The Tax Group

The Tax Group at Melbourne Law School is a focal point for excellence in tax research and education. Members of the Tax Group carry out a range of tax research projects with a technical and a policy focus and contribute actively to public debate on tax reform. The Tax Group brings together academic faculty and experienced tax professionals including members of leading law and accounting firms and leading members of the Tax Bar, to provide a comprehensive and detailed Tax Masters degree program.

Activities of the Tax Group include:

- academic research into tax law and policy;
- offering a diverse range of more than 20 advanced tax subjects in the Melbourne Law Masters as well as teaching tax law in the Melbourne LLB, JD and B.Comm degrees; and providing additional training programs and seminars to government officials in Australia and overseas;
- organising significant workshops, seminars and lectures on tax policy and law; and
- developing and maintaining relationships with leading tax academics and centres of tax research and teaching, including the Oxford University Centre for Business Taxation; the Institute for Tax Law and Policy Research at Monash University; and leading US institutions including the University of Florida Levin College of Law and the University of Michigan Law School.

Research Projects

Tax group members are currently working on the following significant research projects, many of which are collaborative and interdisciplinary in nature and both build on and contribute to professional work carried out by members of the Group. Key research projects of the Tax Group included projects on employee share ownership; tax reform and international tax rules in a globalized world; and the taxation of housing.

Employee Share Ownership

Associate Professor Ann O’Connell continued work with Professor Ian Ramsay of the Centre for Corporate Law and Securities Regulation and Professor Richard Mitchell (Monash University) on a 3 year ARC-funded research project, ‘Employee share ownership: current practice and regulatory reform’. In 2009, the project focused on the use of employee share plans by listed and unlisted entities and on why employees participate in plans. Ann O’Connell gave evidence to the Senate Economics References Committee on employee share scheme tax reform, gave a number of industry presentations and produced a number of publications as well as a major report on a survey of listed entities.

Tax Policy for Housing

Associate Professor Miranda Stewart prepared a major research report on tax policy for housing in Australia with Professor Gavin Wood (RMIT) and Dr Rachel Ong (Curtin) in a consultancy for the Henry Tax Review. This report fed into further research by her on ‘Housing Tax Expenditures: Rethinking Benchmarks and Policy Goals’, presented at a comparative conference at Osgoode Hall Law School, Toronto, Canada. She also organized an interdisciplinary symposium on this topic with the Australian Tax Research Foundation; the papers will be published by the Australian Tax Research Foundation in a forthcoming edited book.

International Tax and Treaties

Dr Mike Kobetsky spent time visiting at the ANU College of Law during 2009 writing his book on the attribution of profits to branches of international enterprises under the OECD Model Tax Convention. Sunita Jogarajan commenced her doctoral research looking at the history of tax and trade treaties.

Grants

In 2009, members of the Tax Group were successful in obtaining a number of externally funded research grants which will lead to significant research work over the next 3 years.
ARC Discovery Project: 'Defining, Regulating and Taxing the Not-for-Profit Sector in Australia: Law and Policy for the 21st Century'.

Ann O'Connell and Miranda Stewart together with colleague Dr Matthew Harding are undertaking research in relation to the not-for-profit sector. This project will consider the legal definition, regulation and taxation of the sector in Australia, drawing on consultation with the community and experience in comparable countries. This builds especially on previous work that Ann O'Connell has done on taxation of charities.

ARC Linkage Project: 'Indigenous Economic Development; Poverty in the midst of Plenty'

Miranda Stewart was one of a collaborative and interdisciplinary team that won a large Linkage grant with industry partners including Rio Tinto, Santos and Woodside and the federal government department of Family and Community, Housing and Indigenous Affairs. The project will further develop work on native title and Indigenous economic development under the leadership of Professor Marcia Langton. Miranda Stewart will be working in particular on issues of tax and business for Indigenous communities including incentives to stimulate investment; local government finances and fiscal federalism; the link between resource taxation and community development; and budgeting in remote communities.

Melbourne-Oxford Collaborative Research Grant: ‘Sham Transactions, Judicial and Statutory Anti-avoidance Rules and the Doctrine of Abuse of Rights in Australian and UK Tax Law’

Miranda Stewart and Edwin Simpson of Oxford University Faculty of Law received the inaugural collaborative grant to research this topic over the next 2 years.

Selected Significant Publications in 2009

A full list of publications is detailed in the ‘Published Research’ section of this report. Selected publications by Tax Group members in 2009 include:


Stewart, M, ‘Tax’ in I Freckleton SC and H Selby (eds), Appealing to the Future: Justice Kirby and his Legacy (2009) 797-815


Seminars/Workshops/Conferences

The Tax Group held a number of events in 2009 including the Annual Tax Lecture, conferences, seminars and a discussion group. In addition, Associate Professor Ann O’Connell organised, with Justice Tony Pagone, the inaugural Supreme Court Commercial Law conference. The conference was held in Banco Court and the topic was ‘Current Issues in Commercial Law’. Speakers included Allan Myers AO QC, Mark Moshinsky SC, Professor Ian Ramsay and Jon Webster.

Melbourne Law School Annual Tax Lecture

The Annual Tax Lecture series was launched by the Tax Group in 2005 with the purpose of placing the development of the tax law in its historical context, and to inform public debate on current tax issues. In 2009, the Hon. Justice Tony Pagone, of the Supreme Court of Australia, presented a Lecture entitled “Tax Uncertainty”. This Lecture is to be published at (2009) 33(3) Melbourne University Law Review (forthcoming). Previous Lecturers have included the Hon. Justice Michael Kirby of the High Court of Australia, Professor John Tiley of the University of Cambridge, Justice Young of the Federal Court of Australia and Mr Alan Myers QC.
Symposium on Housing and Tax Policy

In February, Associate Professor Miranda Stewart organised, in conjunction with the Australian Tax Research Foundation, a one day symposium on Housing and Taxation. The Symposium included leading international and Australian speakers, including taxation and housing industry practitioners and policy makers from law, economics, policy, and the private sector. Speakers discussed the timely issues of the impact of housing market volatility, the need for tax reform in the current fiscal climate and the effect of reform on house prices, the interaction of federal and state tax systems, and regulatory regimes on housing affordability and sustainable housing models.

IFA Seminars

The Tax Group also hosted four Melbourne branch meetings of the International Fiscal Association in 2009. Presenters were Mr Jock McCormack (Philips Fox), who presented on the topic of permanent establishments as the Australian Reporter to the IFA Congress in Vancouver, 2009; Mr Tony Frost of Greenwoods and Freehills, who spoke on the topic ‘Foreign Exchange Issues in International Taxation’; the Hon. Justice Michelle Gordon of the Federal Court of Australia on the inaugural IFA Tax Jurists Conference which she attended in May 2009; and Professor Brian Arnold of Goodmans LLP, Canada, on the topic ‘Treaty Interpretation’.

Tax Discussion Group

The Tax Group hosts a monthly Discussion Group, chaired by Justice Tony Pagone, a Professorial Fellow of the Law School. The Discussion Group provides a forum for our nearly 30 adjunct and permanent faculty to engage with the Law School and discuss topical tax law developments in a collegial environment.

Knowledge Transfer, Consultancies, Presentations, Visiting Seminars and Teaching

Members of the Tax Group participate in peak professional bodies, as Fellows of the Taxation Institute of Australia and members of the International Fiscal Association, in which they play a role in the development of tax law and policy. Ann O’Connell is Special Counsel to Allens Arthur Robinson; and a member of the Advisory Panel to the Board of Taxation. Miranda Stewart sits on the Law Council Tax Committee (Victoria) and was a consultant to the Henry Tax Review in 2009.

Members of the Tax Group were invited to present seminars to a range of institutions and organisations during 2009. Highlights include:

- **Mike Kobetsky** presented on ‘Advanced Transfer Pricing’ to the State Administration of Taxation officials at the Yangzhou Taxation Institute, Yangzhou, China (September 2009)
- **Mike Kobetsky** presented on ‘Transfer Pricing: Principles and Practice’ and ‘Taxation of Business Profits of Permanent Establishment under Tax Treaties’ at the Asian Development Bank Institute, Regional Tax Forum, Tokyo, Japan (November 2009)
- **Mike Kobetsky** presented on ‘The OECD Transfer Pricing Guidelines and the OECD Model Tax Convention’ to officials at the Chinese Taipei Ministry of Finance, Taipei, Chinese Taipei (December 2009)
- **Ann O’Connell** delivered a 5 day course to the ATO on Taxation of Superannuation in Brisbane (July 2009)
- **Sunita Jogarajan** presented on ‘Tax Administration’ to senior tax officials from the Tianjin and Guangdong Finance Bureaus (September 2009)
- **Sunita Jogarajan** presented on ‘Tax and ASEAN Integration’ at the ‘Tax in ASEAN and China: Regional challenges and integration’ conference held at the University of New South Wales (July 2009)
- **Miranda Stewart** was appointed the Australian Reporter by the International Fiscal Association (Australian Branch) on the subject of Death as a Taxable Event and its International Ramifications. She attended a meeting of all National Branch Reporters at the 2009 IFA Congress in Vancouver, Canada (September 2009)
- **Miranda Stewart** presented on gender and tax policy at an Onati Law and Society Workshop, Spain (May 2009).
Visitors to the Tax Group

The Law School hosted eminent tax scholars from around the world to teach in the Melbourne Law Masters program and carry out collaborative research. Visitors included:

- **Professor Brian Arnold**  
  Goodmans LLP, Canada

- **Professor David Rosenbloom**  
  New York University, United States

- **Professor Joel Slemrod**  
  University of Michigan

- **Professor John Tiley CBE**  
  Professor of Tax and a Fellow of Queens’ College  
  University of Cambridge

- **Professor Alvin Warren**  
  Harvard Law School

Management and Staff

In 2009 the Director of the Tax Group was Associate Professor Miranda Stewart. Ms Tessa Dermody was the Coordinator. Ann O’Connell and Miranda Stewart are currently Co-Directors of the Tax Group.

The Tax Group’s website can be accessed at:  
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