2001

Bibliography of Tax Articles in High Prestige Non-Specialized Law Journals: A Comparison of Australia, Britain, Canada and the United States 1954-2001

Beverly I. Moran

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Bibliography of Tax Articles in High Prestige Non-Specialized Law Journals: A Comparison of Australia, Britain, Canada and the United States 1954-2001

BEVERLY MORAN*

I. INTRODUCTION

As much or more than other legal subspecialties, tax laws touch on all business, and most personal, transactions. As a result of this broad application, tax lawyers often work closely with other attorneys, accountants and business professionals. The same is not true for how we write about tax laws, however. In general, articles or stories about tax law are contained in specialized journals and read exclusively by tax professionals. Further, because tax laws tend to be jurisdiction specific, even tax specialists rarely read about tax statutes and controversies in other countries.

This bibliography grows from work on the Oxford Handbook on the Common Law. The handbook is meant to help academics understand the nature of scholarly inquiry in a broad range of legal subspecialties. To that end, I focused on the academic articles that broke out of the specialized journals and reached out to a broader audience.

This bibliography is a result of that work. It charts the tax articles that reached mainstream legal scholars in the last fifty years. The bibliography does this by focusing on the high prestige academic publications that attract attention across legal subspecialties. Just as certain recording artists “cross over” from one genre to another and are therefore exposed to a larger audience, articles in these publications have more chance of being read by legal academics from a variety of disciplines than their brethren published in specialized journals. Accordingly, these articles represent what non tax legal academics know as tax scholarship.

This bibliography collects the last fifty years of “cross over” tax scholarship in the United States, the United Kingdom, Australia and Canada. Thus, it reveals what non tax specialists might read in tax law across national boundaries. As a result, the bibliography is a useful first step for anyone wishing to do comparative, as well as national, research.

* Professor of Law, Vanderbilt University Law School. A.B. Vassar, J.D. University of Pennsylvania, LL.M. New York University. The author thanks Madeline McGuckin, J.D., LL.M. (taxation) and Professor Daniel Schneider, Northern Illinois University College of Law for their help in preparing this bibliography.

The bibliography surveys all tax articles (but not Notes) from 1950 to date in the following publications, all of which are high prestige law journals for their nations:


The bibliography begins in Part A with a chart showing the volume of tax scholarship by country. Here we see that population size and volume of scholarship are not related. For example, Canada and Australia both out produce the United Kingdom in tax scholarship at least in the "cross over" journals.

In Part B the most written on topics are identified by country.

In Part C forty tax topics are identified and compared by country. Parts D, E, F and G list every article by country and subject matter starting with Australia in Part D, then Britain in Part E, followed by Canada in Part F and finishing with the United States in Part G.

By dividing the information in this way, I hope to give easy access to people who are writing in the tax area to a broad range of literature across the common law world.

**A. Volume of Scholarship by Country**

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**B. Major Areas of Concentration by Country**

**United States:**
- Corporate Tax 52
- Consumption Tax 26
- Wealth Transfer Tax 23
Australia: Evasion and Avoidance 12
International 10
Items of Income 9

United Kingdom: International 10
Evasion and Avoidance 5
European Union 5
Items of Income 5

Canada: Comparative 10
Corporate Tax 10
Items of Income 6
Social Policy 6

C. Comparison by Topics and Country

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D. Australian Law Journal Tax Articles: 1954 to Present by Topic

Administration

1. *Is the Production of Copies of Income Tax Returns Governed by the Common Law Rule of Public Policy?*
   J.M. McKee
   32 AUSTRALIAN L.J. 178 (1958)

2. *Is the Production of Copies of Income Tax Returns Governed by the Common Law Rule of Public Policy? Part II*
   J.M. McKee
   32 AUSTRALIAN L.J. 212 (1958)

3. *New Foundations of the Australian Tax System*
   Y. Grbich & R. Woellner
   10 UNSW L.J. 325 (1987)
4. What Do We Expect From Judges in Tax Cases?
   D.G. Hill

5. Taxpayers and Class Actions
   V. Morabito
   20 UNSW L.J. 372 (1997)

   V. Morabito & S. Barkoczy
   21 SYDNEY L. REV. 36 (1999)

Capital Gains Tax

1. Aspects of Section 26(a) of the Income Tax Assessment Act
   J.M. Walter & A.J. Myers
   8 MELB. U. L. REV. 276 (1971)

2. Hepples v. Federal Commissioner of Taxation
   N. Brash

3. If At First You Don't Succeed . . . Reconceptualising the Income Concept in the Tax Arena
   J. Waincymer

   S. Butterworth
   68 AUSTRALIAN L.J. 414 (1994)

5. The Capital Gains Tax Consequences of Litigation
   R. Krever
   71 AUSTRALIAN L.J. 699 (1997)

   K. Chalmers & J. Evans
   70 AUSTRALIAN L.J. 617 (1996)
7. *Curing Affluenza: A Critique of Recent Changes to the Taxation of Capital Gains in Australia*
   C. Evans

**Comparative**

1. *Expenditure in Protecting or Preserving Capital Assets*
   R.E. O'Neill
   29 AUSTRALIAN L.J. 561 (1956)

2. *Taxing Capital Gains – Thoughts from the UK*
   M. Gammie

3. *E-Commerce Tax Policy in Australia, Canada and the United States*
   J. Li
   23 UNSW L.J. 313 (2000)

**Consumption Tax v. Income Tax**

1. *Income Taxation: An Institution in Decay*
   R.W. Parsons
   12 MONASH U. L. REV. 77 (1986)

2. *Income Taxation: An Institution in Decay*
   R.W. Parsons

**Corporate Tax**

1. *Income Tax and Companies Formed by Medical Practitioners*
   J.R. Gibson
   32 AUSTRALIAN L.J. 144 (1958)

**Deductions**

1. *Capital or Current: The Tax Treatment of Expenditures to Preserve a Taxpayer’s Title or Interest in Assets*
   R. Krever
   12 MONASH U.L. REV. 49 (1986)
   Y. Grbich
   17 *MELB. U. L. Rev.* 347 (1990)

   G.S. Cooper
   13 *SYDNEY L. Rev.* 605 (1991)

4. *Deductibility of Interest: The Commissioner Speaks*
   J. Jaques
   72 *AUSTRALIAN L.J.* 97 (1998)

5. *Deductibility of Interest: The High Court Speaks*
   J. Jaques
   73 *AUSTRALIAN L.J.* 479 (1999)

**Depreciation**

1. *Income Tax – Law Libraries and Depreciation*
   A. Leslie
   29 *AUSTRALIAN L.J.* 637 (1956)

**Economics**

1. *Is Economics any Use to Tax Lawyers? Towards a More Substantial Jurisprudence to Replace Legalism*
   Y. Grbich

2. *The Common Law, Tax Law and Mathematical Culture*
   G. Lehmann

**Evasion and Avoidance**

1. *Arrangements to Avoid Income Tax: A Consideration of the Effect of Newton’s Case*
   N.E. Challoner
   32 *AUSTRALIAN L.J.* 109 (1958)
2. *Avoidance of Taxation: Section 260 of the Income Tax Assessment Act*
   D.F. Dalton
   9 *MELB. U. L. REV.* 95 (1973)

3. *Section 260 Re-Examined: Posing Critical Questions About Tax Avoidance*
   Y. Grbich
   1 *UNSW L.J.* 211 (1976)

4. *A Re-interpretation of Section 51(1) of the Income Tax Assessment Act and the Deductibility of Inflated Expenses*
   J. Sing-Pasricha
   7 *MONASH U. L. REV.* 77 (1980)

5. *The Implementation of Tax Avoidance Schemes and the Second Limb of Section 26(a)*
   M.M. Leibler
   54 *AUSTRALIAN L.J.* 634 (1980)

6. *Anti-Avoidance Discretions: The Continuing Battle to Control Tax Avoidance*
   Y. Grbich
   4 *UNSW L.J.* 17 (1981)

7. *The Dilution of Crime*
   T. Nyman
   55 *AUSTRALIAN L.J.* 506 (1981)

8. *Tax Avoidance and the Responsibility of the Professional Legal Advisor*
   N.H.M. Forsyth
   55 *AUSTRALIAN L.J.* 582 (1981)

9. *Conspiracy to Defraud the Revenue*
   R.V. Gyles

10. *Abuse of the Corporate Form: Reflections from the Bottom of the Harbour*
    A. Freiberg
    10 *UNSW L.J.* 67 (1987)
   R. Krever
   10 UNSW L.J. 215 (1987)

    M.J. Watts
    72 Australian L.J. 303 (1998)

Excise Taxes

1. Hermatite Petroleum Party Ltd. v. Victoria: Breakthroughs in the Interpretation of Section 90 of the Constitution?
   G. Lowe

Financial Instruments

   T. Edgar

Goods and Services Tax

1. Conveyancing and Property
   P. Butt
   74 Australian L.J. 77 (2000)

2. Conveyancing and Property
   P. Butt
   74 Australian L.J. 211 (2000)

3. A Few Myths about the GST
   G.S. Cooper & R.J. Vann

Incentives

1. Tax Incentives: Should Australia Follow Asia’s Lead
   D. Bentley
   70 Australian L.J. 191 (1996)
International

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