

# AUSTRALIAN TAX REVIEW

Volume 50, Number 3

2021

EDITORIAL – *General Editors: Dale Pinto and Kerrie Sadiq*  
*Special Guest Editor: Caroline Malcolm*

**Contemporary Tax Issues Relating to Blockchain Technologies** ..... 151

SPECIAL FEATURE: MARKING 40 YEARS OF PART IVA

**Scrapes of the Bank Manager’s Big Black Dog Since 1991 – *The Hon GT Pagone QC*** .... 153

## ARTICLES

**Analysing the Judicial Definition of Income in Light of Folk Justice – *Christina Allen***

Fairness is integral to the effective operation of a tax system. However, Australia’s judicial interpretation of income has been criticised for departing from the measure of accrued income and, thus, lacking fairness. This article revisits the judicial meaning of “income”, assuming that judges reflect a social justice mentality. It examines cases dealing with bonus shares, which can be viewed as having applied the concept of “flows”, as well as cases that deal with welfare payments, income from hobbies, windfalls, gifts and business income. The article finds that the court has confined the definition of income to what people expect to receive and depend on to live; however, business income is examined to identify actual profit. It concludes that accrued income need not be the only way for income tax to appeal to fairness. .... 156

**Reducing the GST Gap in a Decentralised, Confidential Manner – *Sascha Jafari***

Every year almost AUD 6 billion in Goods and Services Tax (GST) are not paid to the public finances of the Australian Government. Many countries around the world are coping with the same problem and a growing number of the 170 countries that implemented a GST are investigating real-time reporting as a solution. In this article, the author first provides background details to the global Value Added Tax (VAT) gap. Afterwards, we show that real-time reporting can be an excellent tool to tackle this problem, while in the last part it is explained that by making use of blockchain technology this tool can be optimised. The author argues that a real-time reporting system based on blockchain technology can offer confidentiality, automatic VAT/GST fraud detection and advantages for businesses. Furthermore, he also elaborates on how this can be combined with an e-invoicing system. .... 172

**Blockchain and Tax Administration: A Critical Assessment – *Eliza Mik and Noam Noked***

Recent publications argue that blockchains could substantially improve tax administration. This article critically evaluates these claims and examines several proposed use cases. It argues that many of the problems that blockchains purportedly solve exist off-chain, in the real world, and cannot be addressed by a blockchain. Blockchains can facilitate the storage and sharing of tax information. They cannot, however, streamline reporting requirements or enhance co-operation between tax authorities. This article also claims that the main benefit from several use cases derives from digitalisation in general, not from the deployment of any specific type of database. It remains to be determined whether

blockchains are in fact superior to other digitalised systems that perform comparable functions in tax administration. .... 180

**Meeting Tax Challenges Inherent with Blockchain Technology through the Lens of Australia's GST – Robert Whait, Donovan Castelyn and Connie Vitale**

This article raises some challenges for administering Australia's Goods and Services Tax (GST) with Blockchain and proposes a solution to deal with them. These challenges arise due to the difficulties in characterising the GST treatment of certain transactions either due to the complexity of the legislation and the ambiguity in its application or the changing purpose of the transaction that necessitates a GST adjustment. Numerous exemptions are built into Australia's GST legislation marring a conceptually simple tax with complexity and ambiguity. While Blockchain can provide significant benefits for GST administration, including reducing compliance costs and allowing for real-time GST reporting including automated payments and refunds, difficulties in characterising some transactions for GST can result in these benefits not being fully realised. The article uses a case study to illustrate these challenges and suggests a solution to address them and to stimulate further discussion. Since GST adjustments are a necessary part of Australia's GST legislation and administration, the proposal may expand the value and usefulness for a Blockchain administered GST regime by allowing for any adjustments and the compensatory GST payable or refundable to also be made in real time. Australia is not the only jurisdiction that has GST exemptions giving this case study and the suggested Blockchain solution broad relevance. .... 193