Fiscal neutrality
Foreign ghost in our GST machine?

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Question & answer

- Where Policy Meets Reality – tone of regret here?
- my question – foreign ghost in our GST machine?
- who is foreign ghost? Mr Rompelman, of course
- embedded costs, cascading tax, classic statement
- why the question? – Hill J ‘underlying philosophy’
- CIC – context ‘in the widest sense’ up-front
- my answer – categorically, no foreign ghost!
- mundane reasons – orthodox interpretation
- 3 cases – Reliance/Electrical Goods/Rio Tinto
Now the good news

- do we need to agonise over my question?
- GST law has its own domestic neutrality
- no need to look at Mr Rompelman’s travel
- Div 11 engineers this in robust & reliable way
- no need for imported tie-breaker rule – 15AA
- ‘rule of law’ not ‘rule of economics’ system
- Div 11 – no great policy disaster as I see it
Our journey today

- Hill J - *HP Mercantile* & his final communiqué
- 4 AU cases dealing with Mr Rompelman
- our purposivism - scope of context & policy
- EU neutrality – sources, teleology & CJEU
- ‘by other means’, activism, animals & Brexit
- 10 EU cases over 33 years – what emerges?
- EU neutrality – creature of a different system
- *Rio Tinto*, consumption, PBT, tie-breaker idea
Interpretation – us and them

- Cooper Brookes & 15AA – parallel revolution
- 3 decades purposivism – interpretation NOW!
- text/context/policy – what our cases tell us
- EU teleology – ‘the European way’, Denning
- ‘politics by other means’ – quotes set the tone
- VAT Directives, economics, ‘ruthless correction’
- UK subservience – beyond ‘fiscal theme park’
- 10 cases – source, function, factual, problems
Ghost of Mr Rompelman

- defining the ghost, logistix & Amsterdam
- EU neutrality – a concept within its own milieu
- Rio policy lessons, no look-thru, factual enquiry
- EU comparisons – value of the answer ...
- consumption – Directive source, text GST law
- protean idea, our swathe, context, FN analogy
- practical business tax – wanted dead or alive!
- tie-breaker argument – *Alcan*, 15AA, unsound
Ghost policy meets legal reality

- my question > clear answer > mundane reasons
- Robert Olding reached same conclusions, 2012
- Mr Rompelman ghost idea is a romantic one
- product of different system, different values
- Block was correct – ‘not part of Australian law’
- our policy has met our reality – no disaster here
- parliament can change & expand credit access
- this note – Hill J, deeper values, events since