

AUSTRALIAN TAX REVIEW

Volume 38, Number 2

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EDITORIAL

Tax reviews in Australia: A short primer	69
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ARTICLES

Sustaining good practice tax administration – Michael D’Ascenzo

Managing risk is central to tax administration and, in a weakening global economy, assumptions about tax administration will be tested. Using key features described in a recent Organisation for Economic Co-operation and Development paper in a series on tax administration, Commissioner D’Ascenzo focuses on the comparative arrangements in Australia, including work directed at measuring and defining the effectiveness of the Australian Taxation Office, and the imperative in the current environment – to be more careful in balancing the need to be fair, efficient and effective. 76

Company directors: Federal taxation liabilities and obligations when nearing insolvency – Part II – Matthew Broderick

Part I of this article was published in the previous edition of this Journal and addressed liability under the director penalty notice provisions of the *Income Tax Assessment Act 1936* (Cth). Part II reviews the liability of directors for insolvent trading for unsatisfied taxation obligations to indemnify the Commissioner of Taxation in a winding up where an unfair preference constituting certain taxation payments is repaid to a liquidator by the Commissioner, and for being knowingly involved in or concerned in taxation offences for the non-payment of company tax, such as income tax or GST. As a company nears insolvency, the personal liability of a director for corporate taxation obligations escalates significantly. 86

Blackhole expenditures and the operation of section 40-880 – Nicholas Augustinos

The central focus of this article is the problem raised by so-called “blackhole expenditures” and the response of both the courts and Federal Parliament to that problem. The first part of the article briefly examines a number of important cases which were decided over the last decade or so in order to illustrate how the courts generally have responded to the problem. Federal Parliament has also responded by enacting s 40-880 of the *Income Tax Assessment Act 1997* (Cth), as well as ss 40-830 and 40-832. After analysing the operation of s 40-880, this article examines whether, in light of this section, the cases examined would now be differently decided. Does a s 40-880 outcome provide an appropriate response from a policy perspective? After conducting this analysis and highlighting deficiencies in the operation of s 40-880, the article points out areas requiring further reform. 100

BOOK REVIEW – Richard Krever

Fundamentals of International Tax Planning by Chris J Finnerty, Paulus Merks, Mario Petriccione and Raffaele Russo 125

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 - ² Hayton, n 1, p 286.
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