is created for expert advice because taxpayers—who should be able to understand the legislation—simply can't.

David Kelly applied a computerised comprehensibility test to the original Credit Act. Right-Writer said it took 22-26 years of formal education to understand parts of that Act. The results on the Tax Act would be interesting.

In this issue of the *Revenue Law Journal* we publish an article outlining the Hong Kong tax regime, a much simpler system with a much shorter Act than ours. John Greig believes tax law 'need not be inordinately complex, convoluted and hampered by almost continual amendment and revision for it to be effective.'

Tax and education

Tax legislation is a powerful instrument of social policy. If you want more Australian movies made, or more gold mined, or trees grown, or a cleaner environment, then offer tax breaks to those who produce them. Professor Ralf Buckley of Bond University advocates, as an instrument of environmental policy for Australia, the so called green taxes. They are used in Europe and North America. Education, one of Australia's greatest resources, can also be encouraged by tax policy.



Schools and public universities were tax exempt for some time. They are still exempt from income tax, sales tax, payroll tax, land tax and property tax. But new taxes are hitting schools and education. Fringe benefits tax and the training levy both apply to them. Consumption tax, when it is introduced, may also affect them.

Non-government educational institutions are being squeezed. Government subsidies are falling and funding allocations fail to match inflation. Schools turn to private funding to help replace subsidies and pay these new taxes. Yet, ironically, under the government formula, the more private funding the schools get, the lower the government subsidy they get. Self-help is penalised.

Bill Rowan, Business Manager of Santa Sabina College, Strathfield, New South Wales, writes:

School administrators seek the best and most economic use of resources and would, in most cases, apply their financial resources to providing quality and excellence in the educational products that they offer. Administrators have seen more demands on their financial resources in the funding of government taxation initiatives, but at the same time they receive less government funding. In addition governments are requiring greater accountability and a larger say in the curriculum content and educational outcomes generally.

The United States has offered tax allowances to education from the early 1950's. According to John McNulty, (1973) 61 Calif LR 1 at 4, these concessions were introduced to help out financially burdened educational institutions and families facing higher education costs. Similar conditions exist in Australia today. McNulty continued (ibid at 8), 'In general, a tax apparatus can be designed to do almost anything that can be done with a direct government outlay, by way of recognising or subsidising the personal costs of private education.'

It is time to debate an exemption from all taxes for recognised educational institutions. It is also time to consider deductibility for all education fees, expenses and donations.

Jim Corkery
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