Tax Matters

ISSUE 2

Sharing Expertise in Asia
Unwinding Negative Gearing
New Masters Program
I am very pleased to welcome you to our second issue of Tax Matters, the Atax magazine. As you will see from the contents of this issue, the year has been another very productive one for Atax. New teaching programs and courses have been developed, research activities have flourished, and Atax has continued to play a prominent role in both domestic and international professional education, training and consultancy in the tax field.

In 2003 we worked with the ICAA to develop a program specifically for chartered accountants, the Master of Applied Tax. Session Two saw the first intake of students from around the country into this new program and future demand looks very positive. In addition a number of new courses have been developed and we’ve also introduced an Intensive Course delivery mode where students can test track their studies by undertaking a five day course in Sydney to complement our face to face degree mode. The icing on the cake in 2003 was the graduation of our 1000th full program student.

In the area of tax research and publishing, Atax has gone electronic and online. Our latest publishing venture, the ejournal of Tax Research, was launched in September with some fanfare. The Atax editors have brought together a most illustrious editorial board of academics and practitioners from around the world for what promises to be a quality publication of original tax research papers.

Through the 2003 Atax Research Fellowship program we’ve been privileged to host Professor Judith Freedman of the University of Oxford and Professor Stewart Karlinsky of San Jose University. Both engaged in fruitful research partnerships with Atax and its clients and providers.

Our work overseas continues to grow. Our story on sharing tax expertise in Asia outlines tax and other research projects we have been engaged in including teaching programs, lectures and consultancy, as the stories on the following pages testify.

Visiting Atax Research Fellow and KPMG tax partner Professor Judith Freedman of the University of Oxford and Professor Stewart Karlinsky of San Jose University. Both engaged in fruitful research partnerships with Atax and its clients and providers.

In 2003 we worked closely with tax officials, the judiciary and tax practitioners in these countries to help build tax capacity and share current thinking on tax theory and practice. And all the time, Atax has maintained its pre-eminent role within Australia as a provider of quality academic and practical conferences and seminars, training and consultancy, as the stories on the following pages testify.

Finally I would like to acknowledge the use of the title of our magazine, which is by agreement with Sandra Rodman of Tax Matters, a Queensland based training company. We thank Sandra, a colleague and friend, for her agreement that we may continue to use the title and for her generosity.

I hope you enjoy this issue of Tax Matters.
policy makers and academics to research on a comparative and international basis and to exchange ideas—one of the activities made possible by the Atax visiting fellowship scheme and by KPMG’s support of academic work.”

Plans for Alumni dinners in other state capitals are underway.

In the meantime, Atax is preparing to survey alumni and channel their input into shaping future events.

“We hope to contact all our alumni over the next few months to find out what activities and services they are most keen for us to provide,” said Atax Director Associate Professor Chris Evans.

“It’s also a great opportunity for us to ‘find’ lost alumni and update contact details. I encourage all our alumni to respond and I hope to meet up with many of them at events over the next year.”

Prize night 2003

A tax acknowledged a major milestone in May, when 27-year-old Fiona Dillon from Melbourne became the taxation school’s 1000th graduate, with a Master of Taxation degree.

As one of 80 students from across Australia graduating at the May ceremony, Fiona’s rite of passage was a sharp contrast to the three inaugural graduates from Atax in 1993.

“Atax has come a very long way in 10 years,” said Atax Director Associate Professor Chris Evans. “We began as a very small unit but with the highest aspirations. Today I can say that we count some of the best tax experts in Australia amongst our faculty and the tertiary tax education we offer is not only unique in Australia but has also set a benchmark for the profession worldwide.”

An equally delighted Fiona, who has a BCom and LLB from the University of Adelaide and has been working in the Australian Taxation Officer’s Tax Counsel Network, was promoted to its Finance and Investment Centre of Expertise at about the same time that she graduated.

“The Master of Taxation program has benefited me enormously,” she declared. “It has been invaluable for the depth and breadth of legal and taxation background it has given me. And it definitely contributed to my promotion, not least in showing that I can apply my newly-acquired knowledge to new and different areas of specialisation.”

1000th graduate

Prize night 2003

Mary Gaudron, who retired from the High Court in February and joined the Faculty as a Visiting Professor, gave an inspiring welcoming address.

Students travelled from Victoria, South Australia, the ACT and from around NSW to attend the prizes evening and meet the donors from the corporate sector, government and professional bodies who generously support the awards.

The top prizes, for best performance in the Bachelor of Taxation Program, awarded by the Commissioner of Taxation, went to graduating student Andrew Moseley, while the Allen & Coe postgraduate prize for best graduating student in the Master of Taxation Program went to Paul Scipio.

Atax would like to acknowledge its generous prize donors Allen & Coe; Australian Tax Practice; the Australian Taxation Association; Bentleys MRI; Blake Dawson Waldron; the Commissioner of Taxation; Australian Taxation Office; CPA Australia (NSW Division); Malleson Stephen Jaques; the NSW Bar Association and the Taxation Institute of Australia.

On the evening, Atax’s Chair of the Board, Professor Judith Freedman, the Hon Mary Gaudron and students at Prize night

Professor Judith Freedman

Professor Stewart Karlinsky

T hrough research collaboration, mentoring junior research staff, and participation in seminars and conferences, Research Fellows contribute significantly to academic life at Atax.

In 2003, the Research Fellowship program was privileged to have as recipients Professor Judith Freedman, Professor of Taxation, University of Oxford, and Professor Stewart Karlinsky, Professor of Taxation and Graduate Tax Director at San Jose State University.

Professor Freedman’s research focus is taxation law, particularly corporate and business taxation, and she has a continuing interest in related areas of company law and the interaction between law and accounting. Her inaugural lecture delivered in Oxford in May 2003 was on Corporate Social Responsibility and Tax Avoidance and she continues to research in this area.

Professor Stewart Karlinsky spent his period as a Research Fellow primarily furthering research on taxation and small business, and he continues to research in this area.

Fostering cross institutional collaboration on tax research is the aim of the Atax Research Fellowship program. Since 2000 when the program began, seven internationally renowned academics have joined Atax on this program.

During their month long visit to Atax in August, the professors played a high profile role in many Atax activities. They presented at the Atax Luncheon Seminar Series (which is open to anyone interested in tax issues) at the Atax campus in Coogee and to seminars in Melbourne. Professor Karlinsky also gave a presentation at an Atax seminar in Adelaide. They also took part in the Atax Alumni Dinner hosted by KPMG, with Professor Freedman giving the after dinner speech.

In addition, Atax organised a Small Business Tax Symposium around their visit, designed to give delegates the benefit of their international experience and identify alternative good tax policies for SMEs.

The Atax Research Fellowship is open to taxation academics and others working in taxation and related disciplines from around the world.

Applications for the Fellowship program close on 30 November each year, with the successful applicants undertaking the Fellowship during the following year.

More information is available at www.atax.unsw.edu.au/researchfellowships.html

“Through the Atax Research Fellowship program, we have been able to build a web of links internationally–links which have opened dialogue and debate on tax issues across the globe.”

–Neil Warren
Atax expertise is increasingly in demand in Asia. In June 2003 Thailand joined the list of Asian countries working with Atax to enhance the international aspects of their tax practice. In a major project funded by AusAID and managed by UNSW International Projects, Atax delivered an inaugural consultancy to the Thai judiciary in Bangkok designed to build Thailand’s international tax judicial capacity and promote understanding of the international and common tax issues between Australia and Thailand.

Chief Justice of the Thai Tax Court, Chantavat Voratat, and Deputy Chief Justice, Chucheep Pindhasiri, joined 90 judges from Thailand’s Supreme Court, the Tax Central Court, and more than 100 tax practitioners for the two-week intensive course. It was delivered by Atax academics Professor Yuri Grbic, Jacqueline McNamara, Gordon Mackenzie and Matthew Wallace, together with Justice Graham Hill of the Federal Court.

The benefits of the course will have long-term ramifications. “The workshops really emphasised the critical importance of international tax as a driver of Thai tax policy and particularly important,” said Matthew Wallace. “This was in large part because Australia has one of the most comprehensive and complex international tax systems and the Thais were keen to learn from the Australian experience,” he said.

Workshops covered international aspects of domestic tax and double tax treaties in the broader context of tax policy and Asian capital flows, judicial case management and the automation of tax systems. The workshops also focussed on tax issues of managing matters in the Court, including preliminary hearings, scheduling of cases and the use of the internet.

Three months after the training course, a group of 20 Thai judges visited Australia on a study tour designed to embrace the International Fiscal Association Congress in Sydney, and to reinforce aspects of judicial case management.

Major Atax projects in Asia

This Thailand consultancy was the latest in a growing number of major projects which Atax has undertaken in Asia in recent years, notably in China, and more recently in Vietnam and East Timor.

Last year, Atax academics completed a four-year collaboration with China’s Institute of Finance and Trade Economics on tax system reform in China and Australia, culminating in proposals for tax synergies between the two countries to enhance their economic ties.

In addition, they started a major one-year project designed to build the functional capacity of China’s Budget Affairs Commission (BAC), which plays a critical role in formulating China’s tax laws and policies, and therefore in China’s fiscal success, and have advised China on how to regulate privately financed infrastructure.

Atax’s contribution to Vietnam centres around Dr Binh Tran-Nam, who helped organise an international conference on Vietnam’s current economic policy issues, presented a paper at the conference, and has co-edited all papers from the conference into a book (see book review ‘The Vietnamese Economy’, page 10). Dr Tran-Nam has also consulted to the Vietnamese government on tax policy issues.

Atax has also been selected to provide tax technical training by the successful tenderer for a major revenue capacity building project in East Timor in 2003-04.
No easy way to unwind

gearing

What governments give, no government shall take away—especially if it is capitalised into the value of property. This is the problem for the housing sector, particularly in relation to negative gearing.

Right now, the housing market is all pumped up. If you believe the hype, the best investment is your own home, while the next best is an investment property—or two. ... with other assets such as shares, it really only works with a capital-appreciating asset and it is here that property... 

The issue of removing taxation concessions on investment property is a political minefield, writes Neil Warren.

...with the bubble bursts, people are left with debt and a deflated asset value—a double whammy.

The Reserve Board dilemma

In 1980, the Australian household savings ratio was 14%; in 1990 10%; and in the past two quarters, households have... 

We now hear calls for the abolition of negative gearing on property to burst this property bubble and get some balance back into household investment decisions and improve housing affordability. Unfortunately, the tax advantages arising from negative gearing have been clearly capitalised into property prices. In 1999-2000, the last year for which official ATO statistics are available for rental income deductions, individuals reported a net rental income of $219 million from a gross rent of $11.5 billion. In 1997-98, the figures were $559 million and $10.8 billion respectively.

Two factors underpinning this trend are the tax incentives on rental losses and the rapid rate of capital growth in the residential property market. In 1980, the average price of a house was $48,000; by 1990 it was $240,000 and now exceeds $650,000. The boon for housing is that the tax benefits are claimed on a capital appreciation prior to its realisation. In the late 1990s, this occurred in the US in relation to the sharemarket and helped keep the US economy roaring along. When the bubble bursts, people are left with debt and a deflated asset value—a double whammy.

Neil Warren is Associate Professor and Associate Director (Research) at Atax.
MAppTax graduates acquire outstanding depth of tax technical knowledge and skills in their areas of specialisation or interest.

Master of Applied Taxation

The Master of Applied Taxation, introduced in July this year, is the first university-based program in Australia dedicated to taxation in a context that covers both business and accounting.

Run jointly by Atax and the Institute of Chartered Accountants in Australia (ICAA), the program is designed specifically for chartered accountants who regularly face tax issues in their professional work and who, as part of their ongoing professional development, need to keep abreast of the increasing complexity and volume of taxation law. In addition, it articulates directly with the CA tertiary study program offered by the ICAA.

According to Professor Deutsch, students rated the course offered to students in Intensive mode. Held at the Coogee campus of Atax in September, the five day course included lectures by a number of guest speakers brought together by course convenor Professor Bob Deutsch. Among them were specialist corporate finance practitioners and academics including Mark Fitzke (Clayton Utz), Kulwant Singh-Pangly (AMP), Gordon Cooper (Cooper & Co) and Maurice Cashmere (Atax).

According to Professor Deutsch, students rated study by Intensive mode a great success. “The guest speakers really added another dimension to the course,” he said. “They presented a variety of perspectives and students felt they gained fresh insights with each speaker. The ability to fast track and complete all the course work in such a short period of time really appealed to the students.”

In 2004 Atax will increase the number of Intensive study options.

“Consultations that the ICAA had with its members and prospective members about the need for such a program generated some very positive responses, so we knew there was considerable demand,” said the Director of Atax, Associate Professor Chris Evans. “The success of our first session has confirmed that we are providing a valuable career development option for CA.”

The Master of Applied Tax is open to graduates of the CA program, and gives advanced standing for 24 units of credit from the CA Graduate Diploma. It requires study in four Atax courses, which may be selected from a choice of 20 electives, and the program can be completed in one year of part-time study.

So far the program has attracted students from throughout Australia, and Atax has already received applications from prospective students in Singapore and the UK for the next session, which begins in March 2004.

Top Masters degree confers depth of knowledge

In addition to gaining a Masters degree from one of Australia’s top universities, Master of Applied Tax graduates acquire outstanding depth of tax technical knowledge and skills in their areas of specialisation or interest while also fulfilling their professional continuing education (PCE) requirements.

“The Master of Applied Taxation is a wonderful synergy between the practical and the academic,” said Chris Evans. “The program both recognises the technical knowledge and experience chartered accountants gain in their ICAA Graduate Diploma and allows them to build on this.

“We believe the Master of Applied Taxation will produce graduates who are creative and flexible thinkers with a depth of knowledge and understanding of tax issues. Combined with strong business skills gained through the CA program, this will ensure they are at the forefront of their profession.”

According to Gillian Cappelletto, General Manager Professional Education, ICAA, there has never been until now an Australian university program dedicated to taxation in this context.

“The course has really filled a gap in the professional education market for our members and we have had a great response to it,” she said.

Like all Atax courses, the program offers a range of study options for candidates throughout Australia or even overseas, including a highly sophisticated distance study mode.

ICAA Professional Year graduates, though not eligible to apply for the Master of Applied Taxation program, may be granted exemption for up to two courses (12 units of credit) in the Master of Taxation degree or Graduate Diploma in Advanced Taxation.

For further information about the Master of Applied Taxation program, contact Atax on 02 9385 9333, email atax@unsw.edu.au or visit our website at www.atax.unsw.edu.au/study.
UK regimes for taxing the capital gains of individuals, Chris Evans contends that the compliance burden faced by taxpayers and the administrative costs incurred by revenue authorities are directly influenced by the design of the capital gains tax (CGT) regimes in both countries. The book presents a series of hypotheses based on a wide-ranging and detailed review of the literature on capital gains and tax operating costs. The key hypothesis underlying the study is that there is a direct link between tax law design and the burden imposed on taxpayers and revenue authorities.

The methodology used in the study combines a technical analysis of the relevant legislative provisions with empirical research on the views and experience of practitioners responsible for the operation of the legislation in each country. Results presented indicate that the operating costs of taxing capital gains in Australia and the UK are directly affected by the design of the legislative provisions. The study cites complexity of legislation, the frequency of legislative change, together with record-keeping and valuation requirements as primary factors causing high operating costs for CGT. Specific legislative changes and other proposals that would address any of these operational cost concerns are identified.

Dr Evans concludes his study by suggesting that a more principled approach to CGT in both countries is needed and that legislative change should only be enacted with a full and clear understanding of the operating cost implications of that change. Taxing Personal Capital Gains: Operating Cost Implications is published by Australian Tax Research Foundation and will be available from December 2003.

Fifteen years and better than ever!

Fifteen years of Indirect Tax, and more recently GST, Weekend Workshops were the focus of local and international tax experts from both Australia and overseas. Papers from the symposium will be published by the Australian Tax Research Foundation (ATRF) and are available via www.atax.unsw.edu.au/po/pastevents.htm

Taxing small business

Key issues for small business were the focus of local and international tax experts at a recent symposium in Sydney. The symposium, hosted by Atax, looked at the development of good tax policies for small and medium-sized enterprises (SMEs).


Presentation included ‘GST advance agreements’ by Mark Taft (EY & Young), ‘Concept of supply’ by Nick Hill (Deloitte Touche Tohmatsu), ‘Division 165’ by Kevin O’Rourke (PricewaterhouseCoopers) and ‘Rights: the Australian approach and its implications’ by Jeremy Geale (Qantas).

Undoubtedly the highlight of the conference was the gala dinner, particularly the after dinner speaker, George Nikolaou, from Coles Myer. George had attended all 15 workshops and entertained guests with his witty recollections of events gone by.

‘Planning is already underway for our “Sweet 16th” GST Conference next year,’ said Jacqui

Fifteen years and better than ever!
Taxation of intangibles and the expectations gap between practitioners and tax administrators in GST/VAT practice in Australia and the UK are topics that will fully engage Associate Professor Michael Walpole as he undertakes research and delivers conference papers in the UK and Europe during the second half of this year.

Sending an update from the University of Oxford where he is on study leave, Associate Professor Michael Walpole says that the taxation of goodwill, which is the focus of his study, is a current topic in the UK.

"Britain has recently fundamentally changed its rules on the taxation of intangibles, including goodwill and intellectual property, essentially moving intangible assets from being treated as capital assets to being treated as income assets – with consequent deduction of losses in value and taxation of gains in value. This is a very interesting model to have adopted and completely solves the problem of ‘black hole’ expenditure on these assets," he says.

"Taxation of intangibles was the focus of a session I shared with Dr Julian Hickey, a London tax barrister, at a recent conference of the Society of Legal Scholars at St CATHERINE’S COLLEGE, OXFORD. My paper, ‘Responses to the Role of Intangibles in the Modern Taxation System’ looked at the way in which intangibles are used in income shifting and transfer pricing, and at some responses to this in the UK and Australia, while Dr Hickey critiqued the UK approach to taxing intellectual property, questioning whether coherence or confusion reigned.”

Mike will also be giving a seminar at Nottingham University on changes in standards of accounting for intangibles which he says will affect Australia as it moves to adoption of International Financial Reporting Standards in 2005. He has also spent time at the International Bureau of Fiscal Documentation (IBFD) in Amsterdam where he is working with Dr Kevin Holmes on a chapter for publication by the IBFD on the taxation of transfers of technology in Australia.

Mike, who is the Associate Director (Teaching) at Atax, returns to Australia in January and will recommence teaching in Session One 2004.

IFA congress 2003
Atax was profiled to an international audience at the 57th International Fiscal Association Congress hosted by Australia in Sydney this year. The Congress saw delegates from 46 countries gather to debate and advance tax related issues on the international level. The Atax Research Fellowship scheme and International tax courses were of particular interest to delegates.

APPEA report
Atax was engaged by the Australian Petroleum Production & Exploration Association (APPEA) to prepare a report on integrity issues raised by an APPEA proposal to the Federal Government on flow through shares for exploration expenditure. Garry Payne, Senior Lecturer at Atax co-ordinated a small team researching and preparing the final report which identified and addressed integrity issues and compliance considerations arising out of the APPEA proposal.

ATO compliance project
Atax has won a tender to develop and deliver a tailored learning program for field workers in the Australian Taxation Office. The program will enable field workers to acquire higher level audit and accounting knowledge and skills in the context of compliance work and tax administration for various business segments. The program will commence in late 2003 and continue into 2004.

Appointments: Associate Professor Chris Evans has been appointed to the Board of Taxation’s Advisory Panel. Chris joins Associate Professor Neil Warren on the Panel, which was formed in 2002. The Panel draws together a group of Australia’s leading taxation professionals who contribute their knowledge and expertise to assist the Board with its work.

Promotions: Michael Walpole was promoted to Associate Professor in early 2003. Professor Leon Trakman, Dean of the Faculty of Law, noted that Michael’s promotion reflected the high esteem that he was held in by his colleagues in the Faculty, where he is Presiding Member. Michael, who is Associate Director (Teaching) at Atax, is on study leave in the UK and Europe where he is progressing work on the taxation of intangibles.

Dr Binh Tran-Nam has been promoted to Associate Professor with effect from 1 January 2004. “This is excellent news and is thoroughly deserved recognition of Binh’s outstanding contribution to Atax and the University,” said Atax Director Associate Professor Chris Evans. In 2004, Dr Tran-Nam will undertake research into taxation on capital income in Australia under a grant by the Taxpayers Research Foundation.

12 November 2003: Applications for s1 2004 full programs close
30 November 2003: Atax Research Fellowships for 2004 close
12 January 2004: Applications for s1 2004 Single course (non-award) close
16 February 2004: Applications for s1 2004 Continuing Education course close (attendance only–no assignment, no exam)
1 March 2004: Session 1 commences

Planning ahead

in short
Accelerate your career with a UNSW postgraduate or undergraduate degree in taxation from Atax in the Faculty of Law

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