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Tax simplification: A review of initiatives in Australia, New Zealand and the United Kingdom

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Abstract

This paper examines the role of tax simplification in the operation of a tax system as a whole and then uses that framework to analyse initiatives in Australia, NZ and the UK. We begin with the subject of simplification itself and what it can mean, and follow this with a discussion concerning how to simplify tax systems. The paper then focusses on three key steps with simplifying tax systems, namely: simplifying tax law, simplifying taxpayer communications and simplifying tax administration.

The paper then examines several long term approaches to simplification, such as the Office for Tax Simplification in the UK and the TWG in NZ. The paper observes the contrasting approach of Australia, such as pre-filing tax returns, which has not simplified its tax system. Prior to the concluding observations

The complexity of our code in the main is not there because of some mischief. Most of it is there in the effort to do more perfect justice.

Senator Russell Long, Former Chairman, US Senate Finance Committee²

[We] will first settle the broad outline of the kind of tax system it would like to see established eventually and work back from that to the changes in the present system that would have to be made before that long-term aim could be realised
(Asprey Review)³

[T]he Review has taken a systemic approach in redesigning the tax and transfer system ... that is, the Review has evaluated specific taxes and transfers from the perspective that each is a part of a single national tax and transfer system. Recommendations on the implementation of reforms as they affect the system's administration, the client interface and the assignment of revenue within the federation also reflect this perspective.
(The Henry Review)⁴

1. INTRODUCTION

Simplicity is an important attribute for a tax system and there have been many attempts made to simplify tax systems in different countries. However these attempts have not been very successful. The main reason is that there are, of course, important factors that cause tax systems to be complex. Taxes are primarily used to raise revenue but are also a valuable instrument for achieving government policies through influencing taxpayer behaviour.

The aims of particular taxes have to be achieved in a complex and changing socio-economic environment where issues such as fairness also have to be given appropriate consideration and many attempts at simplification have not given sufficient consideration to the relative importance of all the key aspects involved. Indeed there is evidence that taxpayers in general may prefer fairness to simplicity and this necessarily then involves a balancing between competing tax policy principles as both are ideally desirable in a good tax system. An important example is the United Kingdom (UK) community charge or 'poll tax', which was about as simple as a major tax could be, but taxpayers considered it to be unacceptably unfair and it generated such powerful negative responses it had to be repealed.

A further difficulty has been that attempts

as well as provide a benchmark for other jurisdictions that may contemplate similar tax reform.

In 2005 the Australian Taxation Office (ATO) was awarded a Plain English Campaign Golden Bull award⁵ for **Section 165-55** *A New Tax System (Goods and Services Tax) Act 1999*:

For the purpose of making a declaration under this Subdivision, the Commissioner may:

- a) treat a particular event that actually happened as not having happened; and

The submission of this document has failed due to departmental specific business logic in the Body tag. Your submission contains an unrecognised namespace.

However, the simplification issue is not just one of language. As tax systems generally have become more complex, calls for tax simplification have become a frequent phenomenon. Most such calls seem to assume that simplification is easily achievable

6. *Co-ordination.* A rule would be simple if it fitted appropriately with other tax rules; it would be complicated if its relationships with other rules were obscure.

7. *Expression.* A rule would be simple if it were clearly expressed.

Cooper also suggested that simplification could be seen as being at different levels. The first level is the choice of the tax base, whatever that may be. The second is the design of the rules to be applied to the tax base. The third is in the expression of those rules and the final level of complexity is the administrative requirements imposed on taxpayers.

This, of course, demonstrates the importance of ensuring that simplification at one level does not cause difficulties at other levels or elsewhere at the same level. One of the present authors can recall a vivid example which illustrated the difficulties of attempting to improve one aspect of the tax system in terms of simplicity and comprehensibility without considering other aspects. This example came to light at a presentation to relevant tax officials at a UK university by an academic graphic design specialist who had offered to help the Revenue and redesigned an Inland Revenue

complicated one. However, the comment shown at the beginning of the paper by Senator Russell Long captures one of the basic features of the whole subject: “The complexity of our code in the main is not there because of some mischief. Most of it is there in the effort to do more perfect justice”. Complexity often exists in tax systems for good reasons.

There is much agreement about the main criteria that could be used to assess a particular tax or proposed tax reform: the effects on efficiency, incentives, fairness, compliance costs, administrative costs and so on.¹⁶ Simplicity is one factor, of course, but by no means always the most important one. Other important considerations include the socioeconomic environment in which a tax system has to function, the multiple policy objectives that might be supported by the tax system, the requirement

to sign the Multilateral Convention on Mutual Administrative Assistance in Tax Matters. Such initiatives have much to be said for them but they may well add significantly more complexity to tax systems.

3.2 Multiple and changing policy objectives

While one of the main functions of a tax system is, of course, to raise revenue for government expenditure and redistribution, the tax system is also one of the most powerful tools for achieving a range of government economic and social policies.

led to serious civil disobedience²³ and it was a factor in the events leading to the resignation of Margaret Thatcher as Prime Minister.²⁴ Its replacement, the Council Tax, was designed to take far more account of personal circumstances and has survived successfully.

A celebrated example of the results of the complexity that can arise from trying to design a fair tax system involves VAT in the UK. To increase the political acceptability of VAT, the zero rate band is applied to a range of items such as many types of food.²⁵ This involves complex arrangements to establish whether some foods are taxable or not and one famous case involved small cakes with chocolate coverings. Customs and Excise had treated such items as chocolate covered biscuits and therefore considered them to be taxable at the standard rate of tax whereas cakes should be subject to the zero rate. As one implication of the case later came before the House of Lords in 2005 on its way to the European Court of Justice, Lord Hoffman said:

The supply of food is in general zero-rated for VAT ... But there are exceptions. One exception is confectionery ... But there is an exception to that exception: cakes or biscuits are in general also zero-rated. There is however an exception to that exception to the exception, namely biscuits wholly or partly covered with chocolate. They are standard-rated.²⁶

More generally, when it comes to matters of fairness in taxation complexity often wins over simplicity. For instance, in Australia for the tax year 2013/14 there is a tax free threshold of \$18,200 for income tax then tax rates of 19% (over \$18,200), 32.5% (over \$37,000), 37% (over \$80,000) and 45% (over \$180,000). The tax system would be much simpler if there were a zero tax free threshold and a flat rate of tax on all income. There could then be a flat rate deduction at source for wages, interest, dividends etc. and many individuals would not have to lodge a tax return. Although such a system may be a very simple one, it is unlikely to be acceptable to Australian taxpayers. What is acceptable can vary over time and between countries. For example Australia could adopt the simpler UK arrangement of generally not allowing employees' tax deductions for work related expenses but, despite some discussion, has not chosen to do so.²⁷ In contrast, NZ has focused on having a tax system with the hallmarks of efficiency and relative simplicity, and less so on fairness (as measured by way of highly progressive rates of taxation).

3.4 Tax avoidance

It is not always easy to use the tax system to achieve policy aims including fairness

At least some of this, however, is clearly necessary. As Sir Ernest Gowers, a former Chairman of the UK Board of Inland Revenue, wrote in his *Complete Plain Words*,³⁴ though with respect to a different example of legal language:

[The] sentence is constructed with that mathematical arrangement of words which lawyers adopt to make their meaning unambiguous. Worked out as one would work out an equation, the sentence serves its purpose; as literature it is balderdash.

There is often an attempt to cater for every eventuality which can only lead to greater complexity. One possibility might be greater use of purposive law rather than ‘black letter’ law. Avery Jones, for example, has argued³⁵ for less detailed legislation in line with principles and “not a continuation of the plague of tax rule madness”. The advantages of such an approach though may be outweighed by a loss of certainty and a resulting increase in compliance and administrative costs.

Although there are, of course, reasons why tax law may be complex, there is often scope for simplifying it. Like many other people Lord Howe has pointed out that plain language law – which is clear and user-friendly—is obtainable and the key components are:

[A] clearer structure of what it is intended to achieve; much shorter sentences, clearer and better signposted definitions; modern design and layout and headings that help the user.³⁶

In the 1990s improving the language seemed to be the way forward and various Tax Law Improvement Projects (TLIP) were established. The first of these was the Tax Law Improvement Project (TLIP) in 1990. The second was the Tax Law Improvement Project (TLIP) in 1991. The third was the Tax Law Improvement Project (TLIP) in 1992. The fourth was the Tax Law Improvement Project (TLIP) in 1993. The fifth was the Tax Law Improvement Project (TLIP) in 1994. The sixth was the Tax Law Improvement Project (TLIP) in 1995. The seventh was the Tax Law Improvement Project (TLIP) in 1996. The eighth was the Tax Law Improvement Project (TLIP) in 1997. The ninth was the Tax Law Improvement Project (TLIP) in 1998. The tenth was the Tax Law Improvement Project (TLIP) in 1999. The eleventh was the Tax Law Improvement Project (TLIP) in 2000. The twelfth was the Tax Law Improvement Project (TLIP) in 2001. The thirteenth was the Tax Law Improvement Project (TLIP) in 2002. The fourteenth was the Tax Law Improvement Project (TLIP) in 2003. The fifteenth was the Tax Law Improvement Project (TLIP) in 2004. The sixteenth was the Tax Law Improvement Project (TLIP) in 2005. The seventeenth was the Tax Law Improvement Project (TLIP) in 2006. The eighteenth was the Tax Law Improvement Project (TLIP) in 2007. The nineteenth was the Tax Law Improvement Project (TLIP) in 2008. The twentieth was the Tax Law Improvement Project (TLIP) in 2009. The twenty-first was the Tax Law Improvement Project (TLIP) in 2010. The twenty-second was the Tax Law Improvement Project (TLIP) in 2011. The twenty-third was the Tax Law Improvement Project (TLIP) in 2012. The twenty-fourth was the Tax Law Improvement Project (TLIP) in 2013. The twenty-fifth was the Tax Law Improvement Project (TLIP) in 2014. The twenty-sixth was the Tax Law Improvement Project (TLIP) in 2015. The twenty-seventh was the Tax Law Improvement Project (TLIP) in 2016. The twenty-eighth was the Tax Law Improvement Project (TLIP) in 2017. The twenty-ninth was the Tax Law Improvement Project (TLIP) in 2018. The thirtieth was the Tax Law Improvement Project (TLIP) in 2019. The thirty-first was the Tax Law Improvement Project (TLIP) in 2020. The thirty-second was the Tax Law Improvement Project (TLIP) in 2021. The thirty-third was the Tax Law Improvement Project (TLIP) in 2022. The thirty-fourth was the Tax Law Improvement Project (TLIP) in 2023. The thirty-fifth was the Tax Law Improvement Project (TLIP) in 2024. The thirty-sixth was the Tax Law Improvement Project (TLIP) in 2025. The thirty-seventh was the Tax Law Improvement Project (TLIP) in 2026. The thirty-eighth was the Tax Law Improvement Project (TLIP) in 2027. The thirty-ninth was the Tax Law Improvement Project (TLIP) in 2028. The fortieth was the Tax Law Improvement Project (TLIP) in 2029. The forty-first was the Tax Law Improvement Project (TLIP) in 2030.

that improvements have been made though such attempts have not always been well received. For example, in Australia Lehmann referred to some of the rewritten law as “kindergarten babble”. He cited “Your assessable income includes income according to ordinary concepts, which is called ordinary income”. Warming to his theme, Lehmann suggested that “the rewrite of the core provisions has not resulted in simple legislation, but a loquacious, patronising and confused babble of educationese. Reading it is like trying to wade through styrofoam mixed with treacle”.⁴⁰

There are two main reservations about simplifying tax law in this way. The first is that rewriting the law may inadvertently change its meaning in places when over many years Courts have gone to considerable trouble to establishing precise meanings. The second is that taxpayers themselves do not normally read primary tax legislation and therefore there is no need to direct it at them. It seems at the time the tax law rewrite initiatives were seen as the solution to the problem of excessive complexity but, certainly on their own, they are not.

An initial part of the Australian rewrite duly appeared as the *Income Tax Assessment Act 1997*. In reviewing the position, Krever⁴¹ pointed out that a superficial look at that Act seemed to support the view that the complexity of the system was the fault of the drafters of earlier legislation. However he went on to say that taxpayers and their advisers soon discovered that, although the new legislation was easier to read and comprehend than what had gone before, the complexity was still there. In fact the process had exposed the true cause of the previous law’s complexity – that is its “wholly irrational and inconsistent policy base”.⁴² Furthermore, TLIP seemed to have distracted attention from the normal process of revising tax legislation outside the project where problems continued and might even have increased. In the UK the Tax Law Review Committee’s final report⁴³ listed three types of complexity – linguistic, policy and compliance – and acknowledged that a comprehensive tax reform would have to address all three areas (paragraph 6.10). The Committee also stated that “without policy changes the benefits from rewriting legislation are limited” (paragraph 12).

There is no doubt that improvements can be made in simplifying tax law. A valuable Australian contribution has been the Taylor Report⁴⁴ on reducing tax law complexity and it makes a number of recommendations for improvement. However, as with the tax system, the complexity of simplifying tax law suggests there should be a more comprehensive approach of the sort described in section 8.

Plumley (eds), *Recent Research on Tax Administration and Compliance: Selected Papers Given at the 2010 IRS Research Conference*, IRS, 2011, Washington DC, 221-253.

⁴⁰ Geoffrey Lehmann, ‘The reform that does not reform and the simplification that does not simplify–The Tax Law Improvement Project Fiasco’, *Butterworth’s Weekly Tax Bulletin*, 1995, 33, 530-533.

⁴¹ Richard Krever, ‘Taming Complexity in Australian Income Tax’, *Sydney Law Review*, 2003, 25, 467-505.

⁴² *Ibid.*, at p. 493.

⁴³ Tax Law Review Committee, *Final Report on Tax Legislation*, 1996, London, Institute for Fiscal Studies.

⁴⁴ C. John Taylor, *Beyond 4100: A report on measures to combat rising compliance costs through reducing tax law complexity*, (2006), Sydney, Taxation Institute of Australia.

that all series of recommendations must be revenue neutral. Importantly all national-level taxes were within the scope of the review, unlike the Henry Review in Australia where GST was “off limits”. As Little et al observe:⁵³

The TWG proved to be a considerable success. It was a good forum for debate of the pros and cons of various tax changes. The TWG provided an open discussion process, with papers from the meetings and a record of debates being published on the Internet. This helped to inform the wider public on key tax policy issues.

It would be fair to say that the TWG would not have been as successful if the GTPP were not in place.⁵⁴ It also involved academics in the consultation and policymaking process, something that the GTPP has struggled with previously.⁵⁵ A word of caution, however, is that the TWG was largely a ‘right of centre’ leaning group, with a right of centre government in place at the time. Should there have been a ‘mismatch’ of political tax philosophy, then the TWG’s success (and possibly recommendations⁵⁶) would have differed. Like the GTPP, the TWG was an example of a successful

tax system complexity index it is necessary to review both the tax complexity literature and the basic theory of index numbers”.⁶⁴

The OTS came within the public spotlight with the Public Accounts Committee’s (PAC’s) investigation into tax avoidance and the role of large accountancy firms in 2013.⁶⁵ This report suggested that the OTS has made little in the way of substantial contribution to the simplification of the UK tax system. The Rt. Hon Michael Jack, Chair of the OTS, was quick to respond to ‘correct’ some of the statements made.⁶⁶ The Chair of PAC, Rt. Hon Margaret Hodge, responded that the PAC supports the OTS’s work, and accepts that the OTS ‘punches above its weight’ given the resources at its disposal.⁶⁷ Hodge went on to urge the UK Government to increase the support and resources of OTS. Of particular interest also was the comment that HM Treasury and HMRC should “... work together to make more radical progress in addressing the inadequacies of existing tax law.” A formal response from the UK Government to the PAC’s concerns over the OTS’s resourcing has not been made to the writers’ knowledge.

Going forward, an unresolved matter is the outcome of discussion over the type of evaluation that should be undertaken on the OTS to assist the UK Government in deciding what to do about the OTS post-2015, as well as potentially assisting the OTS in the shorter term with how it carries out its reviews.⁶⁸

Comparing the TWG and OTS, it should not come as a surprise that the TWG has been more effective in bringing about change to the tax structure, including aspects of simplification although this was not a major focus of its review of the tax system. The OTS, on the other hand, has an almost total focus on aspects of simplification, although it has approached its work by seeking to address minor issues and ‘avoid’ the major policy issues that contribute to complexity. Thus, even with its uncertain future, it would come as a surprise if the OTS were to deliver effective simplification of the UK tax system. Indeed it would be fair to suggest that enhanced equity is considered to be more important as a goal than greater simplicity, whereas in New Zealand, simplification is considered as important as equity, although efficiency appears to have been the most important criterion for recent tax reform in NZ.

Australia, while not taking up the opportunity to simplify its tax system in a manner similar to NZ and the UK, has sought to make tax compliance simpler through various initiatives. One such initiative is the pre-filling of tax returns. Evans and Tran-Nam

yet led to significant operating cost savings. If the recommendations of the Henry Review⁷⁰ were to be fully accepted and implemented, the authors see the opportunity for positive change. However, to date most of the Henry Review's recommendations have not been implemented, including those that would enhance the future value of pre-filing of returns.

8. A

To achieve structural and long-term benefits, what may be required is the establishment of a permanent body to oversee on a long term basis the development of

environment in an international context⁸⁰ and the implications for the successful operation of the tax system.

There is clearly scope for a more detailed analysis of the possible role and powers of such a body. Some existing bodies might have the potential to play at least part of this role. The Australian Tax Research Foundation (ATRF), for example, exists to undertake independent and impartial research into the reform of taxation and the Taxation Institute (TI) could also play a useful role.

An independent Tax Studies Institute was proposed at the National Tax Forum held in Australia in 2011. The National Tax Forum recommended:⁸¹

The Commonwealth Government should respond positively to Recommendation 134 of the AFTS Review (2009) by committing funds to the development of an independent multidisciplinary and multi-institutional tax research centre, The Australian Centre for Tax Research. Commonwealth funding should comprise \$2.5 million each year for 10 years; such funding to be accompanied by State and Territory Governments and the private sector both contributing \$0.25 million per annum over 10 years.

To date this recommendation has yet to be accepted by the Australian Government and implemented.

What seems very clear is that the present situation, in which complexity continues to grow until there is an *ad hoc* response, is not the optimal arrangement. In addition to anticipating necessary change, such an independent authority could also assess other proposals systematically for suitability for implementation. It has been suggested that

10. CONCLUSIONS

Tax simplification is a very desirable aim but previous attempts at achieving it have not been very successful. One of the main reasons is that there are important reasons why tax systems are complex and those wishing to simplify the tax system have to take them into account if overall improvements are to be gained. The best tax system is unlikely to be the simplest. Therefore there must be a process to weigh up the trade-offs between simplicity and the other aims, objectives and realities of a tax system and the environment in which it has to operate. The failure to do this seems to have been the main underlying reason why previous initiatives have not had the success their supporters had hoped to achieve. For permanent improvements in tax simplification, and other aspects of the tax system, there should be a long term and comprehensive approach to taxes and tax reform. Possibly an independent authority, as outlined section 9, could be established to address complexity in the tax system.

Research opportunities in the area of tax simplification abound. Jurisdictions other than the three reviewed in this paper will have stories and experiences that contribute to our broader understanding of the intricacies of tax simplification. The desirable level of simplification within a given jurisdiction's tax system is unlikely to be optimal for another jurisdiction.

Furthermore, the views of the various actors, including taxpayers, tax agents, revenue authorities and policymakers are unlikely to be in agreement as to the optimal level of simplification. Nevertheless, there are expected to be features common across jurisdictions that enhance or hinder simplification, and further research that shares insights may lead towards a more collective understanding of the importance of simplification. We encourage further research into this and other aspects of tax simplification.