
Introduction: Special Issue: December 2021

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Editors

1.0 SPECIAL ISSUE: COVID-19 AND TAXATION

From time to time the *New Zealand Journal of Taxation Law and Policy* (the *Journal*) dedicates an issue to a particular topic. Past special issues have encompassed Chinese tax law and policy, GST and capital gains taxation. This issue is dedicated to the all-embracing and challenging impact of COVID-19, specifically from a taxation and/or fiscal perspective. COVID-19 may prove to be the most discussed development in human history, which is not surprising given the breadth and length of its impact on us all. We are sure everyone has a story or two to tell, and these are certainly not just limited to health-related issues and the impact of lockdowns!

An emerging perspective in the literature is how taxation systems in various countries are embracing, or will need to adapt and respond, to the fiscal challenges that COVID-19 is leaving in its wake. As at the time of publication of this special issue, COVID-19 has been with us for close to two years, providing a not insignificant period for tax researchers, amongst others, to analyse its extensive impact on societies globally.

As editors, we feel the time is ripe for a first (and potentially not the last) concentrated focus on taxation and COVID-19. When we made the call for papers, we deliberately left the scope wide open. As editors we were very pleased with the initial expressions of interest, along with the submissions that came through. As you will see, the perspectives taken are diverse, embrace several jurisdictions, but perhaps surprisingly, none of the contributions specifically focus solely on New Zealand (fiscally or otherwise). This outcome, we would suggest, reflects the international reach and readership of the *Journal*. It also leaves open an opportunity for research on New Zealand's response to COVID-19 from a fiscal perspective.

2.0 ARTICLES IN THIS ISSUE

In this fourth issue of the *Journal* for 2021 we feature six articles on our theme of *COVID-19 and Taxation*. The articles cover topics ranging from: whether Australia and New Zealand should introduce a Patent Box regime; students' self-efficacy when volunteering in an online tax clinic in Australia; reflections on the 'digital by default' approaches to tax administration principally by Australia; the sin tax consequences of the pandemic in South Africa; economic support for individuals during the first wave of COVID in Australia; and the transformation of the Income Tax Appellate Tribunal in India.

In a first for the *Journal* we have an article focussing directly on tax education; we welcome further articles on tax education, broadly defined, in the future. As noted earlier, the contributions for this special issue have extended beyond Australasia to embrace India and South Africa. While the content of this special issue may appear to be eclectic, all authors draw their motivation from the impact of COVID-19. One might dare to suggest that without COVID-19, this research is unlikely to have been undertaken (at least with the focus taken in each of the six articles). That said, a number of the developments commented on by the authors were occurring, or likely to have occurred, regardless of the pandemic.

In the first of the six articles, John McLaren observes that the Coronavirus pandemic has exposed weaknesses in Australia and New Zealand (NZ) in the lack of manufacturing in specialised medical and pharmaceutical products, and the decline in investment in research and development (R&D) in both countries. The R&D tax offsets are a major component of innovation, but it is very much the 'front end' of the process. McLaren proposes that a 'Patent Box' taxation system would not only promote greater investment in innovative technology but would represent the 'back end' of the process where the new patented technology would be commercialised. This commercialisation of technology could be targeted at manufacturing that would help to combat pandemics in the future by encouraging specialised manufacturing.

In support for the introduction of a Patent Box regime, McLaren briefly discusses the Patent Box system that has been operating in the United Kingdom for many years. The author also briefly examines the current R&D regimes in both Australia and New Zealand. The recent approach by the OECD/G20 in their BEPS project, Action 5, provides a 'green light' for Patent Box regimes to be implemented if they adopt the OECD/G20 recommendations. McLaren concludes with an analysis of the benefits and objections to Patent Box systems and

then provides recommendations as to why both countries should seriously consider the establishment of a Patent Box regime.

Brett Freudenberg and Melissa Belle Isle, in the second article, comment that with the advent of COVID-19 restrictions, a student tax clinic had to transform itself from delivering face-to-face pro-bono tax assistance to a fully online environment. This transformation to online had technical and legal issues to navigate, such as how to provide for adequate supervision by a registered tax agent of students' assistance. While students appreciated the ability to continue their experience working at the tax clinic online, what did it mean in terms of their self-efficacy (confidence)? Particularly, with the online environment would students still have sufficient opportunities to develop their self-efficacy through mastering, modelling, social persuasion, and judgements of their own physiological states? Freudenberg and Belle Isle describe how the tax clinic was able to operate fully online and provide data concerning the development of students' self-efficacy. To provide a comparison, data from prior cohorts who had participated in face-to-face clinics was also considered.

In the third article, John Bevacqua observes that tax authorities are increasingly adopting 'digital by default' or 'end-to-end' digitalised approaches to interacting with taxpayers. This is part of a broader international trend of embracing 'e-government' – which is generally accepted as having potential to foster greater governmental and public sector transparency, accountability and efficiency. As such, the implementation of 'digital by default' tax administration aspirations have not encountered significant resistance to date. However, the COVID-19 pandemic raises some interesting nuances which may not have been previously contemplated or appreciated in the drive and approach to digitalising tax administration. Bevacqua identifies and discusses these nuances, drawing upon the recent Australian experience in rolling out economic and financial support measures for those affected by the COVID-19 pandemic. The author's analysis suggests that existing tax authority commitments and approaches to 'digital by default' interaction with taxpayers may need re-examining and adjusting to optimise them for a post-COVID-19 world.

Teresa Pidduck and Sumarie Swanepol, in the fourth article, describe how the South African government has responded to the COVID-19 crisis through fiscal measures, with a particular focus on the alcohol and tobacco prohibitions. Two severe and fairly unique measures implemented by the government were the prohibition of tobacco and the prohibition of alcohol (and related products). Pidduck and Swanepol review the tobacco and alcohol prohibitions, the responses by commentators and the short- and long-term effects of these prohibitions on the fiscus and the economy, citing a particular need for a renewed focus on the excise duties on these two products.

In the fifth article, Helen Hodgson comments that the Australian response to the COVID pandemic was on two fronts: the public health response was to keep the virus out of Australia, using border closures and social distancing measures as the first line of defence; and the economic response was through fiscal measures to support businesses and individuals who were affected by the disruption of these measures. The measures to support individuals who lost income because of the economic disruption included income support; rent moratoria; and access to superannuation. Further fiscal stimulus measures were introduced in subsequent budgets.

Hodgson comments that these policies provided essential support during the pandemic in 2020. The economy recovered faster than expected following that first wave, resulting in some unintended outcomes in the labour market, the housing market and superannuation. These are likely to widen income and wealth gaps in Australia. The author observes that these economic supports had been withdrawn by the time of the outbreak of the Delta variant on the east coast of Australia in mid-2021. The replacement programs provide less support than their predecessors, and the economy is showing the effects, particularly on income insecure residents. As the economy stabilises, Hodgson argues that the Australian Government must adopt policies that protect the vulnerable, rather than reverting to austerity settings.

In the final article, Sashi Athota observes that SARS-CoV-2 (or COVID-19) disrupted all spheres of life in 2020. The author looks at how the Income Tax Appellate Tribunal (ITAT), the second level of appeal for taxpayers in India, dealt with the SARS-CoV-2 pandemic. The ITAT was a first of its kind tax tribunal when it was established 80 years ago. With a reputation for delivering justice efficiently, the ITAT disposes of around 50,000 appeals every year (pre-SARS-CoV-2 numbers). Athota describes how SARS-CoV-2 transformed the ITAT by catalysing its adoption of digital technologies and virtual adjudication, setting the stage for the ITAT's end-to-end digitisation. Virtual adjudication and subsequent resumption of physical adjudication later in 2020 helped the ITAT return to its pre-SARS-CoV-2 appeal disposal numbers within a year of the pandemic. Lastly, the author discusses potential advantages of the anticipated digitisation of the ITAT in the Indian context.

3.0 THE NEXT ISSUE

The next issue of the *Journal* in March 2022 will revert to our usual format, along with our regular editorial. We welcome your continued support and submissions.