Superannuation entitlements are the same for men and women, so why are women disadvantaged by the superannuation system? There is evidence that the superannuation balances of women are considerably lower at retirement than those of men of the same age1; and women are more likely to be in receipt of the Old Age Pension than men2. The answer lies in the different work experience that women have when compared to men3. The basis of the compulsory superannuation system is the link to earnings: a proportion of a person’s current income is invested until retirement. Women’s superannuation balances are lower as they are paid considerably less over their working life than men4. The two main reasons for this are the gender pay gap and the interrupted work patterns that many women experience as they juggle paid work with caring responsibilities, firstly for their children then when their children are self sufficient they often take on the responsibility for aging relatives5. Many carers reduce their participation in the paid workforce during these periods, which has a long term effect on their retirement savings. There are a range of policies that could be introduced to encourage higher retirement savings by women. The first group of policies are designed to assist lower income earners generally. Women are over-represented among casual part time workers, particularly as they divide their time between paid work and caring responsibilities, therefore any policies that assist women who earn low incomes will disproportionately assist women. For example, the Low Income Earners Superannuation contribution that was introduced in 2013 was estimated to assist about 2 million women, who will lose out if it is repealed by the new Government. The second group of policies are those that are designed to recognise the different work patterns of the primary carer in a family. For example in some European countries the government pays a Carer’s Contribution into the retirement savings accounts for carers who have temporarily withdrawn from the workforce to care for children or, in some cases, for elderly or invalid relatives. Although Australia does now have an Parental Leave (PPL) Scheme, under the current scheme superannuation is not required to be paid during the period of the leave. The Coalition will include the full rate of superannuation guarantee payments in its proposed PPL scheme. Other proposals in this category include reviewing the operation of the annual superannuation caps, which restrict a carer’s ability to catch up on superannuation contributions after re-entering the workforce, or proposals to encourage the carer to make contributions into the carer’s superannuation account. These proposals need to be examined as a way of providing voluntary superannuation contributions; but they will only assist those families who have the capacity to save more than the mandated contribution levels. Employers have a role to play here: this year Rice Warner introduced an additional superannuation contribution of 2% for its female employees, after seeking the approval of the Australian Human Rights Commission. Superannuation is a gender blind system, which is both a strength and a weakness. It ensures that women cannot be discriminated against in access to superannuation, but it does not recognise that the work patterns of many women results in lower superannuation benefits and a lower income in retirement. This issue is explored in more depth in: Hodgson H and Marriott L. (2013) Retirement Savings and Gender: An Australian Companion. Australian Tax Forum Vol: 28 (4): 725 (forthcoming).

The School of Taxation and Business Law (incorporating Atax) is delighted to announce the appointment of Michael D’Ascenzo AO as Adjunct Professor. Michael is recognised internationally for his leadership and expertise in administration and governance as well as his technical and design skills in tax law and superannuation. He was Commissioner of Taxation (a statutory appointment) from 1 January 2006 to 31 December 2012 and served as Chair of Australia and the Australian community in the Australian Taxation Office (ATO) for 35 years. Prior to becoming Commissioner, Michael was Second Commissioner and Chief Tax Counsel concurrently, overseeing law interpretation, corporate planning, finance and governance. He is currently a member of the Foreign Investment Review Board, the Clean Energy Regulator and is also an adviser with the International Monetary Fund.

Michael has always shown great interest in tax education and scholarship, being a frequent participant in the annual Australian Tax Teachers Association (ATTA) conferences. He was awarded the Justice Graham Hii ATTA Medal in 2008 in recognition of his outstanding contribution to the teaching of tax law and policy. He has always been a keen contributor to academic and student-oriented tax events, and has been a keynote speaker at most of the biannual Atax International Tax Administration Conferences that have been held since 1996.

Professor Michael D’Ascenzo AO will deliver the final 2013 Thought Leadership Lecture on the subject “BEPS: Thinking Inside or Outside the Box?”, when he will discuss the initiatives being undertaken by the G20 to tackle BEPS (Base Erosion and Profit Shifting) phenomenon and the environment that makes BEPS activities possible challenges the fundamentals of the way we understand the way the tax system operates. It calls into question the principles that underpin the taxing rights of nations; and also the whole understanding of how these rights are allocated by treaties. It also asks the question whether these concepts, of such long standing, are suited to “...today’s global, integrated and digital business environment”. Although Australia is G20 Chair in 2014 and thus will wield considerable influence, it faces a pretty tough task if an impact is to be made on BEPS. The effect of the BEPS Action Plan will be breathtaking in scale and implications. As the sponsor of the lecture Greenwood & Freehills commented in their July 2013 Tax Brief that “It looks like international tax arbitrage may finally come to an end, which may be one of the easiest ‘wins’ for the BEPS project, though it involves some big (unspecified) issues such as the killing off of the US check-the-box rules.” As delegates will hear from Michael, addressing BEPS effectively will require creative thinking on a grand scale.

“BEPS: Thinking Inside or Outside the Box?”

When: Tuesday, November 19, 2013
6:00 PM - 7:30 PM
Location: Greenwood & Freehills, Level 34, ANZ Tower, 161 Castlereagh Street, Sydney

---

3 Although some fathers have adopted the role of primary carer, a significantly higher proportion of women reduce their working time and are more likely to be in receipt of the Old Age Pension than men.
Auden’s poem is, of course, dated by the reference to Dictaphones (a device which I never managed to master or like anyway) and while I probably have met some big wheals on my travels over the years I have a notoriously bad memory for names. As for secret missions mine are never very secret but this year I have been to some great destinations on work related travel. From November 2012 to February this year I was on sabbatical with my family at University of British Columbia in Vancouver and then in late August to early September I went with my wife to the International Fiscal Conference in Edinburgh. It is tough work but someone has to do it.

But the good news is that in Vancouver to escape the rain in winter – HEAD FOR THE HILLS. Two snow-capped mountains are 30 to 40 minutes drive away and Whistler isn’t that much further. We went to Whistler for a week’s skiing. On the second day I collided with a snowboarder, strained some ligament and was told not to ski for three weeks. The rest of the family had a good time though.

Professor John Taylor in Vancouver

Where do you see yourself heading in the next five years?
The most satisfying aspect of my job is developing my graduates into future leaders in the market and the firm. Over the next five years I would like to have at least three of my staff admitted as partners.

‘Professors returned from secret missions
Resume their proper eruditions
Though some regret it
They liked their Dictaphones a lot
They met some big wheals and do not
Let you forget it’
(from W H Auden, Under Which Lyre)

Mariana von Lucken, Partner, Tax Consulting,
HLB Mann Judd
MTax 2006
What have you been doing since leaving Atax UNSW?
It is always interesting when you look back and reflect on what you have achieved. After I graduated, I completed my CA. I like all good accountants, I worked overseas in Prague, I had a go at the dark side and contracted for 6 months. That made me realise that I preferred working in a chartered firm. I completed my Masters of Tax by chipping away at it, became a Partner at HLB Mann Judd and married a Pom.

What is your biggest professional achievement since graduation?
Learning to work on your business as well as in the business – one cannot be done without the other.

Where do you see yourself heading in the next five years?
No one can ever predict where one will be but one sure thing is I will still be practicing at HLB Mann Judd.

Challenges that your industry will face or changes that you see occurring in the next five years?
The chartered industry is constantly facing the challenge of keeping up to date with the constant changes in the tax legislation. The accounting and tax compliance work will become more of a commodity that will be less and less valued and we need to become more efficient in how we take on compliance engagements. In time I see that will be a greater number of women in managing accounting practices and businesses.

Paul Masters, National Leader – Clients and Markets; and Deloitte Private – Tax Leader
MTax 2003
What have you been doing since leaving Atax UNSW?
In 2000 I was working for one of the big four firms when I decided to change my focus from indirect taxes to direct taxes. As a tax manager and having no experience in direct tax, I knew it would be a huge challenge but I was up for it. I asked the managing partner if there was any demand for tax professionals within the firm what postgraduate course would accelerate my knowledge level as quickly as possible. The feedback was a unanimous recommendation for Atax. I completed the MTax program in 2003 and I focused all my energy on the market. In 2005 I was lucky enough to meet Glâm Swiegers and Keith Skinner from Deloitte who asked me to seed a new tax group focusing on private business and ultra high net worth families. Today, I lead the Deloitte Private Sydney tax practice with over 30 staff.

What is your biggest professional achievement since graduation?
The most satisfying aspect of my job is developing my graduates into future leaders in the market and the firm. Over the next five years I would like to have at least three of my staff admitted as partners. I have the most amazing team and I would be nowhere without them.
Atax Thought Leadership Lecture - Professor Malcolm Gammie QC

We have seen intense media and government interest in “abusive” tax avoidance strategies being used by large corporations, especially multinationals. Atax research fellow Professor Malcolm Gammie QC addressed aspects of the topic in his Atax Thought Leadership in Taxation lecture delivered at the Hilton Hotel Sydney on 16th August.

Speaking to a rapt audience of tax experts Professor Gammie traversed the big issues in the formulation of tax policy and the challenges both facing and posed by the courts through their process of statutory construction. Sharing deep insights into tax policy and the operation of tax law Professor Gammie put three propositions to his audience. The first was that the use of the term “abusive” is a meaningless adjective when speaking of tax avoidance. Such epithets cloud our understanding of the issues.

His second proposition was that an anti-avoidance measure such as Australia’s “Part IV” of the Income Tax Act and the UK’s new “General Anti-avoidance Rule” is an appropriate and important party of income tax legislation.

But he noted in his third proposition that a general anti-avoidance rule is a second best solution to combat tax avoidance as what a tax system needs even more than such a rule is “clarity of thought, policy and purpose”. With these in place the need for anti-avoidance measures is much reduced.

Professor Paul J. Omar spent the month of August in the School of Taxation and Business Law at UNSW as the John Ranieri fellow for 2013. Paul is a Professor of International and Comparative Insolvency Law at the Nottingham Law School, and a Visiting Professor at the Jersey Institute of Law, St Helier. He has also had visiting appointments at the University of Pretoria and University College London. Paul’s research interests are in comparative and international insolvency law. He is the author of numerous texts and over 190 articles including European Insolvency Law (2004) Ashgate (author) and International Insolvency Law: Themes and Perspectives (2008) Ashgate (editor). He is the Secretary of the INSOL-Europe Academic Forum and a former member of the Steering Committee of the INSOL International Academic Group. He has also served as a member of the INSOL Europe Joint Academic-Practitioner Project on Cooperation and Communications, the Academic Advisory Group on the INSOL International Diploma Project and is now a member of the Course Committee of the INSOL International Global Insolvency Practice Course.

During his time with us Paul collaborated with Dr Jenny Buchan and Associate Professor Anil Hargovan to deliver a Thought Leadership lecture on the insolvency law topic “Value Preservation for One or for All: The Balance between Contract Disclaimer and Effective Rescue”. They discussed the disclaimer right of liquidators, both in the context of the appeal from Re Wilmott Forests Ltd [2012] VSCA 202: that was heard in the High Court of Australia on 9 August 2013, and as the rule applies in the specific context of franchisor insolvency. The lecture was arranged with the kind concurrence of the Insolvency Practitioners’ Association and of the Sydney law firm Henry Davis York, at whose premises the lecture took place.

During his time at UNSW Paul quickly demonstrated some of his other talents. He discovered, and introduced us to our own Malaysian take away in the Mathews Building that makes the ‘best laksa in the world’, photographed many of Sydney’s iconic spots, and devoured numerous paperbacks before passing them on to Bill and Jenny. We all look forward to Paul’s return in the near future.

Appointments & presentations

Jenny Buchan and Fiona Martin have been promoted to Associate Professor effective January 2014.

Helen Hodgson will be leaving UNSW at the end of 2013. We wish her well as she takes on her new role as Associate Professor at Curtin University.

Chris Evans and Binh Tran Nam were invited delegates at a major international conference on SMEs held recently in Istanbul.

Michael Waipole participated in the recently held IRAS-OECD Regional GST/VAT Conference in Singapore.

Upcoming events

Post Graduate Information Breakfasts
Melbourne PG Information Breakfast, 7.30am, 12 November 2013
Sydney PG Information Breakfast, 7.30am, 13 November 2013
Brisbane PG Information Breakfast, 7.30am, 12 November 2013

11th Tax Administration Conference, 14 & 15 April 2014, Sheraton on the Park, Sydney. To receive a conference brochure and notification of registration contact Christine Brooks.

26th GST Conference, 28 & 29 April 2014, Hilton Brisbane. To receive a conference brochure and notification of registration contact Christine Brooks.

Appointments & presentations

Jenny Buchan and Fiona Martin have been promoted to Associate Professor effective January 2014.

Helen Hodgson will be leaving UNSW at the end of 2013. We wish her well as she takes on her new role as Associate Professor at Curtin University.

Chris Evans and Binh Tran Nam were invited delegates at a major international conference on SMEs held recently in Istanbul.

Michael Waipole participated in the recently held IRAS-OECD Regional GST/VAT Conference in Singapore.

Upcoming events

Post Graduate Information Breakfasts
Melbourne PG Information Breakfast, 7.30am, 12 November 2013
Sydney PG Information Breakfast, 7.30am, 13 November 2013
Brisbane PG Information Breakfast, 7.30am, 12 November 2013

11th Tax Administration Conference, 14 & 15 April 2014, Sheraton on the Park, Sydney. To receive a conference brochure and notification of registration contact Christine Brooks.

26th GST Conference, 28 & 29 April 2014, Hilton Brisbane. To receive a conference brochure and notification of registration contact Christine Brooks.
Books published in 2013

Publication: *Franchises as Consumers* by Jenny Buchan (published by Springer).

**Book review by Peter Buberis**

Not so long ago, franchise law was viewed by most commercial lawyers as an interesting sideline but not one on which they would seek to build a substantial practice. This view is now far less widely held as shown by the number of firms that offer advice to participants and who are doubtless aware that the international penetration of franchise systems is extraordinarily high and the worth of the industry in Australia, on an arm’s length basis, exceeds $160b.

Having identified franchising law as a desirable pursuit, we should take a brief pause and consider whether, as practitioners, we really understand the nature of the franchisor/franchisee relationship. At its base level, it is about the commercialisation of intellectual property, particularly trade marks and copyright and does draw in a plethora of considerations ranging from property law to competitive behaviour. It is also an industry replete with rigid documents and a clear bias towards the franchisor. For most of us, this notion of heavily biased, inflexible and rigid control has been a natural and a necessary concession to the franchisor/franchisee relationship. For most of us, this notion of heavily biased documents and rigid control has been a natural and a necessary concession to the franchisor. For most of us, this notion of heavily biased documents and rigid control has been a natural and a necessary concession to the franchisor. For most of us, this notion of heavily biased documents and rigid control has been a natural and a necessary concession to the franchisor.

To structure a franchise system might be constructed at the contractual level and then managed during its continuance.

Having identified franchising law as a desirable pursuit, we should take a brief pause and consider whether, as practitioners, we really understand the nature of the franchisor/franchisee relationship. At its base level, it is about the commercialisation of intellectual property, particularly trade marks and copyright and does draw in a plethora of considerations ranging from property law to competitive behaviour. It is also an industry replete with rigid documents and a clear bias towards the franchisor. For most of us, this notion of heavily biased documents and rigid control has been a natural and a necessary concession to the franchisor. For most of us, this notion of heavily biased documents and rigid control has been a natural and a necessary concession to the franchisor.

To suggest that some of the solutions posited by Dr Buchan will, if implemented, create a level playing field is Pollyannaish. For most of us, this notion of heavily biased documents and rigid control has been a natural and a necessary concession to the franchisor. For most of us, this notion of heavily biased documents and rigid control has been a natural and a necessary concession to the franchisor.

Dr Buchan has quite correctly and thoughtfully gone behind the common perception of the relationship between the franchisor and the franchisee. As is an eminent academic in the field of insolvency as it touches on franchising, it is no surprise that a good deal of her commentary considers the highly relevant issue of the collateral damage done to franchisees in the event of franchisor insolvency. This accident alone is a most timely and useful exposition of the issues involved but further gems lie within its pages. To suggest that some of the solutions posited by Dr Buchan will, if implemented, create a level playing field is Pollyannaish. For most of us, this notion of heavily biased documents and rigid control has been a natural and a necessary concession to the franchisor. For most of us, this notion of heavily biased documents and rigid control has been a natural and a necessary concession to the franchisor.

Dale Boccabella


Shirley Carlson, Alfred Tran and Binh Tran-Nam


**Conference**

The 11th biennial International Conference on Tax Administration to be held at the Sherraton Hotel (Sydney CBD) 14-15 April 2014. The theme for 2014 is Building Trust in Tax Administration: Leadership, Accountability and Integrity and the conference is again being sponsored by CPA Australia.

We are indeed fortunate to have eminent keynote speakers presenting including Pascal Saint-Amans (Director of the Centre for Tax Policy and Administration, OECD) and Professor Erich Kirchler of the University of Vienna who is internationally renowned for his expertise on taxpayer compliance behaviour. Also included in the program are Chris Jordan (ATO Commissioner); Naomi Ferguson (CEO NRARD); Nina Olsson (RS National Taxpayer Advocate); Ali Noroozi Ferguson (CEO NZIRD); Nina Olsson (RS National Taxpayer Advocate); Ali Noroozi (Inspector General of Taxation); Colin Neave (Commonwealth Ombudsman); and Jenni Granger (Director General HMRC). In addition, there are presentations scheduled from leading academics around the globe and also from researchers from within the revenue authorities themselves.

To suggest that some of the solutions posited by Dr Buchan will, if implemented, create a level playing field is Pollyannaish. For most of us, this notion of heavily biased documents and rigid control has been a natural and a necessary concession to the franchisor. For most of us, this notion of heavily biased documents and rigid control has been a natural and a necessary concession to the franchisor.

To suggest that some of the solutions posited by Dr Buchan will, if implemented, create a level playing field is Pollyannaish. For most of us, this notion of heavily biased documents and rigid control has been a natural and a necessary concession to the franchisor. For most of us, this notion of heavily biased documents and rigid control has been a natural and a necessary concession to the franchisor.
Contact details

School Office
School of Taxation & Business Law
ASB Building (E12) Kensington Campus
Australian School of Business
The University of New South Wales
UNSW Sydney NSW 2052
Phone/ +61 (2) 9385 6777
Email/ tbl@unsw.edu.au

Alumni and Community Partnerships Office
NICTA Building (L5) Kensington Campus
Australian School of Business
The University of New South Wales
UNSW Sydney NSW 2052
Email/ asbalumni@business.unsw.edu.au