The Tax Institute 2015 National GST Intensive

"And what have you learned Dorothy?"[1]

When Geoff Mann rang me six months ago to ask if I would give the after dinner talk at this intensive, he suggested the topic of "The Long and Wineing Road - amusing anecdotes about my GST journey …".

I agreed, but with some trepidation at the prospect of changing my normal role of a technical paper to an after dinner address. It gives the old saying, "From the sublime to the ridiculous" some relevance.

Geoff sought to assuage the doubts I had about my suitability for the role by saying

> You don't have to follow the suggested topic – you don't normally do that anyway

Perhaps the Tax Institute might have chosen Mark Latham to provide an amusing after dinner talk but, perhaps the organising committee were conscious of an observation of the late Lee Kwan Yew when he said:

> Poetry is a luxury we cannot afford.

I mentioned to Geoff that the timing of this intensive coincides with the 30th anniversary of:

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[1] Michael Evans, CTA was the after dinner speaker at the 2015 National GST Intensive at The Langham Hotel, Melbourne on 17 September 2015. The topic "And what have you learned Dorothy?"" is one of his choice and comes from *The Wizard of Oz*, a 1939 American musical fantasy film produced by Metro-Goldwyn-Mayer, and based on the 1900 novel *The Wonderful Wizard of Oz* by L. Frank Baum.

- Paul Keating's statement to the House of Representatives of fundamental reforms to the Australian Tax System – RATS.[2]
- The introduction of the New Zealand GST law into the NZ unicameral Parliament.[3]

Recognising that 30 years is a reasonable journey, I suggested a different topic to the one proposed by Geoff.

"… and what have you learned Dorothy?"

Why[4] did I choose this question from the Wizard of Oz as my topic?

I was probably about 8 when my mother bought an LP of the soundtrack of the 1939 movie. Miss Gulch and the Wicked Witch terrified me.

A few decades on, the LP was part of my own family tradition. My daughter became as addicted to the story as I was.

She still punctuates some discussions with

> Lions and tigers and bears … Oh my!

Kim took the whole thing to a new level, changing my Macbook email and calendar alerts to Wizard of Oz recorded voices.

One alert I can remember was Judy Garland saying

> Toto, I don't think we are in Kansas anymore

But the one that took me by surprise was

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[2] 19 September 1985.

[3] On 20 August 1985.

[4] "Why" is the answer to the question "who plays left field?" in Abbott and Costello's comedy routine "Who's on first"

> I'll get you, my little pretty. And your little dog too!

The story of the Wizard of Oz is described as a quintessential American fairy tale.[5] But …

> Baum did not intend his story to contain some overriding or underlining moral, as in Aesop's fables … . He was exploring a personal mythology, in which many truths could be expressed. The characters and incidents in the book may be viewed as symbolic, and symbols can represent many things at the same time.[6]

The question that I chose as tonight's topic Dorothy comes from the end of the 1939 MGM film. Dorothy has taken the Yellow Brick Road to meet the Wizard in Emerald City so that he might grant her wish to go back to Kansas. In the film, Glinda – referred to in Frank Baume's book as the Good Witch of the South - tells Dorothy that she had always had the power to go back to Kansas but she had to learn it for herself.

> **Tin man**: "What have you learned Dorothy?"
>
> **Dorothy**: Well, I – I think that it is … if I ever go looking for my heart's desire again, I won't look any further than my own back yard. Because if it isn't there, I never really lost it to begin with!

In the journey to the Emerald City, Dorothy's three pilgrims have shown that their perceived deficiencies are actually their strengths.

The book "the Annotated Wizard of Oz", opines that the message in the story is:

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[5] The Annotated Wizard of Oz, Michael Patrick Hearn Editor, W W Norton & Company Inc. New York, USA

[6] The Annotated Wizard of Oz, Michael Patrick Hearn Editor, W W Norton & Company Inc. New York, USA

What we want … is within us … we need only to look to find it.[7]

This "lesson" manifests itself in two questions about taxation policy and design:

- What is it that we want? What's the objective of the a measure or provision?
- Can you find the truth by looking at policy statements, cases, rulings etc?

  Many of the so-called "reforms" are described as integrity measures that are not changes to the tax base but merely design rules – changes to the way that taxation compliance works to avoid practical difficulties in ATO assessment and administration.

  Examples from the 1985 "reform" are the documentary substantiation rules and non-deductibility of entertainment.

The Wizard of Oz is one of our classic "journey" tales. A common theme of the "oral tradition" in many cultures. Other examples are:

- Homer's "The Odyssey"
- The 16th century Chinese novel the Journey to the West - a story of a 14 year pilgrimage of a Buddhist monk who travelled to India to obtain sutras from Buddha and take them back to Tang Dynasty China;[8]
- The parables in the old and new testaments.

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[7] In Michael P Hearn's book "the Annotated Wizard of Oz", the author opines that the lesson from the story is that "Dorothy has always had the power to solve her problems within herself; she must realize for herself what powers she possesses. "What we want … is within us … we need only to look to find it. - at page 352.

[8] Popularised by the Japanese TV series "Monkey".

I chose the quote as the topic because Geoff asked for amusing anecdotes from my GST "journey". It seems that our frolic with GST over the last 30 years is - in the modern vernacular - classified as a journey.[9]

And what we have learned from it is probably different for all of us.

The meaning of the stories from our history is in the hands of those that own and re-tell the story.

> History is written by the victors[10]

The stories we get from Greek mythology are often different to the lessons that might have been thought some times ago.

- Achilles heel – originally a physical impairment but now a fundamental weakness of character
- Sirens song – while the lesson of the Sirens is that their song would tempt you to a violent end, the lesson from the Odyssey is about being forewarned and taking preventative action to ensure you cannot succumb to the temptation.

  > Essentially, cut up your credit card, destroy your mobile phone and (Mark Latham) cancel your Twitter account.

- Narcissism – in the legend, Narcissus was preoccupied with vanity.

  > Narcissism is now referred to as megalomania or severe egocentrism.

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[9] The tax nerd's reality version of Masterchef?

10 Winston Churchill famously remarked in the House of Commons during an exchange with the Prime Minister in the 1930s that he was confident history would find Baldwin wrong - huge grin - "because I shall write that history".

- Xenophobia – originally the unreasoned fear of that which is foreign or strange[11] … but now generally used to describe “the fear of independent members of Parliament”.
- Don't trust a Greek bearing gifts.

  Wikipedia tells me the original Latin phrase “Timeo Danaos et dona ferentes” translates as "Fear the [Greeks], even those bearing gifts" and not the modern pejorative reference to trustworthiness.[12]
- Perseus and Downton Abbey

  In the Greek myth, Perseus was sent on a journey to cut off the head of Medusa and bring it home.

  On his journey home, having cut the head off Medusa and put it in a bag, Perseus finds Andromeda chained to a rock as a sacrifice to a sea monster. When the monster rose from the sea, Perseus pulled Medusa's head out of the bag; the sea monster turned to stone and crumbled to pieces.

  In Series 1 of Downton Abbey, Lady Mary’s father Lord Grantham, “encourages” her to marry cousin Matthew. Over dinner she says that she has been told a story about a father that must sacrifice his

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[11] http://oxforddictionaries.com/definition/english/xenophobia?q=xenophobia

[12] In the 1982 Yes Minister episode “A bed of nails”, Bernard explains that … “If you had looked a Trojan horse in the mouth, Minister, you'd have found Greeks inside. … it was the Greeks who gave the Trojan horse to the Trojans, so technically, it wasn't a Trojan horse at all, it was a Greek horse. Hence the tag "Timeo Danaos et dona ferentes", which you'll recall, is usually and somewhat inaccurately translated as "Beware of Greeks bearing gifts". Or doubtless you would have recalled had you not attended the LSE. … the point is, Minister, just as the Trojan horse was Greek, what you call a Greek tag is, in fact, Latin. It's obvious, really: The Greeks would never suggest bewaring of themselves, if one can use such a participle, and it's clearly Latin not because "Timeo" ends in "o", as the Greek first person also ends in "o". No, there is a Greek word "Timao" meaning "I honour", but the "os" ending is a nominative singular termination of a second declension in Greek and an accusative plural in Latin, though actually Danaos is not only the Greek for Greek, it's also the Latin for Greek.

eldest daughter to a hideous sea monster. But she was rescued by the son of a God – Perseus.

Lady Mary turns to Mathew and asks “rather more fitting wouldn't you say?” To which Matthew (a lawyer) responds “that depends, I’d have to know more about the sea monster and the princess in question.”

A lawyer seeking to interpret the story in its context?

In our own history of tax lore – our oral tradition - we find that its meaning is often reinterpreted by later tax administrations or courts.

Taxation law and policy is often retold, translated and reinterpreted.

With the enactment of GST in Australia in 2000, KPMG was fortunate enough to have Professor Graeme Cooper assist us with training.

The approach we took was to examine international cases selected by Graeme and discuss what the position might be in Australia.

On one occasion after looking at the foreign case and discussed the variety of conclusions at which one might arrive, Graeme suggested we move onto the next case.

One of my senior managers said:

Hold on, what was the answer?

Graeme didn’t hesitate:

Oh … you’d like an answer … how very undergraduate.

In a similar note, one of the themes of the student evaluation for my GST unit in the MLM is:

I understand less about GST than I did before I started the course.

But, that ought to be the case for any area of taxation specialisation. One of my very good friends from my time in Appeals in the ATO in Adelaide was fond of saying:

> The more I know, the more I know I don't know.

And

> Remember Michael, the [1936] Act is just a rough guide.

The 30 year Journey

This Saturday will be the 30th anniversary of Paul Keating's statement to the House of Representatives of fundamental reforms to the Australian Tax System – RATS.

And the 30th anniversary of the date of the introduction of the New Zealand GST law into the NZ unicameral Parliament was just 4 weeks ago.

1985

Let me take you back to 1985.

- Melbourne had its 150th birthday
- Ricki-Lee Coulter was born
- Neighbours was started on Channel 7 and dropped after seven months. It was continued by Channel 10.
- The first Formula One Australian Grand Prix was held - in Adelaide.
- Essendon defeated Hawthorn in the VFL Grand Final - the AFL had not started.
- "We Are the World" - USA for Africa - topped the Australian charts for 9 weeks

- Back to the Future was the highest grossing film
- Paul Keating delivered a statement to the House of Representatives of Reforms to the Australian Tax System – RATS – on 19th September 1985. Key features of the announced reforms were:
  - In 1985, the top marginal rate of personal income tax was 60% and applied to incomes of $35,000 and over. This top rate applied at $1^{1/2}$ times average weekly earnings.
    - Australia's top rate of tax was reduced to 49% from 1 July 1987 (excluding Medicare).
    - The 2015 rate of 47% (excluding Medicare) applies to income above $180,000 - approximately $2^{1/2}$ times average weekly earnings.
  - A capital gains tax would apply to the disposal of assets acquired after 19 September 1985.
  - A non-deductible fringe benefits tax would be payable by employers at the rate of 49% and applying to a comprehensive range of non-cash employee benefits – overcoming the limitations on paragraph 26(e) of the 1936 Act.
  - Various types of entertainment expenditure incurred after 19 September 1985 would be non-deductible
  - Work-related expenses for expenses incurred after 1 July 1986 would only be deductible if substantiation documents were held – such as detailed receipts, travel diaries and motor vehicle log books.
  - The company tax system would apply to public (or exempt entity owned) unit trusts which operate a trade or business

- The repeal of the classical system of company tax and its replacement, from the 1987/88 year of income with a full imputation system, with an underlying compensatory tax of $49 for every $51 distributed as dividends (offset against company tax paid on profits)
- A National Identity Card – the Australia Card
- Quarantining of interest costs for rental property for investments made after 17 August 1985.
- The abandonment of the 121/2% BBCT proposed in the June White paper in favour of a rationalisation of the rates and scope of wholesale sales tax. Despite further reforms in 1993/94, the indirect tax to GDP ratio prior to the ANTS GST reforms in 2000 was 1.5% lower than it was after the 1985 reforms.

▪ It was 20 August 1985 that the New Zealand GST was introduced into the NZ unicameral Parliament.

- The Bill was passed into law on 3 December 1985 and commenced – at the rate of 10% - on 1 October 1986.
- In 1985, the Kiwi top tax rate at the time was 66% and applied to incomes in excess of NZD 30,000.
- The NZ GST was also a part of a broader tax base reforms including an imputation system of company tax, fringe benefits tax and foreign tax credit system.

Lessons?

It is worth the effort to read the RATs statement and the June 1985 White Paper and consider how the mischiefs, reforms and their design features are described.

Many of the proposals were dropped, fundamentally restructured or their objectives redescribed.

The underlying goal of the reform (with the exception of the imputation system) was explained as “broaden the base and lower the rate”.

In a search for truth about the “reform” of 1985, what do we find?

With the exception of the imputation system, the proposals could be explained as “integrity measures” – plugging holes where there were difficulties in enforcement and administration.

- The Australia Card never came into effect. While the legislation was enacted, the empowering regulations were capable of being disallowed by the opposition controlled Senate and the Government abandoned the proposal in 1987. The Australia card was more Yes Minister than we might like to admit.

  In an episode of Yes Minister and was first broadcast 24 March 1980, there was an exchange between Sir Humphrey and Jim Hacker in relation to the Europass.[13]

  > Sir Humphrey: Brussels is about to decree that there will be a new European Identity Card to be carried by all citizens of the EEC. ...
  >
  > Frank Weisel (Hacker’s political adviser): How will the other EEC countries feel about having to carry identity papers? Won’t they resist too?

[13] The Writing on the Wall, Season 1 Episode 5

> Sir Humphrey: No no … The Germans will love it … The French will ignore it … The Italians and Irish will be too chaotic to enforce it … It's only the British who will resent it.

- The negative gearing proposals were enacted in 1986 applying to rental property losses on property acquired on or after 17 August 1985. The provisions were repealed with effect for the 1987/88 and later income years.

  The White paper and the RATS statement contain no mention of housing affordability as an economic justification for the quarantine of interest losses. It is listed as a "tax shelter", the tax expenditure being measured in the asymmetry between deductions and assessment of the gain on disposal.

  The provisions were very complex, for example, including a geared investment in a "land rich" entity and deeming a "new" investment if a "land rich" entity changed ownership.

  > … repeal of the measure was justified on two main grounds: (i) uniformity of tax treatment of interest costs for all types of investment; and (ii) the belief that the excessive tax benefits offered to high income earners by negative gearing were adequately countered by other tax reform measures, notably introduction of the capital gains tax regime.[14]

In the case of the Australian Card and negative gearing are examples of bad policy development – what is the mischief and why is it a mischief?

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[14] O'Donnell, Jim --- "Quarantining Interest Deductions for Negatively Geared Rental Property Investments" [2005] eJlTaxR 4

The task of policy development is often explained by reference to Alice's meeting with Cheshire Cat:

> Would you tell me, please, which way I ought to go from here?'
>
> `That depends a good deal on where you want to get to,' said the Cat.
>
> `I don't much care where--' said Alice.
>
> `Then it doesn't matter which way you go,' said the Cat.
>
> `--so long as I get *somewhere*,' Alice added as an explanation.
>
> `Oh, you're sure to do that,' said the Cat, `if you only walk long enough.'

Treasury papers explain the mischief with which we are confronted, the desired destination and the direction we will take to get there.

But … to paraphrase the 1934 George Gershwin lyrics from Porgy and Bess popularised by Normie Rowe 50 years ago:

> The t'ings dat yo' li'ble
>
> To read in de [White Paper],
>
> It ain't necessarily so.

If you are trying to identify policy truth in Treasury papers you must read between the lines.

The signals for caution are when proposals are described in words such as:

- An integrity measure
- To ensure consistency
- To better target concessions

- A fairer treatment of …
- Simplifying the GST treatment of …

It is a useful decision making exercise to try this yourself … one cold night when you have nothing better to do. What is the problem with negatively gearing residential property?

- Is it that it has a negative affect on the affordability of housing?
- Is it the revenue forgone to the wealthier elements of society?
- Is it that the CGT concession distorts the decision?
- Is it the affect it has on interest rate policy?
- Are the issues the same if the subject matter of the investment is an asset other than residential property?
- If the issue is the time value of taxation expenditures, are there other areas of tax policy that ought to be addressed?

Ralph

As an illustration of what you might choose to take away from tax reform proposals, part of the Ralph review of October 2000 was an "entity taxation" system which proposed to tax most (if not all) trusts as companies.

As happens, I had a lunch with an adviser to the Ralph review who asked why I was (apparently) opposed to the reform. My response was:

> In the RATS White Paper we said that the 'ideal' is a system that taxes profits of entities at the marginal rate of the beneficial owner.
>
> Trust and partnerships achieve this. To achieve this for companies, would require an integration regime. But, in 1985, it

was not practical … so we adopted the half-way house of imputation.

Why are we now advancing the company tax system as the ideal for the entities that already have what we said was the ideal in 1985?

A few days later, my lunch companion rang to say:

We have been conned, haven't we?

Over time, the same issue is considered in a different "guise". Always remember what was said last time!

Or, in a line attributed to Groucho Marx:

Tell then truth it's the easiest thing to remember[15]

Reform, drafting and interpretation of indirect tax

The one aspect of RATS that I haven't discussed is the abandonment of the broad-based consumption tax (BBCT) and abolition of WST.

Reading of Chapter 13 of the RATS White paper gives us an insight into indirect tax reform in the 1985 context – and a comparison of BBCT and VAT. It is similar, but not identical, to the approach taken in the A New Tax System (ANTS) White Paper.[16]

Option C of the 1985 tax reform summit included a BBCT of 12.5% with cuts to marginal tax rates.

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[15] Wikipedia attributes the saying to David Mamet, an American playwright.

[16] Tax Reform, not a new tax a new tax system. The Howard Government's plan for a New Tax System. Circulated by the Honourable Peter Costello M.P. Treasurer of the Commonwealth of Australia. August 1998

Keating confronted opposition from the public, the welfare lobby, the ACTU, and the business community.[17] Prime Minister Hawke intervened to drop the consumption tax element, "no doubt leading Keating to believe Hawke was too captive of the unions".[18]

Later, Keating joked:

> It's a bit like Ben Hur. We've crossed the line with one wheel off, but we have crossed the line.

In 1985, the EU VAT was about 10 years old. But, unlike Australia, New Zealand managed to adopt the UK model.[19]

It took another 7 years for Australia to take a second shot at it. But in 1992/93, Keating applied what he had learned from the 1985 experience.

1991 - 1993

Dr Hewson launched the Fightback! manifesto in November 1991, including a 15% GST.

Then Prime Minister, Keating campaigned vociferously and vigorously[20] against the tax proposal.

> 15% on this, 15% on that.

In answering question from Hewson in the House of Representatives about why he would not call an early election, Keating said:

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[17] The Under Treasurer in New Zealand in 1985, Trevor de Cleene, famously commented about the Australian Tax Summit "Everyone wants to go the heaven and no one wants to die".

[18] Keating's call on the years of true reform, AFR, 2 January 2013, James Massola

[19] A unicameral Parliament without sub-national Governments is a considerable advantage.

[20] Describing Hewson as a "feral abacus".

> The answer is, mate, because I want to do you slowly

Ten days before the election, in a TV interview with Mike Willesee, Hewson was confronted by a birthday cake.

Willesee's question was:

> If I buy a birthday cake from a cake shop and GST is in place do I pay more or less for that birthday cake?

Hewson's answer is regarded as the reason for Keating's success in the 13 March 1993 election.

When interviewed by Andrew Denton in August 2006, Dr Hewson reflected on his unfortunate experience in the birthday cake interview. In relation to his performance, Dr Hewson commented:

> Well I answered the question honestly. The answer's actually right. That doesn't count... I should have told him [Mike Willesee] to get stuffed!

Joe Hockey could have adopted a similar line when he responded to the tampon question on Q&A earlier this year.

After the unlosable election, GST did not appear on the Australian tax policy agenda until the ANTS White Paper in 1998.

In an effort to dull opposition, nearly all of the policy positions in Fighback! and ANTS kept a very close eye on the BBCT proposals in 1985.

And Howard confronted the birthday cake lesson by obtaining modeling that showed the price changes for nearly 1000 commodities and services.

Back to 1984 - New Zealand

Its worth noting hear that my big mate,[21] Bruce Quigley and I were not involved in the 1985 White paper or the RATS statement.

We were shipped off to IRD in Wellington in January 1985 to participate in and learn from the NZ experiences in the design, legislation and implementation of a GST.

In 1984, when the NZ Lange government was elected, a large part of the NZ population was of British heritage and knew and hated the UK VAT.

Consequently, Roger Douglas told them that NZ would have a new consumption tax – a GST – it was, he said, not like the UK VAT – it was completely different. The high compliance costs, complexity and inconsistency of the UK VAT were not to be part of New Zealand's "modern VAT".

When NZ came to draft its GST in 1985, the UK VAT was contained in the Value Added Tax and Other Taxes Act 1973. A comparison between the NZ GST Bill will show that the structure and terminology was taken from the VATA 1973.

Drafting was a very simple process. We chose relevant parts of the UK law and typed them into a word processing program on (I think) a 125K PC.

The complicated aspects of the UK VAT were avoided – e.g., multiple exemptions, overly complex place of supply and time of supply rules, margin schemes, prescriptive tax invoice rules and formulaic apportionment of input tax.

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[21] Often abbreviated to MBM

But one thing that stands out – at least to me - was Sir Roger Douglas' instruction that:

> This has to be a tax that can be complied with without resort to professional assistance

Trevor de Cleene, the Under-Secretary described this feature of "simplicity" as:

> GST has to be able to be understood by the 11year old daughter of the green grocer in Lambton Quay.

This emphasis on "it's a simple tax" explains why few of the provisions reflect any complicated structures or financing arrangements. But it is also a feature of the time. The world was a simpler place in 1985.

The New Zealand law refers to "services performed" as opposed to the later Australian provision of "things done". The New Zealand expression reflects the dominance in the economy of the time of physical performance of services and flows of goods with little regard for transfers of intangibles.

There was a recognition, even in 1985, that the audit of GST taxpayers would not be done through a reconciliation of tax invoices. The role of tax invoices – and the notion of an invoice that wasn't a tax invoice – is a departure from the EU model, the significance of which I don't think was understood at the time – or since.

At the time, Bruce, I and our Kiwi compatriots were of the view that, in practice, GST was a tax on turnover less outgoings - probably a bias inherent in our background in income tax.

The initial design of the GST return required that the total taxable turnover (and purchases) be divided by 11 to reach the output tax and input tax for the tax period.

You might recall that the GST return in Australia also originally required the completion of 20 boxes and then application of 1/11th to the total of the additions and subtractions of these 20 boxes.

A group of about 5 large corporates met with the ATO over several weeks to convince the ATO to change the calculation form and require just output tax and input tax to be declared.

At one meeting, one of the corporates suggested that the 20 boxes would be useful to small business but unsuitable for larger business such as his own.

In out regular exchange of emails after the meeting I offered my view of how we should proceed.

> I would prefer not to make concessions on behalf of a constituency we do not represent. I prefer a negotiation strategy of
>
> > Concede nothing and take no prisoners.

As you might have come to expect, the email trail was copied to the ATO prompting a stern phone call from one of my erstwhile ATO colleagues.

In the course of the next meeting in Canberra, I prefaced my comments with:

> I am not trying to be a prick, but …

The retort?

> You are doing very well nonetheless

One of the corporates involved in the lobbying told the ATO that he would not be able to populate the boxes for at least 12 months because it required far too many changes to his system. He was told that he must fill them all out because otherwise the returns would be not be properly lodged.

"And what's the penalty for that?" he asked.

"I think it is $200 per return".

The tax manager took a cheque book out of his pocket and said,

So that's 12 months at $200 a month - $2400.

Who do I make the cheque out to?

I might as well do it now because I can't fill out your 20 boxes for at least 12 months.

It was at that meeting that the ATO approved the ATO's "though the accounts" method of completion of the BAS.

Perhaps it is harsh, practical, unembellished reality that ultimately wins the day.

Malaysia has followed this Australian earlier calculation sheet model … but there are 23 different codes to choose from for any transaction. And the time of supply rules are inconsistent with the standard accounting practice of picking up a GST liability or credit at the time of entering a transaction into accounts receivable or payable.

During a recent seminar in Kuala Lumpur, one of the speakers was addressing the IT implementation. He asked me whether it was right to say that Australia only had 6 tax codes. I couldn't answer how many there were but admitted that I only used two – taxable and not-taxable. It seems to work I told him.

His response was the same as the one I had heard in Australia … But you have to use the right ones when you fill out the GST return!

Australia

Adrian

Bruce and I returned to Canberra in 1986 to do our penance for taking the holiday in New Zealand. In 2CA, my work station looked out over the lake. One afternoon I heard this familiar voice behind me.

> Why a doesn't MLM look out of the window in the morning?
>
> Because he'd have nothing to do in the … afternoon!

On our return from Wellington, Bruce was put on the FBT reform, and I on corporate tax reform. The FBT "oral history" suggests that a draft of the FBT Bill was put before Paul Keating prior to its first reading.

The FBT Bill was very well structured – each benefit is dealt with in its own Division which, sequentially, includes:

- the fringe benefit
- exempt benefits
- the taxable value
- rules for reducing the taxable value

It also established our modern drafting style of giving each concept its own defined term. At the time, definitions were included in the front of an enactment – see section 6(1) of the 1936 Act.

When Paul Keating saw the draft, he is reported as reacting angrily.

> I am not going to introduce a Bill into Parliament where the first thing you see is 40 pages of definitions

Calm as ever, Adrian replied "Don't worry Minister, you wont see all those definitions when it is introduced.

Of course, the definitions in the FBT Act appear in section 136 which, prior to the unintended consequences amendments, was at the rear of the Act.

You are all now familiar with referring to the rear of an enactment to find the definitions. This is not the practice of taxation legislation in other countries.

On returning to Australia in 1986, my first task was to give drafting instructions to the Office of Parliamentary Counsel (OPC) for an anti-avoidance provision concerning the abuse of section 46 rebates for redeemable preference shares (RPS).[22]

Like all good Australian tax professionals I wrote 30 pages of the defining features of RPS.

This was my first encounter with Adrian van Wierst of OPC – every contact we had left me with the recognition that I had a lot to learn.

Adrian phoned me after a couple of days to clarify my instructions.

> Does it matter if the shares are preferential as to capital and not income?
>
> What about voting rights?

Frustrated at my inability to answer the questions, I countered by explaining the mischief.

> Banks are subscribing for RPS to get tax free dividends instead of interest on loans.

Adrian asked gently, why couldn't we say something like …

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[22] The provisions were enacted, originally as sections 46C and 46D of the 1936 Act.

a rebate of tax is not allowable for a dividend if, having regard to:

- the manner in which the amount of dividends in respect of the share was to be calculated;
- the conditions applicable to the payment of dividends in respect of the share; and
- any other relevant matters;

the payment of the dividend may reasonably be regarded as equivalent to the payment of interest on a loan.

Adrian must have been amused by my response

Can we do that?

The practice at the time and since has been to draft tax provisions as a set of rules – now called a method statement. Andrew Mills, in a prior life, described as a "formulaic approach".

But that is not the model Sections 46C and 46D followed – much to the annoyance of some in the profession.

I was called before a Parliamentary committee to explain whether anyone reading the press release that announced the measures could have expected that the new rules would apply to transactions that didn't involve RPS.

The provisions were considered by the Full Federal Court for dividends paid on cumulative preference shares.[23] It seems that someone within the ATO decided that sections 46C and 46D applied to permanent equity rather than redeemable equity.

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[23] Commissioner of Taxation v Radilo Enterprises Pty Ltd [1997] FCA 22

Adrian's had a reputation worthy of his intellect and eccentricity. Tom Reid recalled a story involving Adrian when Tom made an opening address in 1995 at the 25th anniversary of OPC. [24]

> Adrian's dress sense figures in a story that is part of our oral tradition, although the story really demonstrates the quick thinking of Geoff Kolts [then First Parliamentary Counsel]. Some time in the 1970s, during the Fraser Government, Adrian and Geoff were summoned to a Cabinet Committee meeting in Parliament House to explain a complicated tax Bill. Is there any other kind? At one point during the meeting, Geoff found himself in the Cabinet ante-room with Jim Killen, who was, of course, a very proper and indeed a dapper dresser. "There's some fellow in there with a pullover", said Jim Killen in tones of disgust. "Who is he?" Geoff realised immediately that this must be Adrian, but he wasn't fazed. Without batting an eyelid, he said "Oh, he's from the Tax Office".

Paul Lanspeary

I don't want to leave the subject of OPC and the wonderful people I have met and worked with since 1986.

Paul Lanspeary was one of the draftsmen responsible for the GST Bill. He had – and I am sure still has – a disarming frankness about his approach.

The GST law contains a number of provisions that commence with the words

> For the avoidance of doubt[25]

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[24] Opening speeches—at the conference marking the 25th anniversary of the OPC in Canberra 1995

[25] See for example subsection 9-20(3).

In a bill that was drafted strictly in accordance with the modern Australian “plain English” style – the terminology is a little out of place.

But, of course, the meaning is clear … someone asked Paul to insert a provision that, in Paul’s view, wasn't necessary and to do as was requested would cast doubt on the scope of the substantive provision.

So the requested amendment is made but as an “avoidance of doubt” provision.

Later on, Paul changed the term to a more plain English version

> To avoid doubt

I had a lunch with Paul some years later when this new phrase appeared in one of his drafts. In explaining the change, Paul said:

> It’s one of those plain English things … but I thought next time I might say , just for you …
>
> “In case you were wondering”.

Politics and Journalists

Geoff asked that I comment of the politics of GST reform. It was my time with the Cole Committee[26] that taught me the truth of Dorcas Lane’s[27] observation:

> A journalist is a person who takes a story and turns it into a sensation.

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[26] The Cole Committee was established by John Hewson in 1992 to take submissions and make recommendations on the design of his proposed 15% GST.

[27] Lark Rise to Candleford, a British television costume drama series, adapted by the BBC from Flora Thompson's trilogy of semi-autobiographical novels about the English countryside, published between 1939 and 1943.

The committee leaked!

Distinctions between repairs to wheelchairs being taxed but not a new chairs were front page news the day after a Committee meeting – much to the chagrin of Peter Reith and my KPMG partner of the time Richard Buchanan. The source of the damaging leaks was never found but the draft report was finalised and the office wound up in late 1992.

I still flinch when I hear the names of particular journalists who served with the AFR and the Australian during 1992/93. There are a few who were less than constructive in their coverage of the Committee's activities.

It didn't take long to recognise that there was no comment that could be made without it appearing negatively in the following day's press. On one occasion, one of the journalists called the morning of a particularly damaging article in the AFR. He asked whether I had seen his article and what I thought about it.

I told him that it was impossible for me to offer anything because I knew that anything I said would give him the headline for the follow up story tomorrow "Cole Committee disappointed with press coverage".

On the Sunday morning following the unloseable election, I received two calls at home asking what I thought and, out of concern, "how you're getting on."

As an aside, the morning after the "Tampon" debacle on Q&A earlier this year, I received a call from a journalist who asked what other "inconsistencies" there were in GST. I was a little confused as to why taxing tampons was an inconsistency. But I soon realised that in launching into an explanation, I was wasting an otherwise lovely morning.

Many of us carry scars from deep wounds inflicted through GST reform and it doesn't take much to make the blood flow again.

Tony Abbott was press secretary to John Hewson from 1990 until the unloseable election in 1993. In relation to the Abbott's election victory in 2013, Hewson was reported in the AFR:

> I haven't ever told anyone this, but during [a dinner with his shadow cabinet before the 1993 election] I argued - really urged - for us to run a positive campaign, to steer clear of the negativity and attacks on Labor and just do what we had been doing up until that point, which had been pushing a positive policy agenda,
>
> I asked for a quick show of hands, who was with me . . . and I was it. You know they call Fightback … and that campaign the longest political suicide note in history? Well, that was the last time anyone in Australian politics put substantial detail of policy on the table. It has been all negative and small target since.[28]

Drafting GST's

There is a theme that runs though the Cole Committee report that illustrates how (at least in my experience) GST's are drafted. All GST's enacted after 1985 had the NZ and UK law to draw upon as models. The NZ and UK source of Singapore's law is expressly noted in at least one version of the published Singapore legislation.

Many international advisers and assistants have their own templates for a starter in the jurisdictions that they visit – indeed Alan Schenk's book includes at Appendix B a 60 page draft VAT Act of "New Vatopia".[29]

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[28] Jessica Wright, Unloseable election haunts Tony Abbott, Coalition. Sydney Morning Herald, 6 September 2013,

[29] Schenk and Oldman, Value Added Tax A Comparative Approach, Cambridge University Press 2007.

In my time in New Zealand and Australia, I thought (and the Cole Committee report states) that, when one is confronted with the need to express a concept or design feature, one has three possibilities:

- Borrow the words from one of the other VAT laws – giving the advantage of having court consideration on what the words mean
- Borrow from other domestic legislation that involve similar concepts – again, here there is an advantage in having previous judicial commentary of the scope of the phrase or words
- Construct a new set of words and phrases that encompass the intended operation of the provision. This is the hard option because it exposes oneself to Donald Rumsfeld's "unknown unknowns".[30]

An examination of Malaysia's GST Act shows that there is very little original wording – most of it is from the UK VATA 1994. Having performed the same type of function in New Zealand and Australia, at one workshop with the tax reform team in Putra Jaya, I thought it necessary to caution them:

> The way we all have put GST law together is to stand at the end of a supermarket aisle with our trolley. As we walk down we take things off of the shelves… we'll have one of these and one of those and another one from here.
>
> At the end of the row we look at our trolley and exclaim "look, world's best practice!"
>
> But what we have is a jigsaw that doesn't fit together.

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[30] There are known knowns. These are things we know that we know. There are known unknowns. That is to say, there are things that we know we don't know. But there are also unknown unknowns. There are things we don't know we don't know.

Relevance of foreign law

The late Graham Hill, in a paper presented to the 15th Annual GST & Indirect Taxation Weekend Workshop in April 2003[31] made reference to the relevance of overseas cases to the interpretation of the Australian GST law. He said:

> GST is different in that those who drafted it paid particular attention to the New Zealand legislation as well as to the European and Canadian legislation and sought to produce a bill which attempted … to solve the problems which were seen to beset the overseas legislation. … It must follow that Courts will have regard to the overseas legislation as much to understand how the legislation came to take the form it did as to reach a conclusion as to its meaning."

His Honour's observations are telling in both their accuracy of the relationship between the Australian and overseas law as well as the logic as to their relevance.

In HP Mercantile (at para 44)[32] His Honour opined that, in interpreting [GST] legislation, resort could be had to extrinsic material – not merely in the case of ambiguity but also to determine the legislative purpose of the provision.

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[31] Some thoughts on the principles applicable to the interpretation of the GST – at p8,9.

[32] It is clear, both having regard to the modern principles of interpretation as enunciated by the High Court in cases such as *CIC Insurance Limited v Bankstown Football Club Limited* (1997) 187 CLR 384 and s 15AA of the *Acts Interpretation Act 1901* (Cth) that the Court will prefer an interpretation of a statute which would give effect to the legislative purpose, as opposed to one that would not. This requires the Court to identify that purpose, both by reference to the language of the statute itself and also any extrinsic material which the Court is authorised to take into account.

While he thought that a court should be interested in the source in determining what provisions in "derived" law might mean. It seems the ATO and current courts are not so inclined.

I am sure there is ample readings and precedent to say that the foreign source of the law is not authoritative but, at least Graham was of the opinion that it was useful and relevant. 10 years after his death, surely he is owed a legacy in this respect.

But, while you might get away with borrowing from different common law jurisdictions in a common law country, it creates particular difficulties in other jurisdictions with different language and culture.

Malaysia

In Malaysia, the law is drafted in English and then translated and enacted in Bahasa. The Bahasa is then translated back into an English version. In the English version of the Malaysian GST Act the definitions are not in alphabetical order because they follow the alphabetical order of the words in Bahasa – the search function on PDF's become an essential tool!

Even where there is no doubt about the accuracy of an expression in English, difficulties in the application of the law arise. In Malaysia, (as is the case in the UK, NZ and Singapore) the "imposition" provision states:

> A tax to be known as goods and services tax, shall be charged and levied on … any supply of goods or services made in Malaysia

The provision is often referred to in Malaysia as a statutory requirement that a supplier "charge" tax to the recipient of the supply. The consequences of this (I think incorrect) interpretation tend to flow through other provisions and explanations of the law.

But for all this difficulty, the Malaysian legal system is based the British common law tradition. So the drafting and interpretation of the English

version is an easier task than jurisdictions without an English and common law base.[33]

China

In China, the law is drafted in Chinese and any English translation is performed privately. In my limited experience in working in PRC, the reports, advice and drafts of law were created in English and, in my case, KPMG translated them into Chinese for the MoF.

In one draft of the proposed Chinese comprehensive VAT, there was a lower VAT rate applied to:

> Cereals, edible vegetable oils, milk

I wondered how these three were selected for favoured treatment. My KPMG colleagues, upon reviewing the Chinese version responded:

> It should be "foodstuff"

The difficulty of translating terms of art between two very different languages and cultures is also fraught with difficulty. As an example, for several years, I have engaged in an ongoing dialogue through my partners in KPMG about the meaning and context of the phrase "in the course or furtherance of".

Myanmar

In Myanmar, the international advisers draft in English and it is translated into the Myanmar language for review by Attorney General's department. If it is enacted it will be in the Myanmar language.

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[33] I shouldn't leave this discussion without highlighting the conflict of laws where Islamic banking is concerned – Sharia law determines qualifying Islamic banking and insurance products but they need to be defined and interpreted in a common law taxation statute.

My recent experience of one drafting process was working with IRD staff with proficiency in English and arrive at a Myanmar translation for each English drafted section.

There was great difficulty in finding meaningful terminology for the English terms “arm’s length” and “dealer”. The only translation for the latter drew on card games.

It is not merely translation, the difficulty extends to grammar and sentence construction. The model used as a framework for the new law was drafted in non-gender specific terms – similar to Australian law.

There was a lengthy discussion (in Myanmar language – to which I didn't contribute) about how to translate the section:

> An application under this section shall be made in the form and be lodged with the Director General in accordance with the requirements of the Director General

The practical difficulty was constructing a sentence that didn't involve repeating “Director General” – you might try this is English to see how the shape of a simple expression has to be changed.

Recently, the Commercial Tax was extended to all services except those services that are excluded. I have three English translations of the exemption list in which many items are described differently. For example, item 25 is translated as:

- Technical and Management consulting services; or
- Technology and administrative consultancy; or
- Technology and management consultancy services.

I have never approved of lists of items in taxation law – the words without more give no assistance to the context in which they are to

interpreted. The task is even more difficult (at least for me) when the law is expressed in a foreign language.

You can appreciate that there is little point in consulting English dictionary definitions to determine the scope of the exemption. And it is not productive to ask what the Myanmar words mean, because to do so means you are asking for an interpretation of the scope and then a translation into English terms.

Middle East

One of my KPMG partners once asked me for a second partner review of an advice he was giving on the meaning of a term in a middle eastern turnover tax. The English translation of the law applied the tax rate to the income from the relevant transaction. The question was, "if the supplier added the tax to the price, was the tax rate applied to the tax-inclusive amount?"

My partner's advice included the phrase "under the normal rules of statutory interpretation" and then called on the finding of the Century Yuasa Batteries case.[34]

I had to tell the partner that not only might the middle eastern country not have:

- The "golden rule" of statutory interpretation
- The law of precedent
- The opportunity to discuss different interpretations of tax liabilities; and, in any event

[34] Century Yuasa Batteries Pty Ltd v Commissioner of Taxation [1997] FCA 193

The words he was interpreting in English were not, necessarily, what the legislation said.

EU

My erstwhile partners in the EU can deal with several versions of the 6th Directive – noting that the translations in different EU member states are inconsistent.

In one roundtable, the KPMG principals from the various EU countries explained how provisions in the (then) 6th Directive were treated in their home jurisdictions.

The German representative invariably started each lengthy explanation of the German rules with the words:

> In Germany it is very complicated

While the Italian and Spanish representatives were often very nonchalant:

> It doesn't present a problem

But we are dealing with a tax invented in Europe. So, Jim Hacker's view ought to mean something for us:

> You know what they say about the average Common Market official. He has the organising ability of the Italians, the flexibility of the Germans, and the modesty of the French. And that's topped up by the imagination of the Belgians, the generosity of the Dutch and the intelligence of the Irish.

Working with people in Europe and Asia who are proficient (technically and fluently) in foreign languages illustrates the limitation of those of us who are monolingual ad monocultural.

A few years ago - one of my students at Melbourne University was from Europe and spoke several European languages fluently. Her English proficiency was excellent.

One of the questions I asked the group was whether the following was multiple, mixed or composite supply:

> A supermarket sell shoppers a trolley of goods that customers self select before arriving the checkout. Some items are GST-free and each item is individually priced.

My student asked whether I was asking about the the trolley or the goods.

The same student came to me one morning before class to tell me that she had had difficulty with the Ping case.[35]

She said she had read it many times but that her dictionary definition of "golf club" was "an association of golf players usually having its own course and facilities".

Understandably, the trade-in for a new compliant club did not make any sense.

Text v context – drafting and interpretation

Because of the modern drafting approach in Australia, many of the provisions are not direct replicas of the overseas provisions from which they are taken. But others, such as "in the course or furtherance of" are exact replicas of the NZ – which itself is taken from the UK.

[35] Customs & Excise Commissioners v Ping Ltd [2001] STC 1144.

On the other hand, our input tax relief provision in section 11-15 is an adaption of section 8-1 of the 1997 Act.

Why?

Who would you want to revisit 40 years of argument about travelling to and from work, conventional clothing and home office expenses?

In HP Mercantile, the late Graham Hill described the concept of input tax relief in a value-added tax as:

> 45 The language of the GST Act, as seen in the context of value added taxation generally, makes it clear that the legislative scheme is that a taxpayer will be entitled to an input tax credit where it is necessary that a credit be given to ensure that output tax payable by the taxpayer is not imposed upon an amount which already includes tax payable at some early stage in the commercial cycle. Where possible, GST is not to be found embedded in the price or consideration on which output tax is calculated when taxable supplies are made. However, in the case of a taxpayer which makes input taxed supplies, while that taxpayer will not be liable to output tax on the supplies it makes which satisfy the description of input taxed supplies, that taxpayer will be denied an input tax credit for the tax payable on acquisitions it makes where the necessary relationship exists.

To emphasise the importance of the "no embedded tax" context, Allsop J observed:

> 88 Were it not for the matters with which his Honour deals concerning the statutory scheme and the purpose and context of the legislation, I would be inclined to the view that the acquisition of legal and management services in collecting the debts did not relate to making the relevant supply, being the acquisition of the book of

> debts. As a matter of textual meaning, it can be said that the acquisitions relate to the debts but not to the acquiring of the debts.

However, in the Rio case[36], Davies J reinterpreted Hill's "no embedded tax" context and found:

> Section 11-15(2)(a) should be construed consistently with the scheme of the GST Act under which GST is not payable on input taxed supplies that an entity makes and correlatively there is no entitlement to input tax credits on acquisitions that relate to such input taxed supplies. The words "relates to" in s 11-15(2)(a) simply denote that there must be a relationship or connection between an acquisition and the making of input taxed supplies. What must be established to come within the section is a material or sufficient relationship but the existence of such a relationship is not made to depend on a "purpose" test. … On the uncontroversial facts of this case, the acquisitions in question all have a direct and immediate connection with Hamersley's provision of the leased accommodation and that direct and immediate connection constitutes a sufficient and material relationship for the purposes of s 11-15(2)(a).

Of course "direct and immediate" is an EU input tax relief test. But as Kretztechnik demonstrates, the nexus need not be direct nor immediate … So why would the ATO argue it in Australia?

In both HP Mercantile and Rio the courts acknowledged the similarity between section 11-15 of the GST law and section 8-1of the 1997 Act.

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[36] Rio Tinto Services Ltd v Commissioner of Taxation [2015] FCA 94. An appeal before the Full Federal Court was heard on 24 August 2015 – 10 year's after the death of Graham Hill. One can only hope that the Full Court finds a way of expressing the context of input tax relief in a VAT, even if only to Honour graham's legacy.

The Commissioner's interpretation of the creditable purpose test departs from the established view of the operation of section 8-1. The Commissioner takes a textual view that the term "relates to" in 11-15(2)(a) "blocks" input tax relief for an input that relates, directly or indirectly, to an input taxed supply.

As for apportionment, the extent of limitation of tax deductibility to for outgoings incurred in relation to the derivation of exempt income was addressed by the High Court in 1949.[37] The GST law includes a formula to address this issue but this formula does little more than illustrate the principle found in the 1949 High Court judgement.

In an article entitled "Interpretation of the GST Legislation"[38] the late Justice Hill relevantly commented in this regard:

> The GST Act in one way is more helpful that the corresponding income tax provisions in that it provides a formula for calculating an input tax credit on acquisitions which are partly creditable. On the other hand, while High Court early made it clear that apportionment under subsection 51(1) was to proceed on the basis that was reasonable and that ultimately involved a question of fact the GST formula, based as it is on an estimate of purposes expressed in percentage terms, would ordinarily be both reasonable and factually correct. To say that, however, is to disguise the difficulty of calculating in percentage terms the acquisition purposes which are creditable purposes and those which are not. (footnotes omitted)

My lesson learned from adopting section 8-1 as our test for input tax relief is "the best-laid schemes".[39]

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[37] Ronpibon Tin NL & Tongkah Compound NL v Federal Commissioner of Taxation [1949] HCA 15.

[38] Delivered at the Taxation Institute of Australia's 5th Australian GST Symposium, 17-19 October 2002

This is not the occasion to revisit the Commissioner's interpretation of the creditable purpose test.

But, I will leave you with this thought … If, as Hill J said in HP Mercantile, that the need for an input tax relief mechanism in a VAT is to avoid the cascading of input tax through the production and distribution chain, how would you – adopting a coherent principled based drafting approach - draft a provision to address the issue.

Enforcement and administration

My recent involvement in taxation design is the enforcement and administration of indirect taxes. The work I have been doing in Malaysia, China, Qatar and Myanmar has brought me face to face with the relative ease with which the Australian regime is the beneficiary of "voluntary compliance".

In Myanmar, the economy (while changing) is almost entirely conducted in cash. The present Commercial Tax is similar to a VAT. Imagine how you would enforce a VAT without banking and other records.

In the original design of UK VAT, I presume, that this is why so much importance was placed on the production of sequentially numbered tax invoices for ALL taxable sales.

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[39] In 1786, while ploughing a field, Robert Burns upturned a mouse's nest. The resulting poem *To a Mouse*, is an apology to the mouse:

> But, Mousie, thou art no thy lane [*you aren't alone*]
> In proving foresight may be vain:
> The best laid schemes o' mice an' men
> Gang aft a-gley, [*often go awry*]
> An' lea'e us nought but grief an' pain,
> For promised joy

You can imagine that a tax system that drives its timing and recording from paper invoicing practices is difficult to fit in with modern accounting software.

In Malaysia I spent a few days with Customs some years ago explaining that “time of supply” in New Zealand did not mean the time at which a supply takes place. And that it followed that the time of supply – being accounting rules – should reflect accounting practice so that your audit can focus on accounts and not cash receipts.

To no avail I am afraid … But I didn't take my tax manager with me with his cheque book.

In our meetings in Doha, one of the Government Ministries emphasized that few of even the largest companies kept proper accounts – it has not been necessary to date. And the GCC proposal was a USD 1,000,000 threshold beneath which an enterprise could not be registered for the forthcoming VAT.

My lesson was that the revenue is better off only having businesses in the VAT system that are capable and accustomed to record keeping – and are able to be audited.

Perhaps a lesson for the ATO for Uber.

In China, a French adviser said they should work out how many staff the revenue would have to carry out audits effectively and then set the registration threshold at an amount that excluded businesses that couldn't be covered.

There is quite a transition to be made for emerging economies to designing collection around the accounting rules rather than physical controls.

In our global economy, physical auditing and control is not efficient nor effective. However, in a culture and environment where there is a domination of dealings in cash, the compliance rules need to have some design features to force “voluntary compliance”.

The members of our mission in Myanmar eat in a variety of restaurants in NayPyiTaw. Alcoholic beverages and tobacco must have a tax stamp affixed as part of the indirect tax enforcement process.

It is exceptionally rare to find a tax stamp on any alcohol purchased in a restaurant and often in small shops. I think compliance with the tax rules is rare indeed.

The IRD personnel tell us that, if their inspectors go to a manufacturer to audit the tax records, they may be beaten and physically thrown out of the premises.

These are challenges that I had not heard of – at least since I went through training in the 70’s and heard stories from the income tax investigators who went to do audits on the opal miners in Andamooka.

The established methods of compliance enforcement tends to be a paper war that is inefficient and ineffective – and more often than not – incapable of being carried out physically.

Myanmar requires a vendor to produce of three tax invoices (of a specified style and content) for each transaction:

- One copy is retained by the vendor
- The other copy is sent to the IRD; and
- The original is given to the Purchaser.

The purchaser sends its copy into IRD with its tax return in which it claims the input tax credit.

I did enquire whether the IRD matched its copy with the purchaser's claim … but my language may have been confusing the question to which I never got an answer.

This is what we learn from the international move to collect tax on imported goods and services on a self-assessment and voluntary compliance basis. It is not feasible in the long term to think that goods can be stopped and physically assessed at the border. Advances in data collection might prove to be a tool with which voluntary compliance can be encouraged.

International affairs

Let me close on some important, qualitative, observations that have shaped my personal view of life. I have had the privilege of a friendship with a number of truly great people:

In 1974, I was in my early twenties and about my third or fourth year (part time) of my degree.

It was a cold and rainy day and I had decided to drop out of study. My supervisor in business assessing looked at me over his glasses and asked "Aren't you supposed to be at school?"

I said that it was all too hard and that I wasn't going on with it.

Again, peering over his glasses, he said

"You silly little prick!" Do you want to end up like me … Beholden to … like him" pointing across the room to the chief assessor.

> What does it take, he asked … What do you need … An hour, two hours, a half a day, a day, two days?
>
> What will it take to get you back where you need to be?

I thought about the particular difficulty I had with a cobol program and said “this afternoon”.

“Piss off then”, he said.

With the help of a friend in the same class, I went back to Uni SA and finished the program, submitted the assignment and passed the class.

Without my guardian angel, I would never have completed the degree and would have spent the rest of my working life in the non-professional ranks of the ATO.

In 1984 I had joint leadership (with Frank Drenth) of the Appeals section in Adelaide office.

Ken Schurgott had won a posting to Paris with OECD. My wife had asked why I didn't apply for it, so when NZ came up, I went for it. In a short time I was on a short list to go to Wellington. I got a bit nervous.

I went into the Chief Appeal’s officer’s room and said “I am not sure this is a good idea … My wife has a good job in Flinders Medical Centre and my daughter is only 12. Dragging my wife away from her job and Kim away from school at this time doesn't seem fair.

> “Michael, you will do things and meet people in this short time away that will mean more to you than the things you have done and the people you have worked with for the last 15 years. You owe it to your wife and daughter and yourselves to jump in and make everything you can out of the opportunity.

Obviously, NZ changed my life because it was GST. But it changed all three of us and our relationships. For all three of us … We met Bruce and he has been there for us ever since.

Bruce!

Brue and I had come to a agreement over the way the GST law ought to be drafted for, I think, exports. Bruce said

> MLM we need to have a talk before the meeting this afternoon.
>
> OK!

We went to a café nearby and Bruce lent over the table and eyeballed me.

> MLM, in this meeting this afternoon we are going to say, for X we are going to do this, for Y we are going to do that and for Z we are going to do something else.
>
> Yes Bruce, yes Bruce, yes Bruce.

He didn't seem to be confident in my determination. So he became more forceful.

> Listen to me MLM, we are going into the meeting and I am going to say X, Y and Z and you are going to support me right?
>
> Yes Bruce.

He still wasn't happy.

And here my lesson came

> When I go into the meeting, and I say X, Y and Z I am going to be tackled … They will bring me to the ground … they will stop me and hurt me, and when I roll over to push the ball out …
>
> The face I see will be yours!
>
> You will take the ball and you will run forward with it … Into the pack … And you will take it to the line!!!
>
> No Bruce!!!

But at that time I understand what Bruce expected of me … commitment, understanding and the determination to argue and maintain a position.

Bruce taught me that dependability reigns above self preservation.

Over the years, I have been amazed at the confidence and belief that people have placed in me … Often when I didn't have the same belief in myself.

Invariably, they have had a better sense of what I was able to achieve than I had in myself.

One’s achievements in life are the result of others confidence, trust and belief in you and the opportunities they give you.

Live up to their expectations!

What we want … is within us … we need only to look to find it.