

# Introduction to the 10<sup>th</sup> anniversary issue of the *eJournal of Tax Research*

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## **Abstract**

This introduction intends to serve a two-fold purpose. First, it discusses the development of the *eJournal* in the past ten years. This includes the background, historical development, the editorial teams, summary statistics of past issues, and the ranking of the *eJournal*. Second, it provides a critical overview of the articles in this special issue.

## **1. BACKGROUND AND HISTORICAL DEVELOPMENT**

The birth of the *eJournal of Tax Research* (*eJournal*) ten years ago was intended to overcome three apparent problems in the publication of tax research at the time. First, because the nature of taxation is multidisciplinary, tax research has been published in a wide variety of often unrelated academic outlets, including law, accounting and economic journals. There were, and still are, few journals that specialise in publishing all aspects of taxation, including tax accounting, tax law, tax administration and tax policy. Second, many tax issues have tended to be national in terms of nature, analysis and application. Thus, it has often not been easy for tax researchers to reach a wide international audience. Third, most tax journals at that time were hard copy journals. This had necessitated delays in publication and access by readers. While these problems persist to the present day, their severity has lessened over time.

To overcome the above problems, the objectives of the *eJournal* were unambiguous from the outset. Its main purpose has been, and continues to be, to publish peer-reviewed, original, scholarly works on all aspects of taxation and from both theoretical and practical perspectives. In this sense, it serves as a channel for academics, researchers, practitioners, administrators, judges and policy makers to interact and enhance their understanding and knowledge of taxation. Its coverage is international and its emphasis is to promote timely dissemination of research and public discussion of tax-related issues. To fulfil these objectives, it was decided at the beginning that the journal would take an electronic form rather than the conventional paper-based format.

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The electronic format would not allow both timely publication of topical issues and easy access for readers around the world.

With hindsight, it is not difficult to see why Atax was the first academic unit to launch such a journal. First, Atax has been one of the few academic units in the world specialising in tax education and research. It was certainly the first university department in Australia to produce tax graduates at all levels (bachelor, master and doctoral). Second, members of its academic staff include experts in tax law, tax accounting and tax economics. Their research covers a wide area ranging from tax technical to tax policy. Third, as Atax's main mode of delivery has been distance education. As a result, Atax was well equipped with the right personnel and technology to successfully launch an electronic journal.

The *eJournal* had a relatively very short period of gestation. It was conceived in the early of first semester of 2003 and born in the middle of the second semester of the same year. The idea of such a journal was first canvassed by the then Director of Atax, Chris Evans, with the enthusiastic support of the then Associate Director, Neil Warren, in March 2003. They saw the *eJournal* as an integral part of or, more accurately, a necessary step for the development and maturity of Atax as a tax academic institution. Rodney Fisher, a tax lawyer, and Binh Tran-Nam, a tax economist, both academics within the Atax program, were then appointed as founding coeditors of the *eJournal*. They were charged with the challenging responsibility to make the *eJournal* a reality in less than six months.

Rodney and Binh, with the assistance from Neil, worked steadily to get the *eJournal* off the ground. There were many tasks that needed to be completed in a short time frame. These included preparing a formal proposal for an electronic journal, obtaining an ISSN, establishing an editorial board, designing the journal style and template, developing the reviewer's report and assignment of copyright forms, approaching potential authors for the inaugural issue, creating a website, etc. Some early formal requirements were completed within less than two months of the appointment of the coeditors. An ISSN was obtained from the National Library of Australia in April 2003. The inaugural Editorial Board of leading international tax scholars was established by end of May 2003.

In the second half of 2003, academic papers were being received from international researchers writing on diverse tax topics, including taxpayer attitude toward the US federal tax system, tax harmonization and competition in the EU, politics of gender in the Australian tax-transfer system, and a review of international studies of tax operating costs. These papers were formatted and edited by Darren Massey, Atax's research assistant and founding *eJournal* production editor. In August 2003, the inaugural *eJournal* website was uploaded thanks the work of Glen Jeffrey, Atax's educational designer and electronic learning officer. The first issue of the *eJournal* was officially launched at a reception held in Atax's Coogee seaside campus on 10 September 2003. The launch ceremony was chaired by the late Justice Graham Hill, who was then Justice of the Federal Court of Australia, a strong supporter of Atax, the Patron of the

Australasian Tax Teachers Association (ATTA) and one of the most respected tax experts in the Australia.<sup>3</sup>

The *eJournal* is normally published twice a year although special or thematic issues are also occasionally published. Once a new edition has been uploaded, the production editor will send an alert email to people who have subscribed to the mailing list <ejtr@unsw.edu.au>. Subscription to this mailing list can be done by sending relevant contact details to that email address. The journal is available completely free of charge in order to maximise access by interested readers. Published papers can be downloaded and printed for reference. While the *eJournal* is typically available online only, there was an occasion when a hard copy of the journal was printed: Issue 2 of Volume 4 (2006) of the *eJournal* was devoted to the late John Raneri (an academic at Atax) to honour his contribution to Australian tax law.<sup>4</sup> A hard copy of this issue was printed and offered as a present to John's widow in a tribute gathering.

## 2. THE EDITORIAL TEAM

The creation and operation of a journal is truly a joint product of dedicated teams and individuals, including the coeditors, production editors, guest editors, members of the editorial board, authors, reviewers, and supporting IT staff. Over the past ten years, there have been continuing changes to the membership of the editorial teams of the *eJournal*. The full list of coeditors, guest editors and production editors is given in Table 1.

**Table 1: eJournal coeditors, guest editors and production editors since 2003**

	Name	Year	Note
<b>Co-editors</b>	Rodney Fisher Binh Tran-Nam	2003–2004	Rodney resigned from Atax to take up an appointment with Ernst & Young
	Binh Tran-Nam Michael Walpole	2004–2010	Michael resigned from his position to become a coeditor of the <i>Australian Tax Review</i>
	Nolan Sharkey Binh Tran-Nam	2010–2013	Nolan resigned from Atax to take up a chair at UWA
	John Taylor Binh Tran-Nam	2013 onwards	

<sup>3</sup> See, for example, Justice Michael Kirby, 'Justice Graham Hill and Australian Tax Law', Inaugural Justice Graham Hill Memorial Lecture, *Taxation Institute of Australia Annual Conference* (Hobart, 2007), <http://www.grahamhillward.com.au/web/speech.pdf>.

<sup>4</sup> See Michael Walpole and Binh Tran-Nam, 'Preface – Editors' Notes' (2006) 4(2) *eJournal of Tax Research* 97.

<b>Guest coeditors</b>	Reuven Avi-Yonah	2006, Vol 5, No 2	Proceedings from the International Network for Tax Research (INTR)'s inaugural <i>Tax and Development Conference</i> held at University of Michigan in 2006
	Michael Walpole	2011, Vol 9, No 2	Partly proceedings from Atax's <i>GST Conference</i> held in Gold Coast in 2011
	Kathrin Bain	2011, Vol 9, No 3	Proceedings from the <i>Double Taxation Treaty Conference</i> held at Chinese University of Hong Kong in 2010
	Neil Warren	2012, Vol 10, No 1	Proceedings from the <i>State Funding Forum</i> held in Canberra
	Margaret McKerchar Michael Walpole	2012, Vol 10, No 2	Proceedings from the <i>International Tax Admin Conference</i> held in Sydney in 2012
<b>Production editors</b>	Darren Massey	2003–2004	Darren resigned from Atax to take up an appointment at the Reserve Bank of Australia
	Zaid Crouch	2005–2006	Zaid left Atax to become a social worker
	Cindy Chan	2007–2009	Cindy resigned from Atax to become a law writer for CCH
	Kathrin Bain	2009–2012	Kathrin was appointed a full time academic with Atax
	Edmond Wong	2012–2013	Edmond resigned from Atax to work for a law firm
	Ashley Cheng	2013 onwards	

Sources: Past issues of the *eJournal*.

The *eJournal* has been served by an outstanding Editorial Board consisting of leading tax scholars and researchers around the globe. Sadly the intervening years have seen the untimely passing of two members of the inaugural board. At the same time, it has been necessary to expand the membership of the board to order to gain wider national and international coverage. The changes in the membership of the board are summarised in Table 2.

**Table 2: Membership of the editorial board of the eJournal since 2003**

Name	Year	Note
Robin Boadway, Queen's University	2003	
Cynthia Coleman, University of Sydney		
Graeme Cooper, University of Sydney		
Professor Robert Deutsch, UNSW		
Chris Evans, UNSW		
Judith Freedman, Oxford University		
Malcolm Gammie, Chambers of Lord Grabiner QC, London		
Justice Graham Hill, Federal Court of Australia		Passed away in 2005 <sup>5</sup>
Jeyapalan Kasipillai, Universiti Utara Malaysia		Now Monash University
Rick Krever, Deakin University		Now Monash University
Charles McLure Jr., Stanford University		
John Prebble, Victoria University of Wellington		
Joel Slemrod, University of Michigan		
John Tiley, Cambridge University		Passed away in 2013 <sup>6</sup>
Jeffrey Waincymer, Monash University		
Neil Warren, UNSW		
Robin Woellner, University of Western Sydney		Now UNSW
John Hasseldine, University of New Hampshire	2013	
Dale Pinto, Curtin University		
Adrian Sawyer, University of Canterbury		

Sources: Past issues of the *eJournal*.

<sup>5</sup> Justice Hill's untimely passing in 2005 was mourned by the community of tax experts, academics and researchers alike. See Binh Tran-Nam and Michael Walpole, 'Editorial Announcement' (2005) 3(2) *eJournal of Tax Research* 146, and Patrick Gallagher, 'Obituary – The Honorable Justice D. Graham Hill', (2005) 3(2) *eJournal of Tax Research* 147.

<sup>6</sup> J Professor Tiley's sudden passing was acknowledged in Binh Tran-Nam and Nolan Sharkey, 'Editorial Announcement' (2013) 11(2) *eJournal of Tax Research* 134. A special issue of the *eJournal* honouring his many contributions to tax law will be forthcoming in 2014.

Finally, it is worthwhile to note that the technological aspects of the *eJournal* have been well supported by Atax's IT specialist staff including Glen Geoffrey (2003 to 2004), Chris Katselas (2004 to 2010) and Margaret Connor (2011 to date).

### 3. SUMMARY STATISTICS OF PAST ISSUES

The *eJournal* has published 11 volumes and 25 issues from 2003 to 2013 (including this special issue). The publication data from the *eJournal* is now sufficiently substantial to enable a comprehensive statistical analysis. However, within the limited scope of this brief review, it is adequate to provide a simple, descriptive analysis of the data. The basic statistics are summarised in Table 3. Note that the present issue (this special issue) is included in Table 3. Note also that any classification of papers into tax policy, administration, law or other necessarily involves a certain degree of subjectivity. For example, an article on double tax agreements could be equally classified as a tax policy, tax administration or tax law paper. The other category involves mainly research methodology of tax education.

Among the 25 issues there were six (or 24 per cent) that are thematic, mainly proceedings from conferences around the world, as already indicated in Table 1. The mix of papers appears to be normal, reflecting the expected interests of tax researchers. Tax policy is most popular, followed by tax administration and then tax technical. Of the total 136 articles published, there were 68 (or 50 per cent) tax policy papers, 36 (or 26 per cent) tax administration papers and 24 (or 18 per cent) tax law papers. Finally, the average length of a paper is just over 24 pages, which represent the normal size of an ordinary tax research article.

**Table 3: Summary of basic publication data**

Year	No of issues	No of tax policy papers	No of tax admin papers	No of tax law papers	No of other tax papers	No of pages*
2003, Vol 1	2	5	1	2	0	155
2004, Vol 2	2	6	4	1	2	262
2005, Vol 3	2	5	3	2	0	329
2006, Vol 4	2	2	1	5	0	191
2007, Vol 5	2	7	2	1	0	260
2008, Vol 6	2	3	2	2	2	190
2009, Vol 7	3	4	2	2	0	197
2010, Vol 8	3	5	2	2	0	249
2011, Vol 9	2	8	3	5	0	354
2012, Vol 10	2	13	12	0	1	652
2013, Vol 11	3	10	4	2	3	446
All	25	68	36	24	8	3,285

Sources: Past issues of the *eJournal*.

\* Excluding editorial announcements, etc.

#### 4. RANKING OF THE *EJOURNAL*

Any discussion of the development of *eJournal* would not be complete if it did not consider the *eJournal*'s ranking. Journal ranking is a relatively new process in Australia and this has been controversial to say the least. When the *eJournal* was first launched in 2003, there was no 'official' journal ranking. For a number of practical reasons, universities and the government relied on counting the number of refereed journal articles (called C1 publications) as a main measure of research productivity. In fact, the Commonwealth Department of Education, Science and Training (DEST) used to

employ C1 publications without ranking as one criterion for allocating research funding to Australian universities.

The current trend toward explicit and official rankings of journals has its genesis in the Coalition federal government's Research Quality Framework (RQF) framework, which was modeled on Research Assessment Exercise (RAE) of the United Kingdom (UK). An implicit element of the RQF is the ranking of journals as an indicator of research quality. Soon after its federal election victory in 2007, the Australian Labor Party (ALP) government launched its Excellence in Research for Australia (ERA) initiative in February 2008. As a response to the ERA, the Australian Business Deans Council (ABDC) released several lists of journal ranking in April 2008. This was followed by the Australian Research Council (ARC)'s release in June 2008 of a draft journal-ranking list involving more than 19,000 journals. Subsequent to the launch of the ERA 2008 list, the Council of Australian Law Deans (CALD) published its own list of law journal ranking in January 2009.

In February 2010, the ARC released its revised ERA journal list in which academic journals of all disciplines are ranked into four tiers in descending quality: A\*, A, B and C. Both the ERA 2008 and 2010 were controversial, especially from the perspective of tax academics.<sup>7</sup> Due to pressure from many sources, Senator Kim Carr, the then ALP Minister for Innovation, Industry, Science and Research abolished the ERA prescriptive ranking of journals in his ministerial statement on 30 May 2011.<sup>8</sup> The next full round of ERA is scheduled to occur in 2015 and, since the return of the Coalition to federal government in late 2013, there have been signs that a new ERA list of ranked journals may be on its way.<sup>9</sup> Note also that the CALD list is no longer available while the ABDC list has been revised on a regular basis.

How has the *eJournal* fared in the various lists of journal ranking? It has been suggested that taxation journals tend to suffer in any journal ranking exercise because of its multidisciplinary and country-specific nature. As a result, one of the most fundamental problems in tax journal ranking is that of disciplinary classification.<sup>10</sup> Some tax journals are classified as interdisciplinary, others as a sub-discipline of law, accounting, economics or finance. Thus, tax journals may be ranked at a level lower than their quality deserves. In addition, the *eJournal* would further suffer as it is very new and an electronic journal.

As expected, the initial rankings produced a mixed, but mainly poor, outcome for the *eJournal*.<sup>11</sup> Using an arbitrary (and unstated) ranking methodology, the ERA 2008 list classified the *eJournal* in the Accounting, Auditing and Accountability group and gave it a C ranking. In the 2008 ABDC journal quality list where no methodology was explicitly discussed, the *eJournal* also scored a C ranking within the Accounting and Finance discipline. Using the same bands as the ARC and a more well defined ranking methodology, the CALD classified the *eJournal* in the taxation field and gave it an A

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<sup>7</sup> See, for example, Kalmen Datt, Alfred Tran and Binh Tran-Nam, 'Ranking of Tax Journals – The Way Forward' (2009) 24(3) *Australia Tax Forum* 341, and Binh Tran-Nam and Alfred Tran, 'Ranking of Tax Journals – A Peer Perception Study' (2011) 26(2) *Australia Tax Forum* 213.

<sup>8</sup> ARC, 'Excellence in Research for Australia 2012', *Media Release 30 May 2011*, [http://www.arc.gov.au/media/releases/media\\_30may11.htm](http://www.arc.gov.au/media/releases/media_30may11.htm)

<sup>9</sup> ARC, 'ERA 2015', *Excellence in Research for Australia*, [http://www.arc.gov.au/era/era\\_2015/era\\_2015.htm](http://www.arc.gov.au/era/era_2015/era_2015.htm)

<sup>10</sup> See note 7, Datt, Tran and Tran-Nam at 343.

<sup>11</sup> See note 7, Datt, Tran and Tran-Nam at 357.



ranking. The variation of the *eJournal's* ranking in terms of its disciplinary classification provided some empirical support to the previously mentioned argument that classification matters.

A coeditors at time of the ranking, Michael Walpole and Binh Tran-Nam set out to improve the ranking of the *eJournal* in the ERA list as this national ranking is clearly the most important and influential of all. They collected evidence regarding the quality of the journal, sought the support of members of the Editorial Board (who signed a letter to the ARC requesting a higher ranking for the *eJournal*) and submitted a formal request for revision of the journal ranking. Their efforts produced a very positive outcome. In the revised ERA 2010 list, the ranking of the *eJournal* was upgraded to B. Following this promotion, the *eJournal* also received a higher (B) ranking in the ABDC 2010 list. Most recently, in the latest revision of their journal quality list, the ABDC (2013) further promoted the *eJournal* to an A ranking.<sup>12</sup>

The continuing improvement in the ranking of the *eJournal* is a testimonial to the quality and impact of its authors and their papers. This also indicates the standing and maturity of the *eJournal* as an outlet for rigorous and relevant research on all aspects of taxation. In this context, it seems appropriate to acknowledge the indispensable role of referees who have over the past ten years been contributing to the growth of the *eJournal*.

## 5. SUMMARY OF THE ARTICLES IN THIS ISSUE

To commemorate the 10<sup>th</sup> anniversary of the *eJournal*, coeditors Nolan Sharkey and Binh Tran-Nam individually approached seven leading tax scholars in the world for contribution to this very special issue. The contributors are (in order of appearance in this issue): Joel Slemrod (University of Michigan), Richard Bird (University of Toronto), Gareth Myles (University of Exeter), Richard Cullen (University of Hong Kong), Sheila Killian (University in Limerick), John Prebble (Victoria University of Wellington), and Chris Evans (Atax, UNSW). Three of them chose to offer their own work (Slemrod, Cullen and Killian) while the remaining four offered joint work with other coauthors. The scope of the contributors is international, covering all developed English speaking economies including: Australia, Canada, Hong Kong, Ireland, New Zealand, the UK and the US. Their approaches are truly interdisciplinary, including economic, legal and just pure tax. Despite their wide scope and different approaches, there is a certain degree of integration in these papers.

The lead paper, by Joel Slemrod, a public finance theorist, touches on the design of optimal tax systems from a microeconomic perspective. The central concept of his paper is notches, which refers to features of tax policy that create discontinuous jumps in the sense that incremental changes in behavior result in discrete changes in net tax liability. Consider, for example, a 2% deficit levy that only applies to individuals whose taxable annual income is \$200 000. Thus, an incremental increase of \$1 in taxable income from \$199 999 to \$200 000 will cause tax liability to increase from \$0 to \$4 000, corresponding to a marginal tax rate of 4 000! There are many different ways to classify tax notches. The most important distinction is between quantity notches (as in the above example) and characteristic notches (that arise from line drawings).

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<sup>12</sup> ABDC, *ABDC Journal Quality List 2013*, <http://www.abdc.edu.au/pages/abdc-journal-quality-list-2013.html>

Examples of characteristic notches include corporate liability (debt vs. equity) or business legal form (sole trader vs. company). Characteristic nodes include physical border notches (a sales tax may be imposed on a state/province but not on a neighbouring state/province) and time notches (capital gains tax may be imposed on assets acquired on or after a certain date but not before that date).

The paper then focuses on the mechanics of, and limitations to, estimating price elasticity using notches. These issues are somewhat too technical to be fully reported here. The author then goes on to consider the welfare costs/gains of notches. When the income tax system is perfectly flexible, notches cannot form part of an optimal tax system (where marginal tax rates should be non-negative and less than 100%). However, notches cannot be ruled out as part of an optimal tax system when the flexibility of an income tax is constrained. Another justification for using notches in tax policy design is that they may be more effective in influencing behavior. In conclusion, the author suggests that the ubiquity of tax policy notches calls for further studies into their effects on behaviour and their role in optimal tax system. Slemrod's work is a technical one, relying on some formal mathematics, including graphs. The readability of his most interesting paper would be enhanced by including more examples and verbal interpretations.

The second paper is jointly coauthored by Richard Bird, an economist, and Scott Wilkie, a lawyer. It provides a most comprehensive review of tax policy design, especially in the context of an open economy. The scope of the paper is international although many specific examples are drawn from the Canadian tax system. The paper is written in a fairly non-technical manner and aimed at a wide audience. It will be undoubtedly a useful reference for researchers who are interested in studying tax policy design. The paper consists of two main parts and each of them is briefly reviewed below.

Since section 1 of the paper expounds the traditional approach to tax policy design, only key or thought provoking points are mentioned here. In discussing revenue sufficiency, the authors draw attention to tax elasticity, which implies that to reduce revenue volatility a country should rely on a balanced set of tax instruments. To minimise the costs of taxation, in addition to broad bases and low rates, careful attention should be given to taxes on production due to their location effects. While the authors support the ability to pay approach to fairness, they also argue that the theoretical foundation for a progressive rate structure is shaky. Surprisingly they do not explicitly consider reductions in income or wealth inequality as a justification for progressive taxation.

In section 2 of the paper the authors stress the point that no country is able to design and implement its tax system in isolation. It is remarked that globalisation has tightened the constraints on tax policy associated with excessive complexity, tax avoidance and tax arbitrage. Extending the criteria of efficiency, equity and administrability discussed in section 1, the capital export and import neutrality principles are explained and recommended. The internationalisation of tax policy and administration means that good tax policy must balance a country's own social, political and economic goals and the reality of a certain degree of unavoidable mutual dependence. In conclusion, the authors suggest that the next generation of tax policy changes will need to take into account the limitations on domestic fiscal autonomy resulting from a shrinking economic world.

The third paper, by Nigar Hashimzade and Gareth Myles, both public finance economists, is concerned with the development of tax policy in the European Union (EU) in the context of its Constitution. This is, in a way, a natural follow up to the second paper on tax policy design in an open economy. The Constitution proposed by the EU in 2004 reaffirmed the EU's commitments to economic efficiency, freedom of movement of labour and capital without discrimination. In particular, the proposed Constitution also contained the principles of subsidiarity (some independent policy choices by member states) and coordination (to counteract privately rational but not socially optimal policy choices). Tax is argued to be an area of EU policy in which the tension between these principles is most severe.

An analysis of empirical evidence reveals that tax competition between member states has led to a reduction in statutory corporation tax rates and changes in the tax base. While tax harmonisation was eventually abandoned because its perceived threat to subsidiarity, it has nevertheless led to a narrower gap between the highest and lowest standard VAT rates. An analysis of the articles in the 2004 Constitution suggests that, in principle, the Constitution is economically adequate in the sense that it would have granted the EU the powers required to control tax policy and to achieve economic efficiency. However, whether efficiency can be achieved in practice depends on how the potential conflicts between subsidiarity and coordination are resolved. Again, as suggested in Bird and Wilkie's paper, the actual outcome would have emerged as a compromise for political negotiations rather than pure economic principles.

Cullen, a tax lawyer, sets out to examine Hong Kong's tax policy development in the fourth paper of this special issue. His paper provides, initially, a comprehensive review of the origins of revenue policy making in British Hong Kong. The evolution of the revenue regime during this period can be summarily described as a practical approach based heavily on land-related revenues. The current revenue regime in Hong Kong Special Administrative Region (SAR), which can be characterised by a narrow tax base, low tax rates, and simple, stable laws, has generated sufficient revenue to allow Hong Kong to build solid infrastructure, to provide good government services, to remain debt free and to accumulate huge fiscal reserves. Cullen makes an interesting observation that it is equally accurate to simultaneously describe the current Hong Kong revenue regime as a tax policy museum and a centre of revenue policy innovation.

Cullen then argues that there are several important lessons to be drawn from the Hong Kong revenue policy experience. The first, and most important, positive lesson is the use of land as a fundamental public revenue source. The second key lesson (related to the first) from Hong Kong is its minimalist, clear and easy to comply with revenue regime associated with a narrow base and low tax rates. However, there are also bad intertwined lessons to be learnt from the Hong Kong experience. First, there is revenue inflexibility in the sense that institutionalised forward revenue/tax policy planning is notably lacking. Second, there are the high on-cost effects of the land-based tax system, leading to high cost of doing business in Hong Kong. Third, there are a high percentage of Hong Kong residents living below the poverty line and a high degree of income inequality. In view of the traditional approach to tax policy discussed in Bird and Wilkie, Cullen's paper confirms that national tax policy can be a product of history and culture rather than textbook principles. His emphasis on land-related revenues is highly relevant in the world where capital and even labour are highly mobile. Despite the success of Hong Kong's revenue regime so far, the narrow tax base and lack of formal

tax policy planning by the Hong Kong authority give rise to concerns in view of Hong Kong's ageing population problem.

Tax policy planning concerns raised Cullen's paper leads naturally to the next paper on tax policy coherence by Killian, a tax law academic from Ireland. Policy coherence has been a difficult and challenging task for tax policy makers in many countries in view of the multitude of tax policy objectives and the complex relationship between tax policy and other government policies. It is also a relatively under-researched aspect of tax policy making. In the fifth paper of this commemorative issue, Killian seeks to explore tax policy coherence, or rather lack of coherence, in the case of Ireland from both national and international perspectives. She first offers a brief review of Ireland's recent tax history, describing its single-minded focus on attracting foreign direct investment (FDI) and recent adverse international publicity surrounding the low headline company tax rate and complex tax-motivated structures put in place by large multinational companies. Against this background, Killian highlights two examples of policy incoherence in a corporate tax context.

Her first example is one of external incoherence relating to a conflict between the Irish policies on tax treaties/competition and overseas development aid (which is regarded as an important part of Ireland's national psyche). By taking advantage of the absence of withholding taxes in the Ireland–Zambia double tax treaty, Irish companies can be used to reduce tax revenue collectible in Zambia not only by avoiding the payment of withholding taxes, but also by reducing taxable profit in their Zambian subsidiaries. More generally, aggressive tax competition by developed economies, including Ireland, puts pressure on developing countries to lower their own headline rates of company tax, with detrimental effects on their tax revenue collection. Killian correctly notes that this kind of policy conflict is by no means peculiar to Ireland. Further, it goes well beyond the traditional scope of tax policy makers for resolving this kind of external policy incoherence.

Her second example is more domestically focused and can be regarded as one of internal incoherence. She explains how Section 84 of Ireland's *1976 Corporation Tax Act*, which was intended to make it easier for Ireland to tax profits by preventing tax avoidance, has in fact inhibited Ireland's ability to tax the profits of lending banks, thus resulting in a reduction in overall tax collection. It is argued that this kind of internal incoherence is created by taxpayers and their advisors, and enabled to grow by the tax policymaker's inaction. As a conclusion, Killian remarks that Ireland's successful record in attracting FDI over the past 30 years may have led to a form of tax policy capture which prevents innovation in corporate tax policies.

The paper by Killian remarks on conduit companies, and this topic is further explored in the sixth paper by Sarah Jain, John Prebble (both of whom are tax law academics) and Kristina Bunting, a law clerk. In this paper the authors examine conduit companies and beneficial ownership and seek to demonstrate that the test of substantive business activity in claims for relief under double taxation treaties is inherently illogical. The paper begins by reviewing the rationale for double taxation treaties (avoiding taxing cross border transactions twice), conduit companies and beneficial ownership. A conduit company established in a country that is party to such a treaty can in principle take advantage of the benefits conferred by the treaty even though the company is in effect operating on behalf of residents in another country(ies). The Organisation for

Economic and Co-operation and Development (OECD) Model of Convention attempts to frustrate this strategy by anti-avoidance rules known as the ‘beneficial ownership’ test. The OECD Model of Convention follows the traditional and formal legal approach that views companies as not only the legal but also the beneficial owners of their income.

Since the courts are unable to apply the beneficial ownership test literally, they tend to adopt surrogate tests such as ‘substantive business activity’ or ‘dominion’ test. The origin of the substantive business activity test, also known as the ‘economic activity test’, has its origin in the legal determination of whether domestic straw companies and foreign base companies are separable taxable entities. The application of this test has been extended by the OECD, the German legislature and the courts since the late 1980s. The authors argue that, as matter of linguistic logic, company law, and economic analysis, beneficial ownership is incapable of fulfilling its anti-avoidance role. Further, because ownership and activity are not necessarily related in a causal way, the substantive business activity test can never be considered as a coherent surrogate for the beneficial ownership test. As a medium-term solution to this problem, it is recommended that all formal, technical tests be abandoned, and that beneficial ownership provisions be interpreted as anti-avoidance rules.

The final paper in this special issue is an analysis of the underutilisation of wealth as a tax base. It is written by a tax practitioner, Natalia Chatalova, and a tax academic, Chris Evans. The paper starts by suggesting that wealth is the least utilised of the three accepted tax bases: income, expenditure and capital/wealth. (While this is intuitively true, the extent of underutilisation of wealth taxes will be more apparent if empirical evidence on distribution of tax burden by tax base is provided.) The next section of the paper discusses different forms of wealth tax (taxes on the holding or stock of wealth, on the transfer of wealth and on wealth appreciation), tax design issues (tax base, unit and rates), policy rationale, and administrative obstacles against wealth taxes. In particular, it is argued that wealth taxes satisfy both efficiency and equity criteria for good tax policy although the evidence cited is somewhat qualitative rather than quantitative. Two major administrative problems, namely, disclosure and valuation, that prevent the spread of wealth taxes, are also further explored.

The next section of the paper examines global practices in wealth taxation by both developed and developing countries. Very few countries apply wealth taxes and, in terms of specific form, wealth transfer taxes are currently more common than net wealth taxes. In the OECD countries, two key related trends have emerged. First, both net wealth and wealth transfer taxes have been narrowed to ease the administrative burden. Second, again designed to reduce the operating costs of wealth taxes, the manner of operation of such taxes has been simplified. For developing and transition economies, little evidence is available and it is argued that such countries have opted for a VAT rather than wealth taxes. One interesting tax policy tool in wealth taxation by developing country is a corporate net wealth tax, imposed by a number of South American countries. In conclusion, the authors observe two broad trends in developed economies, namely, continuing simplification of wealth tax law and administration, and identification and implementation of more efficient wealth taxes. Their analysis is convincing but it would be more complete by including capital gains tax (which is stated by the authors to lie outside the scope of their paper).