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EDITORIAL

The 2022 issue of the *Journal of Australian Taxation* is contained in Volume 24 and consists of five articles covering a wide range of taxation topics. The year 2022 was still a difficult year with the COVID virus continuing to have an impact on those engaged in researching taxation law. Many academics and practitioners were experiencing lockdown and related fatigue. The Editor is grateful for the contribution made by the authors in this edition of the journal, especially Professor Freudenberg for his ongoing support of this journal. Dr John Minas from Curtin University has accepted a role as joint editor of the journal, and he will be active in promoting the journal and encouraging tax academics to contribute in 2023 and beyond.

The first article by Melissa Belle Isle, Brett Freudenberg and Tapan Sarker examined the outcome of the data collected from 23 small business experts to understand in more depth what aids or hinders an increase in small business owners (SBO) literacy. The article provides a broad summary of the importance of the three literacies for small businesses, namely the importance of cash flow management concerning the SBO's literacy of financial statements, computer accounting software (CAS), and business tax. The authors clearly demonstrate through their research that these literacies are important in the management of the cash flow of the business. The surveys explored what may aid or hinder the development of these literacies for SBOs through the interview of small business experts. From these interviews a number of key inhibitors were identified including time, lack of business acumen, low training, cost, and the focus on producing business records for tax compliance rather than management practices. From these findings, the authors were able to provide recommendations that could assist SBOs to improve their understanding of these three important areas.

The second article is written by Alexander Fullarton and Dale Pinto contend that the Australian Taxation Office (ATO) practice of issuing opinions and taxation rulings for the guidance of taxation practitioners compiling and submitting taxation returns does not always result in greater clarity or certainty in the application of taxation laws. To illustrate that argument the paper addresses the example wherein the ATO considers all animals used in a business of primary production as trading stock. Their view is based on their interpretation of the findings in the appeal case of *Federal Commissioner of Taxation v Wade*. The paper is based on the Wade case which shows that the issue of how livestock should be treated for taxation purposes may in fact be wrong. Some agricultural animals may in fact be capital such as breeding stock and that they should not be treated as trading stock and on the revenue account. It should be noted that the authors when referring to the Live Stock Schedules in accounting form, as presented in Wade's income tax return, used the words as they are referenced, that is 'Live Stock' Schedule. Two words. At other times 'livestock' is one word.

The third article is written by Su Yee Liew, Chee Keong Choong and Lin Sea Lau and they surveyed 384 respondents consisting of individuals and small to medium enterprise (SME) owners to gauge the effectiveness of the Malaysian electronic tax filing system (e-filing), the administration of the taxation system with tax compliance as the mediator. The study investigated the impact of e-filing and the effectiveness of tax administration on tax revenue in Malaysia, which is crucial for the government and the nation. Resultantly, tax compliance

fully mediated the relationship between the effectiveness of tax administration and tax revenue. Thus, the study presented a significant contribution to developing a new concept of tax compliance regarding tax administration and tax revenue, which had not been investigated.

The fourth article is written by several tax teachers involved in the management and supervision of students in their respective university tax clinics. This article provides an excellent examination of the role of the National Tax Clinic program and the benefits provided to students working in the tax clinics. They are Annette Morgan, Brett Freudenberg, Ann Kayis-Kumar, Van Le, Rob Whait, Michelle Cull, Donovan Castelyn and Connie Vitale. The article provides a broad summary of Work Integrated Learning (WIL) and its relationship with self-efficacy, and how the tax clinics established under the National Tax Clinic Program have enabled the development of self-efficacy. Their research found an increase in self-efficacy, with particularly strong growth in communication, coordination of group tasks, presenting ideas and researching tax issues among student participants. Moreover, through analysing student demographic data, the study identified key differences within gender, age, and prior work experience.

The fifth article is written by Alexander Fullarton and Dale Pinto and builds on their previous article included in this edition of the journal. The authors argue that the practice of accepting ATO opinions without challenge can have extremely significant fiscal impacts on taxpayers and tax collections. The authors warn that tax practitioners should not always consider that the rulings, determinations, and advice provided by the ATO give the greater clarity and certainty in the preparation and lodgement of taxation returns and the payment of tax that are sought by practitioners. Tax agents are duty bound to take reasonable care to ensure that taxation laws are applied correctly to the circumstances in relation to which they are providing advice to a client, and in that context this article asserts that agents should not accept that the ATO's view on a matter is unquestionably correct. Further, it is noted that, while the ATO provides guidance and views, their written advice usually contains a statement to the effect that they are for guidance only and may not be binding in a court. Their written opinions often include a specific disclaimer.

John McLaren and John Minas

Editors 2022

TOP OF THE GRADE: FACTORS THAT COULD INFLUENCE SMALL BUSINESS LITERACY

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Abstract

Small business owners (SBOs) need a level of tax, computer accounting software, and financial statement literacy to effectively manage their cash flow, which could influence business performance. Research was conducted with small business experts to provide a greater understanding of what aids or hinders the development of these literacies for SBOs. The findings suggest that improvement could be hindered by lack of time, money, basic financial education, the complexity of the tax system, and the SBOs individual anxiety. With this understanding, recommendations can be made as to how these important literacies may be improved.

Keywords

Small business, literacy, taxation, experts, financial statements, computer accounting software

I INTRODUCTION

Conducting a business is difficult, and small businesses in particular have been identified as being more susceptible to failure than other businesses.¹ Failure rates in new businesses are particularly high in comparison to established firms, with many businesses in early stages ceasing to exist past five years.² Part of this failure can relate to difficulties in small

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¹ OECD, 'Taxation of SMEs in OECD and G20 Countries' (OECD Tax Policy Studies, 2015), 23; Biagio Marco Pizzacalla, *Developing a Better Regime for the Preferential Taxation of Small Business* (PhD Thesis, Monash University, 2014), 42.

² OECD (n 1) 23.

businesses in managing their cash flow.³ In particular, inadequate cash management has been recognised as a critical factor in whether a small business succeeds or fails.⁴⁵

In managing cash flow there can be external and internal factors to consider. External factors to consider are the state of the economy, demand for particular products or services, competition from other businesses, and the availability of finance and/or skilled staffing. Internal factors can include firm resources, such as physical capital, organisational capital, and human capital.⁶ Of particular relevance to small businesses can be human capital due to the central role that the small business owner (SBO) can have in many of the business' operational requirements.⁷ The skill strengths of SBOs at the commencement of their business can revolve around the technical skills that the owner possesses.⁸ Inadequate skills of the SBO can lead to business failure.⁹ Prior research has emphasized that the ability to manage cash in small businesses is related to the owners' capabilities.¹⁰ The key concern for small businesses is that they may not identify that their management capabilities are deficient particularly if their business literacy skills are lacking. An alternative possibility is that business owners are naïve about the importance of monitoring cash flow or of knowing how to do it effectively.

The notion of human capital can include concepts of the ability of owners to have insight and make judgements about the business.¹¹ While there are numerous skills and attributes that an SBO may need to possess, of importance to this research about cash flow management are those concerning the SBO's literacy of financial statements, computer accounting software (CAS), and business tax. Research suggests that SBOs with skills or qualifications not related to finance or accounting lack financial management skills at the start-up of their business.¹² Other research has demonstrated a relationship between Australian SBOs and higher gross and annual net income with those SBOs with higher literacy scores in CAS and business

³ Michael Peel, Nicholas Wilson and Carole Howorth, 'Late Payment and Credit Management in the Small Firm Sector: Some Empirical Evidence' (2000) 18(2) *International Small Business Journal* 17.

⁴ Mary Girsch-Bock, '2018 Reviews of Cash Management Systems for Small Business' (2018) (February 2018) *CPA Practice Advisor* <<http://www.CPAPracticeAdvisor.com>>.

⁵ David Deakins, Alana Morrison and Laura Galloway, 'Evolution, Financial Management and Learning in the Small Firm' (2002) 9(1) *Journal of Small Business and Enterprise Development*, 7-16, 11; Peel, Wilson and Howorth (n 3) 24.

⁶ Barney, J. (1991), 'Firm Resources and Sustained Competitive Advantage', *Journal of Management*, 17(1):99-120.

⁷ Arthur R DeThomas and William B Fredenberger, 'Accounting Needs of Very Small Business' (1985) 55(10) *The CPA Journal* 14; Santonu Basu, 'Problems of Small Business' (1986) 5(4) *Economic Papers: A Journal of Applied Economics and Policy*, 92-110; Cynthia Coleman and Chris Evans, 'Tax Compliance Issues for Small Business in Australia' in *Taxing Small Business: Developing Good Tax Policies* (Australian Tax Research Foundation Conference Series 23, 2003) 147-182; Leonardo Liberman-Yaconi, Terrena Hooper and Kate Hutchings, 'Toward a Model of Understanding Strategic Decision-Making in Micro-Firms: Exploring the Australian Information Technology Sector' (2010) 48(1) *Journal of Small Business Management*, 70-95, 72.

⁸ DeThomas and Fredenberger (n 7).

⁹ Pearl Dahmen and Eileen Rodríguez, 'Financial Literacy and the Success of Small Businesses: An Observation from a Small Business Development Centre' (2014) 7(1) *Numeracy*, 1-12.

¹⁰ Peter Jennings and Graham Beaver, 'The Performance and Competitive Advantage of Small Firms: A Management Perspective' (1997) 15(2) *International Small Business Journal*, 63-75, 65; Karen Ness, 'Small Business Success Factors in Regional Queensland' (2004) 12(2) *Small Enterprise Research*, 1-22, 6.

¹¹ Barney (n 6).

¹² Peel, Wilson and Howorth (n 3) 19.

taxes, although not as strong with financial statements.¹³ Such evidence would suggest that enabling SBOs to gain higher literacy in CAS and business tax could lead to greater success. If this is the case, then it is important to consider what factors could aid or hinder the development of these literacies in SBOs.

This is important to consider, as the success of the small business sector is important for all economies around the world,¹⁴ and Australia is no different. In Australia, small businesses contribute 33.2% of the total private sector income of gross value added (GVA),¹⁵ and they make up 98% of all private sector businesses.¹⁶ While not all small businesses employ, many do and they employ 41.3% (4.671 million of 11.29 million) of all private sector employees.¹⁷ This contribution to employment has seen increases compared to a steady decline for large businesses in OECD countries,¹⁸ which could possibly be explained by the increase in the number of contractors in the workforce being engaged by larger businesses.¹⁹

Small businesses can be heavily entrenched in local communities and are considered as the seed-beds of growth which provide important support to large businesses.²⁰ Small businesses are also acknowledged for their ability to improve the wellbeing and lifestyles of a large portion of the workforce and to provide job training and skill improvement to many individuals.²¹

While there are many characteristics that can be used to determine ‘small business’, for this research the term ‘small business’ incorporates those businesses identified as both ‘micro’ and ‘small’ by the Australian Taxation Office (ATO) and the Australian Bureau of Statistics (ABS),²² particularly the Taxation Statistics 2015-16²³ and ABS Cat no. 8165.0.²⁴ Consequently, small businesses for this research have an annual turnover of \$10 million or less and a full time workforce of 20 or fewer employees.²⁵ Although, in addition to these quantitative measures, it is important to keep in mind the qualitative characteristics of many small businesses. MacGregor and Vrazalic²⁶ identified that in terms of small and medium-

¹³ Melissa Belle Isle, Brett Freudenberg and Tapan Sarker (forthcoming), Does tax literacy matter? The relationship between small business literacy and business performance and cash flow.

¹⁴ OECD (n 1).

¹⁵ Australian Bureau of Statistics, Australian Industry, 2019-20 (Catalogue No 8155.0, 28 May 2021) (‘ABS 8155.0’).

¹⁶ Australian Bureau of Statistics, Counts of Australian Businesses including Entries and Exits (Jun 2017 to Jun 2021) (Catalogue No 8165.0, 24 August 2021).

¹⁷ Australian Bureau of Statistics (n 15); Australian Bureau of Statistics (n 16).

¹⁸ OECD, ‘Small, Medium, Strong. Trends in SME Performance and Business Conditions’ (OECD Publishing, 2017) (‘OECD Trends in SME’); OECD (n 1) 21.

¹⁹ Brett Freudenberg, (forthcoming), Worker Status: How can we get it working for Australia’s tax system?

²⁰ Eliza Ahmed and Valerie Braithwaite, ‘Understanding Small Business Taxpayers issues of Deterrence, Tax Morale, Fairness and Work Practice’ (2005) 23(5) *International Small Business Journal* 539; Peel, Wilson and Howorth (n 3); C. T Sandford and Håkan Malmer, *Tax Compliance Costs* (Fiscal Publications, 1995).

²¹ Pizzacalla (n 1) 40-41.

²² Australian Bureau of Statistics (n 16); Australian Taxation Office, ‘Taxation Statistics 2015-16’ (27 April 2018) (‘ATO Tax Stats 2015-16’).

²³ Australian Taxation Office (n 22).

²⁴ Australian Bureau of Statistics (n 16).

²⁵ Australian Bureau of Statistics (n 16); Australian Taxation Office (n 22).

²⁶ Rob MacGregor and Lejla Vrazalic, ‘A Profile of Australian Regional SME Non-Adopters of E-Commerce’ (2008) 16(1) *Small Enterprise Research*, 27-46, 30-31.

sized enterprises (SME), which include small businesses, they are internally controlled and are funded with private equity not public; the owner is normally the majority equity holder and often the only individual deriving an income from the business activity; debts are secured by the owner's private assets or the assets of an individual closely connected to the owner.²⁷

This article presents the outcome of the data collected from 23 small business experts to understand in more depth what aids or hinders an increase in SBO literacy. Section Two of this article will provide a broad summary of the importance of the three literacies for small businesses. The third section will then provide an outline of the research method including the unit of analysis, which will be followed by the demographics of the participants. Section Five will present the results in terms of what aids or hinders SBOs in improving their literacies. Recommendations will be proposed based on the results in section Six followed by an acknowledgment of research limitations and possible future research that could be undertaken in Section Seven. The article concludes with an overview of key findings and observations.

II SMALL BUSINESSES LITERACY

Small business failure has been affiliated with several barriers in the business environment including financial constraints, market imperfections, resource restrictions, inadequate technical expertise, and limited managerial skills.²⁸ The inability of the SBO to recognise the influence of these barriers on their business can cause further detrimental consequences. This is particularly relevant given the central role played by the SBO in their business operations. Some of these barriers are outside of the control of the SBO. For example, in Australia, small business financial constraints were evident during the global financial crises.²⁹ However, many internal barriers could potentially be overcome by an increased level of SBO literacy.³⁰ Literacy develops in individuals from infancy,³¹ and in general, literacy is an individual's understanding or knowledge of words, symbols and arithmetic operations and their ability to use that knowledge in an everyday sense to support or measure commonplace decisions.³²

Literacy can be extended to include the specific circumstances of the individual. For example, there are extended definitions for literacy in respect of finances, information

²⁷ Australian Bureau of Statistics (n 16); Basu (n 7); Coleman and Evans (n 7); Liberman-Yaconi, Hooper and Hutchings (n 7) 72.

²⁸ Dedy Suahputra Sijabat and Taufik Fathurohman, 'The Relationship of MSME Owners Financial Literacy Score and MSME's Performance: Case Study of MSME's in School of Business and Management Bandung Institute of Technology' (2017) 2(1) *Journal of Innovation, Business and Entrepreneurship*, 23-37.

²⁹ Melissa Belle Isle, Brett Freudenberg and Richard Copp, 'Cash Flow Benefit from GST: Is it Realised by Small Businesses in Australia?' (2014) 29(3) *Australian Tax Forum* 417.

³⁰ Sandra J. Huston, 'Measuring financial literacy' (2010) 44(2) *Journal of Consumer Affairs*, 296-316.

Note: In recent times the notion of 'capability' (compared to literacy) has arisen, as capability covers not only a person's understanding something but also the confidence and capability to actual use that knowledge. This is discussed more in details later.

³¹ Huston (n 30).

³² Reva Berman Brown, Mark N.K. Saunders and Richard Beresford, 'You owe it to Yourself: The Financially Literate Manager' (2006) 30(2) *Accounting Forum*, 171-191; Huston (n 30) 306.

technology, taxation, accounting, statistics, and health.³³ A business owner may need to possess many different literacy skills to manage a business. This could be problematic for SBOs, considering that they are often the sole decision maker in many areas of the business, which effectively requires their literacy to be multifaceted. From a cash flow management perspective, SBO literacy skills could relate to finance, taxation, information technology, cash management, economics, and accounting.

Defining the exact literary requirements of SBOs needed to effectively manage cash flow could be a challenging exercise due to the heterogeneity of the small business sector. The level of literacy held by SBOs could be wide ranging due to education, experience, and social backgrounds. For migrant SBOs, their level of literacy could be further restrained by the challenges of having English as a second language and limited knowledge of the business regulatory environment.³⁴ For the management of cash flow, this research focuses on the literacy of SBOs in terms of professional financial literacy, CAS literacy, and business tax literacy. The importance of literacy in these areas is investigated further hereby exploring existing literature and highlighting areas of research that require further investigation.

A Types of literacy for SBOs

While there could be many types of literacies that are relevant for SBOs in relation to their business operations, it is suggested that in terms of managing their cash flow that literacies in relation to professional financial, CAS, and business tax could be of particular importance.³⁵

The concept of professional financial literacy builds upon the well-known concept of financial literacy,³⁶ as the level of financial literacy required can depend upon an individual's role in a specific situation. For example, the financial literacy expected of directors/owners/managers has been described as professional financial literacy, which includes understanding financial statements, the ability to implement and sustain effective cash flow management processes, implementation of internal control mechanisms, and corporate governance.³⁷ The level of professional financial literacy held by the SBO is a critical part of ensuring the solvency of the business.³⁸ Important skills for professional financial literacy may include reading and understanding Balance Sheets, Income Statements,

³³ Huston (n 30) 307.

³⁴ L Chen, E Sinnewe and Michael Kortt, Evidence of Migrant Business Ownership and Entrepreneurship in Regions (Regional Australia Institute, 2018) 8; Freudenberg (n 19).

³⁵ Melissa Belle Isle, Brett Freudenberg and Tapan Sarker, (2018), 'Is the literacy of small business owners important for cash flow management? :The experts' perspective', 13(1) *Journal of Australasian Tax Teachers Association* 31-67.

³⁶ Financial knowledge is recognising what is required in order to be financially stable, whereas financial literacy is having the capacity and confidence to apply that knowledge to financial decisions: Huston (n 30) 296-310; Andrew Worthington, The distribution of financial literacy in Australia (No. 185) (School of Economics and Finance, Queensland University of Technology, 2004), 6.

³⁷ Ibid 5.

³⁸ Brown, Saunders and Beresford (n 32) 179-80.

Cash Flow Statements³⁹, and preparation of a Cash Budget.⁴⁰ It also includes the ability for SBOs to determine the limitations of their own financial ability and to know when it is necessary to seek advice if the information within the statements is confusing or inaccurate.⁴¹

In this way, people who run a business would be expected to hold a level of professional financial literacy that would allow them to understand financial statements, to manage cash flow, to implement internal control mechanisms, and to maintain corporate governance.⁴² This level of professional level literacy could be higher than the level of financial literacy required for other individuals.

Computer accounting software literacy is the knowledge, ability, and confidence to use the functions of a computerised accounting system to generate financial reports compiled from previously recorded transactions. Examples would include the ability to use software to generate reports to gain a greater understanding of the financial strengths and weaknesses of a business.

Tax literacy is commonly referred to in the literature as tax knowledge. Tax knowledge has been defined as an understanding of tax policy that is essential to a taxpayer's situation within the region or country in which that taxpayer resides.⁴³ The definition has been extended to suggest that it is a taxpayer's understanding and mindfulness of the tax legislation.⁴⁴ Tax knowledge can be obtained through formal education and/or everyday dealings with the tax system.⁴⁵ Tax knowledge contains elements of legal, technical, and general knowledge.⁴⁶ For the purpose of this research, tax literacy and tax knowledge will be used interchangeably.

Business taxation literacy refers to the ability to make informed judgements and to make effective decisions relating to the management of business tax systems that a business is legally obligated to comply.

³⁹ The Australian Accounting Standards Board makes Accounting Standard AASB 107 *Statement of Cash Flows* under section 334 of the *Corporations Act 2001* outlines the benefits of a statement of cash flows; A statement of cash flows, when used in conjunction with the rest of the financial statements, provides information that enables users to evaluate the changes in net assets of an entity, its financial structure (including its liquidity and solvency) and its ability to affect the amounts and timing of cash flows in order to adapt to changing circumstances and opportunities. Cash flow information is useful in assessing the ability of the entity to generate cash and cash equivalents and enables users to develop models to assess and compare the present value of the future cash flows of different entities. It also enhances the comparability of the reporting of operating performance by different entities because it eliminates the effects of using different accounting treatments for the same transactions and events.

⁴⁰ Brown, Saunders and Beresford (n 32) 188.

⁴¹ Chukuakadibia E. Eresia-Eke and Catherine Raath, 'SMME Owners' Financial Literacy and Business Growth' (2013) 4(13) *Mediterranean Journal of Social Sciences*, 397-406.

⁴² Worthington (n 36) 5.

⁴³ Newman Wadesango, N Mwandambira, Charity Mhaka and Ongayi Wadesango, 'Literature Review on the Impact of Tax Knowledge on Tax Compliance among Small Medium Enterprises in a Developing Country' (2018) 22(4) *International Journal of Entrepreneurship*, 1-15, 2.

⁴⁴ Ibid, 5.

⁴⁵ Ibid 2.

⁴⁶ Ibid 3.

B Importance of Professional Financial literacies for SBOs

The reason that professional financial literacy is important to consider, is that previous research suggests that effective cash flow management includes keeping financial accounts, maintaining a business plan and a cash budget, keeping records of revenue and expenses, creditor and debtor invoicing, and maintaining an inventory schedule.⁴⁷ Business owners have been identified as having greater financial literacy than other groups of individuals, with SBOs having a higher level of financial awareness in comparison to other individuals.⁴⁸ Previous research has suggested that SBOs lack the required level of financial literacy to make important financial decisions for their business.⁴⁹

The professional financial literacy of SBOs is important for small businesses when competing in the marketplace. Their larger competitors are more likely to employ experts in the fields of accounting or finance to propose financial decisions and implement effective cash flow management practices.⁵⁰ In contrast, the small business may rely on the knowledge and abilities of the SBO, or of an external advisor who is afforded a snap-shot view of the individual business situation.⁵¹ This means that, in order to remain solvent in the market, SBOs need adequate financial foundations that allow them to make smart financial decisions. They also need to implement strategic business plans that allow them to recognise risk, maintain cash flow and utilise assets to ensure maximum profit generation.⁵² This can be a tough ask, as SBOs are multitasking in their business and carrying out a multitude of roles from the primary generator of income, human resource manager, and administrative assistant to the financial controller.

This is important because SBOs with low levels of professional financial literacy could hinder their business growth and performance, as decisions are not optimally informed by the information in the financial statements.⁵³ The financial statements can reveal the profitability of the operations, cash flow issues, and important indicators through ratio analysis.⁵⁴ Such

⁴⁷ Alejandro Drexler, Greg Fischer and Antoinette Schoar, 'Keeping it simple: Financial literacy and rules of thumb' (2014) 6(2) *American Economic Journal: Applied Economics* 1, 1-2, 13; Ekanem, Ignatius, 'Liquidity Management in Small Firms: A Learning Perspective' (2010) 17(1) *Journal of Small Business and Enterprise Development* 123, 125.

⁴⁸ Brown, Saunders and Beresford (n 32) 188.

⁴⁹ Drexler, Fischer and Schoar (n 47) 1-2.

⁵⁰ Jack Foley, 'We Really Need to Talk About Owner-Managers and Financial Awareness!' (2018) 25(1) *Small Enterprise Research*, 90-98.

⁵¹ Ibid.

⁵² Ibid; Jacob Nunoo and Francis Kwaw Andoh, 'Sustaining Small and Medium Enterprises through Financial Service Utilization: Does Financial Literacy Matter?' (Presentation, Seattle, Washington, 2012), 1-28; William T. Sucuahi, 'Determinants of Financial Literacy of Micro Entrepreneurs in Davao City' (2013) 1(1) *International Journal of Accounting Research*, 44-51; Sean Wise, 'The Impact of Financial Literacy on New Venture Survival' (2013) 8(23) *International Journal of Business and Management*, 30-39.

⁵³ DeThomas and Fredenberger (n 7) 21; Robyn Dyt and Abdel K. Halabi, 'Empirical Evidence Examining the Accounting Information Systems and Accounting Reports of Small and Micro Business in Australia' (2007) 15(2) *Small Enterprise Research*, 1-9, 5; Abdel K. Halabi, Rowena Barrett and Robyn Dyt, 'Understanding Financial Information used to Assess Small Firm Performance' (2010) 7(2) *Qualitative Research in Accounting & Management* 163, 167.

⁵⁴ Dyt and Halabi (n 53).

reviews of financial statements can help determine the effect of previous financial decisions.⁵⁵ Research has suggested that low levels of financial literacy can be illustrated by the inability of the SBO to make effective financial choices and to implement adequate financial management systems in their business.⁵⁶ Professional financial literacy of SBOs can impact firm growth and productivity: those with higher levels of financial literacy have been known to be more effective when using financial products, and are more engaged in using and offering trade credit.⁵⁷

Although a large proportion of SBOs believe that evaluation and use of financial statements is their responsibility, previous research in Australia has suggested that only 20% of SBOs perform any form of ratio analysis, only 30% use reports for decision making, only 11% use the information to evaluate business performance and only 10% use current financial information for future plans or budgets.⁵⁸ DeThomas and Fredenberger⁵⁹ suggested that this limited use in Australia is due to the owners' lack of understanding of how to analyse the figures within the statements and to their reluctance to seek help to do so from their accountant.⁶⁰

Responses from SBOs have indicated that the limited use of financial reports was a result of owners placing minimal significance on the information provided in the statement, especially with regard to Income Statements and Balance Sheets.⁶¹ SBOs believed that the main purpose of record keeping and producing reports was for tax compliance requirements.⁶² That is there is a perceived lack of managerial benefit of the accounting records, let alone the tax records/returns. Prior compliance cost research has highlighted how compliance costs can be miscategorised as a tax cost when it is more a cost of basic record keeping for a business.⁶³ Instead of financial statements, more importance can be placed by small businesses on remaining up to date with the cash at bank balance, as this figure is perceived to be a more accurate measure of performance.⁶⁴ Although SBOs identified cash to be essential for the survival of their business, research has suggested that they still did not see the importance of using financial reports such as a cash flow budget or a cash flow statement to provide cash

⁵⁵ Miriam Bruhn and Bilal Zia, 'Stimulating Managerial Capital in Emerging Markets: The Impact Of Business Training For Young Entrepreneurs' (2013) 5(2) *Journal of Development Effectiveness*, 232-266, 234 and 248; Olawale Fatoki, 'The Financial Literacy of Micro Entrepreneurs in South Africa' (2014) 40(2) *Journal of Social Sciences* 151, 153.

⁵⁶ Sijabat and Fathurohman (n 28).

⁵⁷ Bruhn and Zia (n 55) 234 and 238.

⁵⁸ Dyt and Halabi (n 53) 5; Halabi, Barrett and Dyt (n 53) 167.

Note: Limitation of Australian research is that the number of participants were only 10.

⁵⁹ DeThomas and Fredenberger (n 7) 20.

⁶⁰ DeThomas and Fredenberger (n 7) 20; Halabi, Barrett and Dyt (n 53) 171-74.

⁶¹ Halabi, Barrett and Dyt (n 53) 171.

⁶² Ibid 168.

⁶³ Chris Evans, Kate Ritchie, Binh Tran-Nam and Michael Walpole, 'Taxation Compliance Costs: Some Recent Empirical Work and International Comparison' (1998) 14 *Australian Tax Forum*, 93-122; Philip Lignier and Chris Evans, 'The Rise and Rise of Tax Compliance Costs for the Small Business Sector in Australia' (2012) 27(3) *Australian Tax Forum* 615.

⁶⁴ Halabi, Barrett and Dyt (n 53) 167-74.

related information.⁶⁵ Instead, the cash at bank balance is seen as a more readily reliable and accurate source of business performance.

However, the level of SBOs understanding of financial statements could be lacking, with research demonstrating that SBOs understanding is less than reasonable.⁶⁶ If SBOs don't have the ability to analyse the financial statements, which means that SBOs regard the financial statements as futile.⁶⁷ This could be the reason why SBOs may only have limited consideration to financial statements when managing their business.⁶⁸ It has been argued that if SBOs have higher literacy in this regard then this will lead to higher use of financial statements;⁶⁹ which then could improve management of cash flow and thereby lead to better performance and growth. Such improved literacy can allow SBOs to problem solve, so they can come up with strategies to address issues with cash flow.⁷⁰ In research that explored Australian professional advisors' opinions, some of the findings included that less than 10% of the advisors either agreed or strongly agreed that SBOs actually make use of their financial statements to manage their cash flow.⁷¹ Instead, it appears that there was a perception that SBOs will use the bank account balance as an indicator to manage their cash flow, with over 80% of advisors agreeing or strongly agreeing with this.⁷² Most professional advisors agreed or strongly agreed thought that the various financial statements *should* assist small businesses to manage their cash flow, with the cash flow statement strongest (86%), followed by profit and loss (51%), and then balance sheet (48%), although the role of the profit and loss statement was stronger in subsequent interviews.⁷³ Although concerns were raised about the potential 'historical' nature of some of the information in the reports and whether that would be useful in managing cash flow.⁷⁴ Most professional advisors considered that being more literate in these areas should assist small businesses to be more informed in terms of negotiations with external stakeholders, as well as providing them a cost saving when dealing with advisors.⁷⁵ Such literacy would help them interpret information in the financial statements, as well as identify the consequences of previous decisions.⁷⁶

C Importance of CAS literacies for SBOs

⁶⁵ DeThomas and Fredenberger (n 7) 18-9.

⁶⁶ DeThomas and Fredenberger (n 7); Halabi, Barrett and Dyt (n 53).

⁶⁷ DeThomas and Fredenberger (n 7) 22-23.

⁶⁸ DeThomas and Fredenberger (n 7) 21; Dyt and Halabi (n 53) 5; Halabi, Barrett and Dyt (n 53); Peel, Wilson and Howorth (n 3); Divesh S. Sharma and Errol R. Iselin, 'The Decision Usefulness of Reported Cash Flow and Accrual Information in a Behavioural Field Experiment' (2003) 33(2) *Accounting and Business Research*, 123-135.

⁶⁹ Olawale (n 55) 153; Bruhn and Zia (n 55) 234 and 238.

⁷⁰ Sharma and Iselin (n 68).

⁷¹ Belle Isle, Freudenberg and Sarker (n 35) 46-47.

⁷² *Ibid* 46-47.

⁷³ *Ibid* 46-47.

⁷⁴ *Ibid* 52.

⁷⁵ *Ibid* 53.

⁷⁶ *Ibid* 52.

With the advent of technology with the management and recording of financial statements, the use of CAS by SBOs can be inter-related to generating and understanding the financial statements.⁷⁷ For small businesses, research has demonstrated a positive relationship between information and communication technology (ICT), business management, and financial literacy to growth and profitability⁷⁸

CAS has been advocated as being of great importance to small business success. This can be explained partly due to the digital management support of the CAS system and the fact that it allows the SBO to measure performance with up-to-the-minute data.⁷⁹ Since the introduction of the goods and services tax (GST) in 2000 and the increases in the personal use of information technology, it is posited that the majority of small businesses in Australia use a CAS for record keeping in their business.⁸⁰ Small businesses actively using different forms of ICT in their business may have enhanced profitability.⁸¹

Previous literature suggested that small businesses in the early stages of their life cycle or during growth periods should allocate sufficient financial resources to ensure they have adequate knowledge to exploit the ICT that exists in their business.⁸² This in part can be explained by the necessity to have a comprehensive understanding of the current business circumstance, as small businesses operate in a constantly changing business environment.⁸³

With respect to CAS literacy, slightly more than half (51%) of professional advisors agreed or strongly agreed that CAS could provide more reliable records for small businesses, but there were concerns about whether incorrect coding during set-up of the system could be adverse to this reliability.⁸⁴ While there was some concern that CAS literacy may impinge the development of professional financial literacy, an overwhelming majority (82%) of professional advisors believed that SBOs should have at least a minimal level of CAS literacy.⁸⁵ In terms of management of cash flow, experts believed there was an inter-relationship of CAS literacy with understanding accounting concepts.⁸⁶

⁷⁷ Leonora C. Hamilton and Ramachandra Asundi, 'Technology usage and innovation: its effect on the profitability of SMEs' (2008) 31(11) *Management Research News* 830-845; Mike Rich, 'IT-Savvy Businesses are more Profitable' (2012) 25(11) *NZ Business* 26.

⁷⁸ Masayuki Morikawa, 'Information Technology and the Performance of Japanese SMEs' (2004) 23(3) *Small Business Economics* 171-177; Julien Pollack and Daniel Adler, 'Skills that improve profitability: the relationship between Project Management, IT Skills, and Small to Medium Enterprise Profitability' (2016) 34(5) *International Journal of Project Management* 831-838, 835.

⁷⁹ Rich (n 77).

⁸⁰ Philip Lignier, *Identification and Evaluation of the Managerial Benefits Derived by Small Businesses as a Result of Complying with the Australian Tax System* (Ph.D, University of New South Wales, 2008) 25; Lignier and Evans (n 63).

⁸¹ Paul Matthews, 'ICT Assimilation and SME Expansion' (2007) 19(6) *Journal of International Development*, 817-827, 818; Morikawa (n 78) 178; Rich (n 77) 26.

⁸² *Ibid* 819.

⁸³ Stefanie De Bruyckere, Frederik Verplancke, Patricia Everaert, Gerrit Sarens and Carine Coppens, 'The importance of mutual Understanding between External Accountants and Owner-Managers of SMEs' (2018) *Australian Accounting Review* 1-18, 2.

⁸⁴ Belle Isle, Freudenberg and Sarker (n 35) 54.

⁸⁵ *Ibid* 56.

⁸⁶ *Ibid* 56.

D Importance of Business Tax Literacy

Increasing or possessing a high level of tax literacy is beneficial for ensuring that taxpayers fulfil their obligatory compliance duties. Research has investigated the possible relationship between tax literacy and tax compliance.⁸⁷ Examination of this relationship has found that failure to possess a sufficient level of tax literacy can result in taxpayers engaging in both intentional and unintentional non-compliance behaviour.⁸⁸ For example, lacking the ability to recognise basic tax concepts can result in taxpayers not complying and incurring a tax debt with the tax authority.⁸⁹ Tax debts occur primarily as a result of administration mistakes or cash flow shortfalls.⁹⁰ Taxpayers with limited tax literacy may incur a tax debt in the form of late payment penalties due to their inability to determine the correct dates for lodging and payment.⁹¹ For those taxpayers who are facing cash flow restraints, they may incur a tax debt due to a lack of funds to satisfy the tax liability.⁹² In the latter circumstance, the tax debt may be a combination of the tax liability, the late penalty, and the interest, for failing to satisfy the outstanding debt on time. It can be suggested that inadequate tax literacy may result in higher compliance costs, due to the inability to forecast for the tax liability or to recognise when tax obligations are due and payable.

Research by McKerchar⁹³ in the 1990s identified that the understanding of business tax systems can be influenced by the tax complexity, the willingness of SBOs to improve their knowledge, the reliance on advisors, and the income earning being of higher importance than tax knowledge.

Although the willingness of SBOs to improve their business tax literacy can be inhibited by the belief that business tax literacy is the role of their advisor, not the SBO.⁹⁴ Although the extent to which SBOs will seek advice may be inhibited by the cost of it.⁹⁵ Prior research

⁸⁷ Toni Chardon, 'Weathering the Storm: Tax as a Component of Financial Capability' (2011) 5(2) *Australasian Accounting Business & Finance Journal*, 53-68; Toni Chardon, Brett Freudenberg and Mark Brimble, 'Tax Literacy in Australia: Not Knowing Your Deduction from Your Offset' (2016) 31(2) *Australian Tax Forum* 321-362; Guilia Mascagni and Fabrizio Santoro, International Centre for Tax and Development, 'What is the Role of Taxpayer Education in Africa?' (Institute of Development Studies, 2018); Elisabeth Poppelwell, Gail Kelly and Xin Wang, 'Intervening to Reduce Risk: Identifying Sanction Thresholds among SME Tax Debtors' (2012) 10(2) *eJournal of Tax Research*, 403-435; Natrah Saad, 'Tax Knowledge, Tax Complexity and Tax Compliance: Taxpayers' View' (2014) 109 *Procedia - Social and Behavioural Sciences*, 1069-1075; Wadesango, Mwandambira, Mhaka and Wadesango (n 43).

⁸⁸ Saad (n 87) 1070; Wadesango, Mwandambira, Mhaka and Wadesango (n 43) 2 and 4.

⁸⁹ Ahmed and Braithwaite (n 20); 543; Chardon, Freudenberg and Brimble (n 87); Mascagni and Santoro (n 87); Poppelwell, Kelly and Wang (n 87).

⁹⁰ Poppelwell, Kelly and Wang (n 87) 415.

⁹¹ Ibid 404 and 423.

⁹² Mascagni and Santoro (n 87), 6; Poppelwell, Kelly and Wang (n 87) 415.

⁹³ Margaret McKerchar, 'Understanding Small Business Taxpayers: Their Sources of Information and Level of Knowledge of Taxation' (1995) 12 *Australian Tax Forum* 25-41, 34-5.

⁹⁴ Melissa Belle Isle, Brett Freudenberg and Tapan Sarker, 'The business tax literacy of Australian Small Businesses' (2022) 37 (1) *Australian Tax Forum*, 573-612; McKerchar (n 93).

⁹⁵ Lin Mei Tan 'Coping with Tax Obligations: A Preliminary Study of Some Small Firms in New Zealand' (1997) 13 *Australian Tax Forum* 337-360; Sue Yong and Brett Freudenberg, 'Perceptions of Tax Compliance

appears to demonstrate that when professional advice is sought it only occurs a few times a year and is more about tax compliance rather than business management and strategy (little management benefit).⁹⁶ Prior research found that tax practitioners failed to discuss the managerial benefits associated with tax compliance activities, which may be due to fee constraints and the ongoing requirements to file tax returns, which mean little time for reflection.⁹⁷ It is difficult to see SBOs using their financial statements beyond tax compliance, if not encouraged by the advisors.

While the level of tax literacy may be higher for Australians involved in a business compared to those who are not,⁹⁸ it is not clear whether their level of tax literacy by SBOs is sufficient for the complexity of operating a business.⁹⁹

Part of the importance of tax obligations for a small business is that the records generated by tax obligations assist small businesses to manage their cash flow.¹⁰⁰ Most experts believed that business tax literacy would influence the ability of small businesses to manage cash flow, as you need the cash flow to pay the tax when it is due.¹⁰¹

E Relationship of literacies

Experts have expressed that there could be an inter-relationship between literacies, and insufficient professional financial literacy and CAS literacy could adversely affect in terms of business tax literacy and overall being able to manage cash flow.¹⁰²

Research in the context of Australia that explored the literacy of SBOs in the service sector found that a mean score for professional financial literacy was highest (67%), followed by CAS literacy (55%), and with business tax literacy the lowest at (42%).¹⁰³ In aggregate by combining the three literacy scores, the means score was 50% for SBOs, indicating that overall they got one question right out of two.¹⁰⁴ Linear regression analysis between the three literacy scores suggests that there appears to be a relationship with all three literacies,¹⁰⁵

by SMEs and Tax Practitioners in New Zealand: A Divergent View?’ (2020) 26(1) *New Zealand Journal of Taxation Law and Policy* 57-85, 76 and 82.

⁹⁶ Yong and Freudenberg (n 95) 69.

⁹⁷ Ibid 76.

⁹⁸ Brett Freudenberg, Toni Chardon, Mark Brimble and Melissa Belle Isle, ‘Tax Literacy of Australian Small Businesses’ (2017) 18(2) *Journal of Australian Tax*, 21-61.

⁹⁹ McKerchar (n 93) 40.

¹⁰⁰ Belle Isle, Freudenberg and Sarker (n 35) 57: with nearly three-quarters (73%) of experts agreeing or strongly agreeing with this.

¹⁰¹ Ibid 57.

¹⁰² Ibid 60.

¹⁰³ Melissa Belle Isle and Brett Freudenberg, (2021), A comprehensive analysis of the business literacies of Australian small businesses, *Journal of Australian Taxation* 23(1): 67-102, 85.

¹⁰⁴ Ibid 87.

¹⁰⁵ Ibid 87-88.

which confirms the perceptions of small business experts.¹⁰⁶ In aggregate, a low overall literacy score appears to be associated with businesses operated as a sole trader or partnership, businesses in existence for less than 10 years, and those businesses with no or fewer than five employees.¹⁰⁷

In an attempt to determine if there is a relationship between these literacies and business performance, prior research using resource based theory found a significant relationship between both gross and net annual turnover of small businesses in the service sector and with business tax literacy and CAS literacy.¹⁰⁸ Interestingly, there appeared to be no significant relationship with professional financial literacy. Also, in terms of cash flow management practices, of the indicators considered there was only a significant relationship with overall literacies and the practice of ‘contacting customers about outstanding invoices.’¹⁰⁹ Given these findings, it is argued that it is important to have a greater understanding of what could aid or hinder SBOs in gaining and enhancing their literacies in these three areas.

III RESEARCH METHOD

Note that this research was conducted mainly in later 2017 and therefore prior to the economic effects of COVID-19.¹¹⁰

To answer the research questions of what aids or hinders SBOs in improving their literacy in terms of use and understanding of financial statements, CAS, and business tax, data was collected from small business experts. Given that small businesses are a heterogeneous group, validation of their opinions and processes by experts is considered valuable. Conducting exploratory interviews with business experts has been advocated as being more effective and efficient in the collection of pertinent data than alternate data collection methods such as surveys or observation.¹¹¹ The investigation of expert experiences may also provide a reliable source of objective data for researchers. For example, experts were included in research conducted in 2014 to validate small business perceptions of GST.¹¹² For this project, semi-structured interviews were employed in the collection of data from the expert participants.

¹⁰⁶ Belle Isle, Freudenberg and Sarker (n 35) 60.

¹⁰⁷ Ibid.

¹⁰⁸ Belle Isle, Freudenberg and Sarker (n 13).

¹⁰⁹ Ibid.

¹¹⁰ Covid -19 is a mild to severe respiratory illness that is caused by a coronavirus (*Severe acute respiratory syndrome coronavirus 2* of the genus *Betacoronavirus*), is transmitted chiefly by contact with infectious material (such as respiratory droplets) or with objects or surfaces contaminated by the causative virus, and is characterized especially by fever, cough, and shortness of breath and may progress to pneumonia and respiratory failure, see <https://www.merriam-webster.com/dictionary/COVID-19>

¹¹¹ Alexander Bogner, Beate Littig and Wolfgang Menz, *Interviewing Experts* (Palgrave MacMillan, 2009), 2.

¹¹² Melissa Belle Isle and Brett Freudenberg, ‘Calm Waters: GST and Cash Flow Stability for Small Businesses in Australia’ (2015) 13(2) *eJournal of Tax Research* 492-532; Belle Isle, Freudenberg and Copp (n 29).

Data collected from experts included demographics relevant to their individual small business expertise and responses to interview questions. Expert data was collected using telephone discussions between the researchers and the respondent. With the permission of the participant, all telephone discussions, which were from 12 minutes to 45 minutes in length, were recorded. In accordance with rules discussed by Gubrium,¹¹³ analysis of the data collected in semi-structured interviews did not begin until the completion of all the interviews for each expert group.

Initially, determination of the categories that would be analysed from the data collected were largely developed in advance based on the literature review and the research questions established. Brickman¹¹⁴ described this as concept driven analysis where codes are determined in advance. These concepts could be modified or expanded during the analysis process if contradictions or previously unidentified relationships are discovered.¹¹⁵ To code the data, the researchers employed content analysis techniques, which involves the manual identification of similar subject matter from the transcribed interview scripts.¹¹⁶ Files are created based on the categories already established and the text satisfying each category from the transcripts is copied into the relevant file.¹¹⁷ Once all transcripts have been thoroughly analysed and the data copied to the relevant files, the data is further analysed into sub-categories.¹¹⁸ Sub-categories can include codes that were previously expected to be present and new codes uncovered from the data collection process.¹¹⁹ Content analysis in the current project initially involved reading over all transcripts before copying any data into files. The researchers assigned a different colour to each category and highlighted text in the transcripts that satisfied individual categories. Some textual concepts addressed more than one category and therefore comments were made in the transcript document about the relevance of that text to the identified categories. A second reading of the transcripts was then carried out to ensure that the consistency of the analysis techniques was employed for all transcripts. Once this was completed, the highlighted text was copied to the relevant category file. The researchers then read each file and identified sub-categories and relationships that appeared to be apparent in the data. Files were created for each sub-category and the process previously completed for categories was carried out again for the sub-categories.

IV PARTICIPANTS

The experts involved in the research were selected for their proficiency in advising, advocating or residing over the liquidity of small business in Australia, with respect to cash

¹¹³ Jaber F Gubrium, James A Holstein, Amir B Marvasti and Karyn D McKinney, *The Sage Handbook of Interview Research: The Complexity of the Craft* (Sage, 2nd ed, 2012), 197-9.

¹¹⁴ Svend Brinkmann, *Qualitative Interviewing: Understanding Qualitative Research* (Oxford University Press, 2013), 64.

¹¹⁵ Ibid, 65.

¹¹⁶ Gubrium, Holstein, Marvasti and McKinney (n 113) 198.

¹¹⁷ Ibid.

¹¹⁸ Ibid.

¹¹⁹ Brinkmann (n 114) 64; Gubrium, Holstein, Marvasti and McKinney (n 113) 198.

flow, taxation or both. Experts selected to participate in the project were sourced from four professional groups: accountants or financial advisors, academics, ATO or Government employees that deal with tax administration, and small business advocates. The purpose of engaging small business experts from academia, government, advocacy, and advisory fields was to understand their perception of the level of literacy that SBOs should possess, in terms of professional financial literacy, CAS literacy, and business tax literacy. It was hoped that this data would demonstrate the importance that experts place on SBO literacy, and whether they consider literacy levels to have an influence on the management of cash flow.

The anticipated number of expert participants required to represent each group, which was five, allowing for a total of twenty experts. Five experts volunteered from the professional groups of academia, advocates, and ATO/Government and eight experts were engaged from the accounting/financial advisory group, giving a total of 23 participants. Participants were selected using purposive sampling to ensure that experts satisfied one of the four professional groups, had sufficient experience in the small business environment and represented different geographical locations within Australia.¹²⁰ Participants were sought from the professional networks of the researchers through personal emails and private messages using the professional social media platform LinkedIn. Initially, 32 experts suggested that they were interested in participating in the research. A final number of 23 experts completed the interview and quantitative questionnaires. These experts represented all states and territories in Australia, except for Tasmania and the Northern Territory. Experts also represented the inner city, outer suburbs and regional¹²¹ areas in Australia.

A summary of the expert demographics with relevance to their expertise is included in

Table 1 Expert demographics with relevance to small business expertise. Five experts represented each group of academia, Government and advocacy, respectively, with eight experts involved in providing advice to small businesses. In terms of experience, 70% of experts had over 10 years' experience, and only 13% had five years or less experience, with 17% between five to 10 years' experience. This provides some comfort that the experts interviewed have a long experience with small businesses.

Table 1 Expert demographics with relevance to small business expertise

Expert	Years of experience	Field of expertise	Prior roles held as an expert
ACA1	Over 10 years	Academic	No other role held
ACA2	Over 10 years	Academic	Accountant
ACA4	Over 10 years	Academic	Accountant

¹²⁰ 'Purposive Sampling' Lærd Dissertation, Dissertation.Lærd.Com (Web Page)
<http://dissertation.lærd.com/purposive-sampling.php>.

¹²¹ Regional Queensland, New South Wales and Western Australia were represented by experts engaged in the research.

ACA5	5-10 years	Academic	Government/ATO employee
ACA6	Over 10 years	Academic	Government/ATO employee
ACC4	3-5 years	Accountant	No other role held
ACC5	Over 10 years	Small business advisor other than an accountant	Accountant
ACC6	Over 10 years	Small business advisor other than an accountant	Small business owner
ACC8	Over 10 years	Small business advocate	Small business advisor other than an accountant; Govt/ATO employee; Small Business Owner
ACC10	Over 10 years	Accountant	Small business owner; Board member of non-for-profit agencies
ACC11	< 3 years	Small business advisor other than an accountant	Involved in advising ASBFEO on cash flow management practices.
ACC12	5-10 years	Accountant	Small business advisor other than an accountant; Small business advocate.
ACC13	Over 10 years	Accountant	Small business advisor other than an accountant; Govt/ATO employee; Small business advocate
ADV1	Over 10 years	Small business advocate	Small business owner
ADV3	5-10 years	Small business advocate	Government/ATO employee
ADV4	Over 10 years	Small business advocate	Government/ATO employee
ADV5	Over 10 years	Small business advocate	Accountant; Small business advisor other than accountant.
ADV6	Over 10 years	Small business advocate	Academic; Small business owner
GOV1	Over 10 years	Government/ATO employee	No other role held
GOV2	5-10 years	Government/ATO employee	Small business advisor other than an accountant
GOV6	Over 10 years	Government/ATO employee	Accountant; Small business advisor other than accountant, Small business advocate; Small business owner
GOV7	Over 10 years	Government/ATO employee	No other role held
GOV8	3-5 years	Government/ATO employee	Accountant

Coding for expert abbreviation: ACA: Academic; ACC: Accountant or other advisor; ADV: Small business advocate; GOV: Government or ATO employee

V RESULTS

The results of the research are presented below to answer the research questions of what aids or hinders SBOs from improving their literacy in terms of financial statements, CAS, and business tax

A Aids or hinders financial statement literacy

Expert perception was sought in the interview to explore what these experts believe aids or hinder SBOs from using and understanding financial statements. The results suggest that there are more factors hindering their understanding than aiding it. Common themes discussed related to lack of time, education, and cost, each of which is discussed below.

B Time

Reference to time revolved predominantly around being focused on earning income, to the detriment of being able to engage in understanding financial concepts. Expert views highlight that acquiring the knowledge of the financial concepts required to comprehend information in financial statements takes considerable time, which is something that is in short supply for SBOs:

What I've found is that most small business owners are very entrenched in the day-to-day running of their business. So they're very good at what they do in their business but what they don't realise is that 50 per cent of the other side to make a business successful is that you need to have a basic understanding of your cash inflow and outflow and how to generate revenue and create profit (ACC12).

When you are time-poor, and you're running your business, what usually suffers is understanding financial concepts, especially if you combine lack of time with lack of interest. The other thing we find is that people learn by repetition and persistence, just saying the same things over and over again a thousand times often helps, however, small businesses don't have the time to constantly go over things (ACC8).

C Education

Those experts, who considered that limited education was the greatest hindrance to the use and understanding of financial statements, discussed the concerns of SBOs being overwhelmed by the amount of information contained in financial statements, along with the difficulty comprehending the accounting terminology and language required to analyse financial statements. There was also an indication that some experts feel that accountants are not helping to reduce the confusion that SBOs encounter with understanding financial statements:

I think for a lot of small businesses, it's just almost gobbledegook. They look at it and the language used is not necessarily the language they use. Not everybody understands maths. They don't necessarily know what it's telling them. If you look at a Balance Sheet, for example, the numbers balance, so is that good, bad or indifferent? (GOV1).

Most people don't understand their financial statements. Their accountant doesn't assist them. You ask what's this about and they have no idea. I think their accountants ought to do a better job in explaining what the accounts are about (ACC6).

Some participants believe that SBOs who have limited financial education respond by being fearful or apprehensive about attempting to understand financial statements for cash flow management:

People are scared of finance. They are concerned about their lack of knowledge about their financial requirements (ADV6).

The remaining participants, who discussed the absence of financial learning in the education system, expressed concern that individuals are not learning basic financial literacy before entering the work force, which in turn leaves them with inadequate skills for using financial statements to manage their business cash flow. Chardon, Freudenberg, and Brimble¹²² highlighted similar concerns in terms of basic tax concepts not being included in the Primary and Secondary education curriculum in Australia. The resultant effect can be that many taxpayers have limited literacy in terms of taxation:

Basic lack of acumen. They don't know what they don't know. They haven't had the basics through the education system. They don't have a basic understanding of financial concepts; budgeting, basic financial literacy that you would hope that kids get through school. Some kids get it, and some don't. If they're going into vocational education, mostly they don't get it. Even in tertiary education. Some will get it depending on the courses they're doing, some won't get any. People in the financial services industry tend to be in a better situation than others (GOV7).

At the end of the day, small business people might not have that education or that background to know what the statements are trying to achieve or produce (ADV5).

C Cost

The remaining responses related to learning appropriate financial skills from an advisor. Experts believe that engaging an advisor would aid SBOs to better understand and use their financial statements for cash flow management:

What aids the use would be obviously the use of seeing advisers and accountants (ACA5).

However, experts also noted that the cost that SBOs need to outlay to engage an advisor to upskill or assist with their understanding of financial statements hinders their use of financial statements for cash flow management:

¹²² Chardon, Freudenberg and Brimble (n 87) 325.

Advisors can easily set up a lot of data analytic models for them around extracting comparative data, around their industry, providing comparisons to what the industry is doing around their profit and loss or balance sheet or cash flows or any other data which is all publicly available information. To set up those types of modules for them and do it accurately and do it so that it's a comparison of like with like; knowing their exact structure and knowing to do those predictive models correctly can be quite expensive at the end of the day (ADV5).

It costs money to see the advisor. So generally, a small business is reluctant to spend a little bit of money to fully understand the consequences of what the financial statement is telling them. Business can benefit from some advice, but micro businesses haven't got a lot of cash to pay for that advice. (ACC5).

From these results, it appears that the use and understanding of financial statements by SBOs for cash flow management could be aided by engaging an accountant or advisor. Guidance and explanation of critical financial concepts by the advisor could assist SBOs to have a greater appreciation of the usefulness of the information that a financial statement can provide. However, a common perception of expert participants suggests that, regardless of the benefits that could be realised by engaging an advisor, SBOs may still encounter difficulties in using and understanding financial statements for cash flow management, due to lack of time, money, and basic financial education.

D Aids or hinders CAS literacy

Experts were engaged to provide insight into what might help or hinder the use of CAS by SBOs for cash flow management. Time was one of the most significant responses among the results for what helps or hinders the use and understanding of CAS. Experts believe that SBOs are too busy focusing on generating income to be able to invest time in understanding the functions of their CAS:

The physical effort that's put in on a day-to-day basis of conducting trade or practice is so exhausting. The last thing a business owner wants to do when he finishes work is turn around, go into his office, and start generating invoices and paperwork and all the compliance requirements that go with it (ACA2).

Lack of time would be the biggest hindrance. Actual running the business is what they're focused on, rather than dedicating time to using their software to understand their financial position (ACA11).

One expert proposed that cash flow management was easier before businesses became so reliant on CAS, because of the double entry now required when recording data:

Sometimes the return on investment for a small business is not there. For a small business sometimes the amount of effort to get your software up to date to do all this stuff, it is simpler to have paper versions of the invoices with a piece of paper on the top that says here's the total for this month. I think the amount of time using paper copies of invoices would have been less time spent on it compared to today on entering all the information into the software so that at the end of the day I can push a button and get my ATO reports out. But gee it costs a lot of time to do that. It is double entry everywhere. The supplier enters it and then the business enters it into their system (ADV3).

Participant ADV3 does indicate that some CAS programs have improved in technology and offer a function that allows businesses to import invoices directly from the supplier. This appears to be easily available for business using the same CAS system. Other digital solutions can allow invoices from different software packages at a cost to the user, which may restrict access for many small businesses:

I would add that it is getting easier. I've noticed a lot of other businesses are using Xero and there's the functionality to send a link to that invoice. You just click on it and it comes into your software and then you just code it. But until everybody is on software and the software can all talk to each other like that, then you've got this manual data entry, you're just chasing your tail all the time as a small business owner (ADV3).

Responses relating to time also suggested that limited hours spent operating the CAS have added to its complexity. If SBOs are not actively engaged in using their CAS on a regular basis, this will impede their ability to make use of it for cash flow management. Comments were broadly associated with SBOs using CAS primarily for tax obligations, rather than understanding the financial position of their businesses:

Programs can often be complex; some of them can be difficult to use and they don't use them often enough. For instance, quarterly tax reporting. You're only doing that four times a year. Of course, doing something four times a year in your software, you don't remember how you did it. The amount of times that you use the software, you're putting your bank statements in once a month but you're only doing your taxation, your PAYG, and your quarterly BAS, four times a year. So that hinders the computing software for the accountancy and the cash flow management (ADV1).

The remaining responses were focused on the level of digital literacy held by the SBO. Increased digital literacy was found to aid the use and understanding of CAS for cash flow management. One participant suggested that experts should be training SBOs in the functions of their CAS:

Experts should be involved in training, so that the small business person can operate the system (ACA2).

Other responses relating to digital literacy indicated that younger individuals who have been more engaged in digital technology will find CAS easier to operate than older generations, and in turn they will realise a higher level of understanding of their CAS:

Their ability to use a computer probably aids their use of a computerized accounting system, so if they're pretty savvy with a computer. If you're young, then you're probably going to be more likely to understand how to use the software (ADV4).

Most of the younger business owners these days have had digital literacy through their education system and at home and are more equipped to understand a computer accounting system (GOV6).

The remaining comments relating to digital literacy indicated that software that is complex and difficult to understand will hinder the use of CAS by SBOs for cash flow management. This is supported by prior literature suggesting that SBOs were not using their CAS to its full

potential, to highlight the strengths and weaknesses of their business, due to their lack of understanding of how to create financial reports in CAS:¹²³

I guess only if the software is not easy to understand; if it's a complex software system then again that might hinder them (ACC4).

Feedback indicates that software manufacturers are beginning to recognise the importance of simplifying CAS for use by SBOs. A number of participants acknowledged that software created by Xero¹²⁴ is making it easier for SBO to operate their businesses:

If you've got something like Xero; it's quite easy and integrative to use. It just depends on what the software is and how it's performed (ACC4).

If you look at the way Xero has adapted over the last five years and what the product provides right now, it's very intuitive in terms of extracting information for a small business operator. It's not as complex as what it otherwise would be if you've got to understand double ledger accounting to be able to use the software products. You can extract a lot of the information without even having an accounting background. A lot of our small businesses in areas that don't have an accounting background can sufficiently get a lot of the information from the software system. Doing bank reconciliations, doing cash flow projections, doing their BAS statements, doing a whole lot of things through their product aids their understanding of cash flow management (ADV5).

Overall, it appears that small business experts believe that the use of CAS for cash flow management is influenced by the level of digital literacy held by the SBO and the time available to operate the CAS. A higher level of digital literacy will aid the use of CAS for the management of cash flow. It was suggested that those individuals who have had greater exposure to digital technology will hold the highest levels of digital literacy and in turn, could make better use of their CAS. Also, it was recognised that the CAS systems are improving in terms of function and useability, thus potentially facilitating better understanding.

In respect of the time available to understand the functions of CAS, experts believe that SBOs will need to devote more hours to operating the system. Expert responses suggest, however, that SBOs are not likely to divert hours away from income earning activities to have a greater understanding of their CAS.

E Aids or hinders business tax literacy

Experts were asked if they believed that there are factors in the business environment or imposed by SBOs themselves that could encourage or prevent the required understanding of business tax systems for cash flow management. Similar to McKerchar's research¹²⁵ responses were conveyed by experts in the current research, with the added issue of SBOs' fear of tax being an inhibiting factor for their understanding of business tax systems.

¹²³ Belle Isle and Freudenberg (n 112) 517 and 529; Halabi, Barrett and Dyt (n 53).

¹²⁴ Xero Limited is a New Zealand-based software company that develops cloud-based accounting software for small and medium-sized businesses.

¹²⁵ McKerchar (n 93) 34-5.

F Complexity

Feedback given by experts relating to tax complexity predominantly addressed the problems that SBOs face in understanding the rules, concepts, and determination of which business tax systems are relevant to their business. Tax complexity is not an issue experienced only in Australia.¹²⁶ Experts in Australia appear to recognise that it is still an issue for SBOs:

For tax it's slightly different, it's the complexity of the concepts and the multitude of concepts especially under the different taxes and different regimes (ACA1).

I think the complexity of the tax system for small business is the problem. It's very rare for small business to completely understand how their tax affairs go. It is not uncommon for them to simply just sign their tax return with not really knowing what's going on, on their tax returns and simply just requesting their advisors to help or assist them in minimising their tax obligations. The complexities of the tax structure and the tax system are absolutely significant in that area. There are no simplification measures that exist (ADV5).

One expert suggested that it is not just the business tax systems that are complex. Searching the ATO website and seeking advice over the telephone from the ATO can also be a difficult exercise for SBOs who are trying to understand tax. Such difficulty can hinder SBOs when they are actively seeking to improve their business tax literacy:

It would be the complexity of the tax system, it's complex for a small business to understand, let alone all the small business tax concessions, that's well established in the tax literature. The Tax Office website is pretty complicated as well and getting telephone advice from the Tax Office can be problematic. The rulings can be a slow process as well. So, for small business tax, the small businesses are really in the hands of their accountants and advisers to help them. They're reliant on them (ACA5).

G Changes to tax law

An expert residing in the Government/ATO group suggested that understanding of tax systems can be challenging for tax experts who deal with it on a regular basis, let alone to SBOs who have little or no tax education. The challenges facing experts is supported by other research, which demonstrates that the changes in tax legislation are perceived as the frequency of tax law changes was the second highest recorded by Australian small business tax advisors¹²⁷

Also, the research by Saad,¹²⁸ suggests that it is almost impossible for SBOs to fulfil their tax responsibilities without the assistance of a tax expert, as individuals need to be highly skilled in tax law to do so. Participant GOV1 gave this response:

¹²⁶ Chardon (n 87); Chardon, Freudenberg and Brimble (n 87); Freudenberg, Chardon, Brimble and Belle Isle (n 98); Saad (n 87); Wadesango, Mwandambira, Mhaka and Wadesango (n 43).

¹²⁷ Brett Freudenberg, Binh Tran-Nam, Stewart Karlinsky and Ranjana Gupta, 'A comparative analysis of tax advisers' perception of small business tax law complexity: United States, Australia and New Zealand', (2012) *Australian Tax Forum* 27(4), 677-718, 690.

¹²⁸ Saad (n 87) 1069.

I suspect that they look at the raft of things that are there and it confuses them. I think there's a degree of mystique perhaps about financial statements and about tax, that they're almost predisposed to not understanding it not that they can't, but tax is complex. Some of the tax products are quite difficult to follow, even for someone who deals with the tax system for a long time. (GOV1).

The remaining experts who discussed complexity suggested that it arises and creates problems for SBOs because tax rules change frequently without SBOs being aware of those changes. Even if SBOs' initial understanding of tax systems is at an adequate level, continual changes in the law can result in SBOs' understanding being insufficient for their cash flow management. Research throughout the world suggests that SBOs would need substantial tax literacy to stay abreast of the constant modifications to tax law.¹²⁹ Australian experts appear to support this in their feedback regarding what prevents SBOs from improving their business tax literacy:

I think the level of literacy and just ongoing literacy. You might do a course at the beginning, but things do change, so you have to keep up with the taxation changes, and I suppose that's why people go to tax agents (ACC8).

I suppose what is perceived to be the constant changes in it. So, for instance, it seems every couple of years the tax rates are changing for personal tax rates. Constant changes, that's definitely a hinder (ADV1).

H Responsibility

Two experts identified that SBO business tax literacy can be influenced by SBO perception about whose role it is to understand tax. They suggest that SBOs do not believe that business tax literacy is their role:

My exposure to chatting to small business is that I pay tax once a year and my accountant will make sure I don't have to pay anything. I think it's not something they worry about it (GOV2).

They just say I've got an advisor for that. They switch off. Then they say okay, they'll look after that. Then they'll see him once a year and I just do my bit running the business, not fully understanding what they do. That, unfortunately, seems to be more so than the first option (ACC5).

I Level required

Another concern that experts expressed is that SBOs are unaware of the level of knowledge of tax rules and regulations that they should hold. They are oblivious at the outset of starting a business and their understanding does not increase with business growth:

¹²⁹ Chardon (n 87); Chardon, Freudenberg and Brimble (n 87); Freudenberg et al. (n 7); Saad (n 87); Wadesango, Mwandambira, Mhaka and Wadesango (n 43).

The danger is that sometimes they don't know what they don't know so when the business is just starting out tax knowledge is not as critical a problem as it is as the business starts to grow out of that start-up phase into a growth phase (ACC13).

All remaining feedback from experts about what aids or hinders understanding of business tax is related to SBOs' 'fear of tax'. A common response of experts was that SBOs are predisposed to the idea that understanding tax is so difficult which means that they are apprehensive about attempting to comprehend how business tax systems operate:

There are services available to them that they can access but often they're either frightened or they get overwhelmed easily. So, they need different ways of being able to build that understanding (GOV7).

Even with relatively simple things, there's that barrier where they go this is tax. I'm constantly told the tax system is really complicated, overlaid with the fear of making a mistake, and they look at it and they're already predisposed to not understanding it. Even if it's relatively simple, they may well look at it and go I don't get it, it's too hard. (GOV1).

In summary, experts appear to believe that the primary influence on the extent business tax literacy of SBOs to support cash flow management, revolves around the complexity of the tax systems. This relates to the multitude of tax concepts, the continual changes to the law, the magnitude of the information that must be deciphered and the difficulty accessing ATO resources including the ATO website and telephone assistance. The remaining responses relating to the limitations in understanding of business tax was associated with the SBO opinion that business tax literacy is the role of their advisor, the anxiety of SBOs in attempting to comprehend the rules and regulations of the business tax systems relevant to their business, and their obliviousness of what knowledge they should possess.

VI RECOMMENDATIONS

Given the results of this study as well as the prior literature, it is suggested that some of the key areas that inhibit the development of these literacies centre around the low optimal utilisation of advisors, lack of realising managerial benefits from tax compliance work, low utilisation of educational opportunities and fear of finances and tax. Many of the areas are interrelated and can be adversely affected by the overarching factors of an apparent lack of time for SBOs to pursue these, as well as the outlay of costs. With this in mind, a number of recommendations have been formulated.

A Advisors

The findings of the research emphasised that SBOs should engage experts to aid in the increase of literacy. For the use and understanding of financial statements it was considered important to determine what concepts assist with cash flow management. It was also raised how SBOs can struggle around the terminology used, as well as the fear that SBOs could have about finances and numbers. To this end, advisors need to be mindful of the language

used when referring to financial statements and taxes. Advisors need to consider breaking down the information around financial statements and tax into essential components.

Advisors might consider using the Cashflow Coaching Kit developed by the ATO to start the conversation about financial terms and tools to manage cashflow better.¹³⁰ The cost of advisors could be decreased through the use of free tools.

Part of this conversation is the need to be able to explain to SBOs the importance to make time for these literacies to develop and how once obtained could save time and increase performance for the business. This insight could provide the needed motivation for SBOs to see the importance of developing these literacies. Part of this aiding for SBOs to delegate other staff members or to get an accountant to assist; however, there could be a sense that tax is more about compliance than the managerial benefits.

B Managerial benefits

There appears that many records are being produced just for tax compliance and not being used to provide insight to business performance or practices (including CAS). Need greater use of finance records and CAS for business performance, compared to just tax compliance.

Prior research appears to demonstrate that when professional advice is sought it only occurs a few times a year, and is more about tax compliance rather than business management and strategy (little management benefit).¹³¹ Research found that tax practitioners failed to discuss the managerial benefits associated with tax compliance activities, which may be due to fee constraints and the ongoing requirements to file tax returns, which mean little time for reflection.¹³² It is difficult to see small business owners using their financial statements beyond tax compliance, if not encouraged by the advisors.

Advisors need themselves to be mindful of the this and might consider encouraging their SBOs to ask them three non-tax questions when completing tax returns. These three questions might be:

- Is the business trading profitably?
- Does the business have enough funds to meet regular financial commitments?
- Does the business generate enough to pay at least a wage to the SBO (including superannuation)?¹³³

These questions may highlight to SBOs and advisors that CAS (and financial statements) are not just for tax compliance, and that they can provide important management information but

¹³⁰ The Cash Flow Coaching Kit is a resource created by the Australian Taxation Office, which is designed for advisers to help small businesses manage their cash flow and improve their financial capability to aid their continued business viability. <https://www.ato.gov.au/Tax-professionals/Support-and-communication/In-detail/Cash-flow-coaching-kit/>

¹³¹ Yong and Freudenberg (n 95) 69.

¹³² Ibid 76.

¹³³ These questions have been adopted from some of the questions found in the ATO's Cashflow Coaching Kit.

need to be done on a timely basis (at least monthly to get a sense of how the business is operating)

Part of this emphasises how the correct and thorough set-up of CAS could assist SBOs in having more time to manage their cashflow and understand how their business is performing. Particularly, if it is possible to get the CAS automated, enabling the production of reports, as well as reminders to debtors for outstanding invoices. For example, advisors noted that Xero now allows for default reminders to be sent out for unpaid invoices, which could be important given the association between payment reminders and the literacies of CAS, business tax and financial statement, and thereby overall business performance.

B Educational opportunities

To improve the literacy of SBOs in Australia, a requirement could be made for new SBOs to undertake a series of education modules prior to business registration, in the hope that these modules will improve their knowledge of cash flow management and business taxes. These modules could include an assessment component, depending on the knowledge being acquired. Freudenberg (forthcoming)¹³⁴ has argued for an ABN renewal process, and one of the activities that occur at the ABN renewal could include educational/training requirements, such as:

- Completed the ATO decision tool for employee/contractor;
- Educational courses completed (including Worker Education Certificate, Superannuation guarantee employer obligations course, What does an ABN mean, Need for GST registration? Where to seek help for coerced/forced contractors).

Also, it needs to be considered if it is possible to develop better early education programs in high schools. Note ASIC has developed tools for high schools, as well as the Ecstra Foundation.¹³⁵

C Fear

Fear and anxiety were highlighted as being detrimental to increasing tax literacy of SBOs. This could be due to the possible implications that small businesses will face if they do not comply with taxation law or due to their individual experiences with the ATO. It is recommended that the ATO change their approach when dealing with small businesses. Perhaps the use of different speech and a change to the ATO's interaction with the small

¹³⁴ Freudenberg (n 19).

¹³⁵ We are very excited to announce the launch of Talk Money with Ecstra Foundation, our new financial education program for schools. Talk Money with Ecstra Foundation will help Australian school students learn money lessons at key life stages. The program provides classroom workshops delivered by trained facilitators in person or via live virtual sessions. Workshops are available for Years 5 to 10 and are provided at no cost to schools, ensuring more students can participate. Ecstra is an independent grant making foundation and Talk Money has no commercial sponsorships. To learn more about Talk Money and share the news with your school go to talkmoney.org.au.

business community will help in removing the barrier between the parties and make the ATO more approachable for SBOs. It is acknowledged that the ATO has already done a lot to improve communication and interaction with SBOs, but considering that small businesses are an important part of the economy, more could be done

Freudenberg¹³⁶ has argued that instead of imposing a penalty for non-compliance, it may be preferable if the Commissioner of Taxation had the discretion to give a direction for a small business to undertake education/training. This would encourage businesses to up-skill and reduce financial pressures. For example, there is already a 'direction for education' in terms of superannuation guarantee¹³⁷ and a further pre-emptive direction could be for education for new ABN holders, which could be part of the ABN renewal process.

D Over-arching inhibitors of time and cost

Freudenberg has argued that a refundable tax offset would enable new small businesses in the first three years of operation to obtain critical advice about worker status, business administration, cash flow management practices, income tax and GST compliance, registry obligations and superannuation.¹³⁸ This is supported by a recent proposal by industry bodies for a professional advice subsidy to be implemented for small businesses following the downturn in the economy due to Covid 19.¹³⁹

Through the rebate the Government is encouraging best practice and recognising the important role advisers can play in assisting businesses. Providing this explicit financial assistance may reduce the trend of SBOs sourcing free advice, such as from the internet, friends or family, especially for those on lower income amounts.¹⁴⁰ Research demonstrates a link between those who seek professional advice exhibiting greater confidence compared to

¹³⁶ Freudenberg (n 19).

¹³⁷ *Treasury Laws Amendment (2018 Measures No 4) Bill* 2018 in Part 2. The taxpayer would have 28 days to complete the education course when directed. If not completed within 28 days the case officer would follow up and may give an extension, otherwise penalties would apply. Once completed, the person undertaking the course could receive a Certificate of Completion. Under the superannuation measure, the directions are provided to the relevant 'entity', and it does not prescribe which person must do it. It needs to be the person responsible for the outcome that completes the program. The test does have identifiers and will notify the ATO that the 'entity' has completed it. In 2022, the following Bill was introduced into Parliament: *The Treasury Laws Amendment (Enhancing Tax Integrity and Supporting Business Investment) Bill* and included a measure to empower the Commissioner of Taxation to direct an entity to complete an approved record-keeping course where the Commissioner reasonably believes the entity has failed to comply with its tax-related record-keeping obligations as an alternative to existing financial penalties.

¹³⁸ Freudenberg (n 19).

¹³⁹ Including Chartered Accountants Australia and New Zealand, CPA Australia, the Institute of Public Accountants, the Institute of Certified Bookkeepers, the ASBFEO and the Council of Small Business Australia. In particular, it is suggested that a maximum of \$5000 be on offer to support the recovery of small businesses. Such a subsidy would help to remove the recognised barrier of lack of funds available to improve literacy. See: https://www.accountantsdaily.com.au/business/15335-accountant-advice-scheme-crucial-post-jobkeeper-government-told?utm_source=Accountants%20Daily&utm_campaign=10_02_21&utm_medium=email&utm_content=1&utm_emailID=a225dd5423e29f654ceb9f7159aee6c6898a85beb7097af02596874086cdd980a

¹⁴⁰ Brett Freudenberg, 'Change for Change's sake: are tax reforms required to assist the Australian arts sector?' (2011) 20(1) *Cultural Trends* 85.

those who did not seek advice in relation to assisting their business' profitability.¹⁴¹ The use of professional advice could assist in improving the tax literacy of business owners, as research has demonstrated that business owners with less than two years of operation have some of the lowest business tax literacy.¹⁴²

The quality of this advice would be regulated by only being available when the advice is sought from members of certain registered professional bodies and education providers. The eligible type of advice could cover such things as business entities; tax compliance, worker obligations, membership agreements; accounting practices, software; cash flow management practices and superannuation. This could include undertaking the ATO's Cash Flow Coaching Kit.¹⁴³

Additionally, eligibility for the rebate may require the small business owner to participate in a series of online small business modules each year that the rebate is claimed. These online modules could utilise materials already developed by various government agencies (including the ATO and Australian Securities and Investment Commission) (similar to CPD requirements of 10 hours per year). This could be developed into a micro-credentials system. This would encourage SBOs to build their technical knowledge about business and legal obligations, with a cash injection in return. This could address prior research findings that demonstrated a reluctance of SBOs to continue to update their tax literacy,¹⁴⁴ and how cost can inhibit advice being sought.¹⁴⁵

This offset could be capped at a certain amount per annum; such as \$5,000 per year for the first three years of operation of the business. Alternatively, the offset could be structured on a reducing taper over the first three years of operation with heavier weighting for the first year to encourage earlier learning.¹⁴⁶ The cost of such a rebate could be offset by reforms to the small business capital gains tax concessions which the Board of Tax has suggested.¹⁴⁷

E CAS systems

The set-up cost for CAS appears to be a deterrent for SBOs to set-up CAS thoroughly and correctly. Also, advisors need to make sure that SBOs are aware of software developments that could ease the business operations, including improved automated features.

¹⁴¹ Giles Hertz, Fred Beasley and Rebecca White, 'Selecting a Legal Structure: Revisiting the strategic issues and views of small and micro business owners' (2009) 20(1) *Journal of Small Business Strategy* 81-102.

¹⁴² Belle Isle, Freudenberg and Sarker (n 94); McKerchar (n 93) 37 and 40.

¹⁴³ <https://www.ato.gov.au/Tax-professionals/Support-and-communication/In-detail/Cash-flow-coaching-kit/>

¹⁴⁴ McKerchar (n 93).

¹⁴⁵ Tan (n 95); Yong and Freudenberg (n 95) 76 and 82.

¹⁴⁶ Year 1: A 100% tax rebate (up to \$5,000) [this would mean that the small business could spend \$5,000 in the 1st year with effectively nil cost]; Year 2: A 75% tax rebate (up to \$5,000) [this would mean that the small business could spend \$6,666 on advice in the 2nd year and get \$5,000 back – effective cost \$1,666]; and Year 3: A 50% tax rebate (up to \$5,000) [this would mean that the small business could spend \$10,000 on advice in the 3rd year and get \$5,000 back – effective cost \$5,000].

¹⁴⁷ Board of Taxation, (March 2019) *Review of Small Business Tax Concessions*, A Report to the Treasurer (Commonwealth of Australia, Canberra).

To encourage SBOs and to improve their CAS literacy, the Australian Government should provide an incentive related to CAS knowledge acquisition. This could be in the form of a grant where the government matches a dollar-for-dollar funding amount up to \$1,500. It would be advantageous for this training to be carried out over time, as increases in knowledge have been associated with ongoing exposure to the CAS system.¹⁴⁸ Increased CAS literacy could help SBOs evaluate their cash flow position and business performance using up-to-the-minute data available in the business CAS.

VII LIMITATIONS AND FUTURE RESEARCH

Like any study, there are limitations in this research. An identified limitation is the knowledge of the experts included in the project. While all experts were selected for their knowledge of the small business sector, their level of knowledge on all areas under research may be varied. Their expertise in small business matters may also be limited by their engagement, time, and hands on experience in the small business sector. It is not assumed that all experts will be as well versed in all of the research topics.

A further limitation is the number of participants engaged in each expert group. Although the participant numbers satisfied the unit of analysis set out in the research, a larger representative of each group would likely provide further insight into how SBO literacy could be improved as a result of the experiences of each particular group. This leads to future research that could be proposed from the research outcomes. A further study could investigate each expert group with a view of engaging a larger number of experts. Once completed the data could be analysed for the individual representative group and then triangulation of the findings from each study could occur to bring an overall perspective from small business experts.

Future research could also focus on the recognised literacy inhibitors and enablers to ascertain the extent of the positive and negative impacts and to attempt to implement a framework or put processes in place that assist SBOs to improve their literacy. A large-scale survey could be conducted with SBOs to see if there is a relationship with these literacies and business performance, to highlight to small businesses how important knowledge in these areas might be.

VIII CONCLUSION

The management of cash flow is a key enabler to assist in the success of a small business. However, it is not without its challenges, which can extend to a number of factors beyond the

¹⁴⁸ Morikawa (n 78); Pollack and Adler (n 78) 835.

control of the SBO themselves, such as a global financial crisis or a pandemic. However, responsibility could be around the notions of literacies, and of particular interest to this research is the SBO's literacy in terms of financial statements, CAS, and business tax. These literacies are seen as important in the management of cash flow. To explore what may aid or hinder the development of these literacies for SBOs, small business experts were interviewed. From these interviews a number of key inhibitors were identified including time, lack of business acumen, low training, cost, and the focus on producing business records for tax compliance rather than management practices. From these findings, recommendations were formulated that could assist SBOs to improve their understanding of these three important areas.

Managing cash flow will also be difficult for SBOs, especially given their central role to the success of their business, and the multiple responsibilities they can have. It is hoped with these recommendations, they could assist SBOs to become top of their class in understanding and using these various tools that can aid their businesses and continue the valuable contribution small businesses make to the economy.

THE FOUNDATIONS OF THE WADE CASE: CONCRETE OR CLAY?

ALEXANDER FULLARTON* and DALE PINTO[‡]

Abstract

This paper argues that the Australian Taxation Office (ATO) practice of issuing opinions and taxation rulings for the guidance of taxation practitioners compiling and submitting taxation returns does not always result in greater clarity or certainty in the application of taxation laws. To illustrate that argument the paper addresses the example wherein the ATO considers all animals used in a business of primary production as trading stock. However, the word all is not contained in s 995 of the Income Tax Assessment Act 1997 (Cth) (ITAA 1997); but rather, the ATO view is based on its interpretation of the findings in the appeal case of Federal Commissioner of Taxation v Wade ('Wade Case').

However, it has been previously argued that dairy cattle, and stud stock held for breeding purposes, should be treated as capital assets and not trading stock. Those publications examined the Wade Case but contained a number of assumptions made due to a lack of substantiable evidence. Subsequent investigation of the High Court appeal books and other documentary evidence focussing on initial Commonwealth Taxation Board of Review decision that preceded the Commissioner of Taxation's appeal to the High Court is examined in this paper. The paper analyses those documents and investigates background not reported in Court authorised publications. It compares them with previous publications to reveal a deeper insight of the case and addresses the assumptions made in those publications. It argues that the Wade Case focussed on the assessable nature of monies received as compensation for loss of assets. That Wade's loss was dairy cattle is somewhat irrelevant to the findings of the case. The paper finds that, prior to 1936, animals used as breeding stock were of capital nature for taxation purposes. However, the legislation was repealed in 1936 which rendered all animals used in a business of primary production to be classified as trading stock. Therefore, it concludes that while ATO view is correct, the basis supporting the view is not.

I INTRODUCTION

This paper argues that the Australian Taxation Office (ATO) practice of issuing opinions and taxation rulings for the guidance of taxation practitioners compiling and submitting taxation returns does not always result in greater clarity or certainty in the application of taxation laws. To illustrate that argument the paper addresses the example wherein the ATO considers all animals used in a business of primary production as trading stock. However, the word all is not contained in s 995 of the Income Tax Assessment Act 1997 (Cth) (ITAA 1997); but rather, the ATO view is based on its interpretation of the findings in the appeal case of *Federal Commissioner of Taxation v Wade* ('Wade Case').¹

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¹ (1951) 84 CLR 105.

However, it has been previously argued that dairy cattle, and stud stock held for breeding purposes, should be treated as capital assets and not trading stock.² Those publications examined the Wade Case but contained a number of assumptions made due to a lack of substantiable evidence. Subsequent investigation of the High Court appeal books and other documentary evidence focussing on initial Commonwealth Taxation Board of Review decision that preceded the Commissioner of Taxation's appeal to the High Court is examined in this paper. The paper analyses those documents and investigates background not reported in Court authorised publications. It compares them with previous publications to reveal a deeper insight of the case and addresses the assumptions made in those publications. It argues that the Wade Case focussed on the assessable nature of monies received as compensation for loss of assets. That Wade's loss was dairy cattle is somewhat irrelevant to the findings of the case. The paper finds that, prior to 1936, animals used as breeding stock were of capital nature for taxation purposes. However, the legislation was repealed in 1936 which rendered all animals used in a business of primary production to be classified as trading stock. Therefore, it concludes that while ATO view is correct, the basis supporting the view is not.

Broadly, this paper argues that rulings, determinations and advice provided by the Australian Taxation Office (ATO) should not be considered by tax practitioners as always providing for greater clarity and certainty in the preparation and lodgement of taxation returns and the payment of tax. The practice of accepting the ATO opinion unchallenged can have extremely significant fiscal impacts on taxpayers and tax collections. To illustrate that impact this paper uses a hypothetical case study provided by Fullarton and Pinto³ as to the sale of a pastoral lease by the executor of a deceased estate.

That hypothetical case study reveals that the discrepancy of tax payable by considering the cattle remaining on a pastoral lease for breeding purposes as capital assets rather than livestock for sale is considerable. Animals left on the pastoral lease by the Executor for the purpose of maintaining a breeding herd at an estimated value of AUD 300 000 attracted an income tax liability of around AUD 50 000. However, by considering breeding or stud animals as capital assets then after capital gains tax concessions the tax liability is reduced to nil. This paper suggests that for want of thorough research and challenge of 'accepted' principles, taxpayers have over paid a significant sum of taxes to the ATO as income has been wrongly assessed.

However, it must be noted that the ATO may not be directly responsible for the anomaly. While it has provided guidance on its view, the ATO clearly states the caveat that its opinion may be not be correct and its written opinions include a specific disclaimer which states:

If this advice turns out to be incorrect and you underpay your tax as a result, you will not have to pay a penalty. Nor will you have to pay interest on the underpayment provided you reasonably relied on the advice in good faith. However, even if you don't have to pay a penalty or interest, you will have to pay the correct amount of tax.⁴

² Alexander Fullarton and Dale Pinto, 'Tax Accounting for Livestock: Mother or Meat/Capital or Revenue' (2021) 27(1) *New Zealand Journal of Taxation Law and Policy* 39; and Alexander Fullarton and Dale Pinto 'The Wade Case: An Analysis' (2021) 27(2) *New Zealand Journal of Taxation Law and Policy* 121.

³ Fullarton and Pinto, 'Tax Accounting for Livestock: Mother or Meat/Capital or Revenue' (2021a) 27(1) *New Zealand Journal of Taxation Law and Policy* 39, 47.

⁴ Letter from Alison Lendon, Deputy Commissioner of Taxation, to Alexander Fullarton, 6 November 2019. (Appendix A).

Tax agents are duty bound to take reasonable care to ensure that taxation laws are applied correctly to the circumstances in relation to which they are providing advice to a client⁵ and in that context the paper asserts that agents should not simply accept the ATO view on a matter as necessarily representing the correct view of an issue.

In their article Fullarton and Pinto noted that, despite the ATO's caveat that its advice could be incorrect, a majority of accountants and tax practitioners and other professionals involved in the sale of pastoral leases

... considered that in order to be in compliance with the tax accounting requirements, establishing the distinction between livestock as breeding stock and those as trading stock should be carried out, but ultimately, it is too hard; hence, the livestock trading account (revenue) option is adopted. That is despite most of them being aware of the CGT concessions.⁶

They suggest that tax practitioners should use such ATO rulings and determinations as a guide and not rigid matters of Law. Each case should be considered on its merits and assessed accordingly. However, in the example addressed in this paper, being the use of the *Wade Case* as concrete evidence to determine a particular class of asset, it appears many hundreds of taxpayers may have paid many millions of dollars in tax over a period of over 70 years, as the opinion of the ATO has been accepted without challenge.

This paper examines the view held by the ATO that all animals held in a business of primary production, are trading stock for the purposes of sale, regardless of their actual purpose or function in that business. That view appears counter intuitive to people with a rural background or familiarity with farming. It might appear nonsensical to consider the horses and dogs used to muster sheep and cattle form part of the trading stock of a farm which produces animal products such as wool or milk. One does not normally shear or milk horses and dogs, but rather the ATO view considers them as trading stock – a revenue asset, rather than aids manufacture or plant – a capital asset.

A broad examination of the ATO view is contained in previous publications. The previous papers challenged the ATO view and argued that stud stock or animals used for breeding or other purposes are not trading stock but rather should be considered as capital assets used for the purposes of manufacture.⁷ Those publications argued that the word all is not contained in s 995 of the *Income Tax Assessment Act 1997* (ITAA 1997), but found that the ATO view relies entirely on the findings of the *Wade Case*⁸ for support.⁹ However, no taxation ruling, determination or other public notice was found to express that view other than an Interpretative Decision,¹⁰ which focuses on considering animal embryos not to be livestock, therefore ATO advice was sought to confirm that view. The advice received¹¹ acknowledged the taxation legislation does not contain the word all in its definitions of livestock and confirmed that ATO view and that the Commissioner of Taxation relies on the findings of the *Wade Case* to

⁵ Code of Professional Conduct *Tax Agent Services Act 2009* (Cth) s 30-10.

⁶ Fullarton and Pinto (n 1) 68.

⁷ Ibid 67.

⁸ (1951) 84 CLR 105.

⁹ Fullarton and Pinto (n 2).

¹⁰ Australian Taxation Office, *Income Tax: Definition of Livestock and Animal Embryos* (ID 2003/726, 30 July 2003).

¹¹ Lendon (n 4).

substantiate the view ‘that the definition of livestock in section 995-1 of the ITAA 1997 includes all animals in a primary production business’.¹²

Given the Commissioner’s view relies entirely on the Wade Case, which has had a significant impact on the amount of tax paid by Australian primary producers over the past 70 years, an examination of the Wade Case was conducted to investigate and evaluate the reliability of those findings to support his opinion. Fullarton and Pinto¹³ found that sufficient doubt existed to suggest the Commissioner’s view might not be reliably supported by the findings of the Wade Case. They further supported the argument that some animals held in a business used for primary production, such as horses and dogs used for mustering and stud stock used for breeding, or the production of animal products, such as milk or wool, are of a capital nature and should be treated accordingly for taxation purposes.

They examined the distinction between classifying the expenditures of an enterprise as capital (assets purchased) or revenue (costs of operation) and in particular, they looked at the taxation implications of accounting for livestock as trading stock purchased, or bred, for sale and those animals purchased, or bred, for breeding purposes.

They argued:

... that animals kept for breeding purposes are capital assets, and therefore the proceeds of the sale of those animals, in conjunction with the sale of the property and other assets contained thereon for the purpose of operating the business, are capital sales. Thus, that proportion of the proceeds of the sale of the primary production business should be subject to the [capital gains tax] (CGT) provisions [of the ITAA 1997] and taxed accordingly.¹⁴

It is also noted that the advice received from the ATO also contained reference to the ATO Interpretative Decision ID 2003/726. It is significant that that ID 2003/726, also recognises that the word all is not contained within s 995 of the ITAA 1997 but refers to the ‘inference’ held in the findings of the Wade Case that all animals that are used in primary production are included in the definition of livestock.

In particular it refers to part of the decision which states:

Rather than outlining what is considered to be livestock this definition merely states which animals are not considered to be livestock. However, in *Federal Commissioner of Taxation v. Wade* (1951) 84 CLR 105; (1951) 9 ATD 337; (1951) 5 AITR 214 (*Wade's Case*), the High Court considered that this definition infers that all animals that are used in primary production are included in the definition of livestock. Per Dixon and Fullagar JJ: There is a definition of livestock which, by inference, makes it clear that all animals are to be included in the case of a business of primary production.¹⁵

Therefore, this paper also considers the ATO advice that the statement in the findings of the Wade Case that the definition of livestock ‘by inference, makes it clear that all animals are to be included in the case of a business of primary production’¹⁶ is sufficient substantiation to hold the opinion that NO animals held in a business of primary production can be considered as

¹² Ibid.

¹³ Alexander Robert Fullarton and Dale Anthony Mark Pinto, ‘The Wade Case: An Analysis’ (2021b) 27(2) *New Zealand Journal of Taxation Law and Policy* 121.

¹⁴ Fullarton and Pinto (n 2) 68.

¹⁵ Lendon (n 4).

¹⁶ Ibid.

capital assets used for the purposes of producing saleable goods, but rather all animals used in a business of primary production are saleable goods, that is trading stock.

In 1950 Michael Wade appealed to the Commonwealth Taxation Board of Review (CTBR) to set aside an amendment made by the Commissioner of Taxation to his 1948 income tax return. The matter found in favour of the taxpayer and was subsequently appealed in the Australian High Court by the Commissioner of Taxation in 1951.¹⁷ The full bench of the Australian High Court the Commissioner's appeal was allowed, and the decision of the Board of Review set aside.

This paper looks beyond the findings of the full bench of the High Court and conducts further research into the background of the Wade Case by way of examining the initial decision of the Wade's earlier appeal to the CTBR¹⁸ and the Commissioner's initial appeal to the High Court.¹⁹ Therefore, in order to fill the gaps in the previous research and to support, or refute, the findings of the previous publications, this paper examines evidence presented to the CTBR for background to the *Wade v Commissioner of Taxation*²⁰ decision. It also examines commentary of other reports of the CTBR matter such as Butterworth's Commonwealth Taxation Board of Review Decisions;²¹ and Walters Kulwer's CCH Taxation Board of Review Decisions.²² The following section re-examines the *Wade Case* in detail with further evidence produced to the High Court arising from the CTBR matter of *Wade v Commissioner of Taxation* and the first appeal by the Commissioner to the High Court.²³ It also re-examines the previous publications to address the gaps in the earlier analyses.

II THE WADE CASE REVISITED

A Background

The previous analysis of the findings of the Wade Case provided the following overview of the case and the details known at that time:

In 1951, Michael Wade was a dairy farmer carrying on business in the suburb of Osborne Park in the City of Perth, Western Australia. In the financial year 1947–48, 110 of his dairy cows were destroyed under the provisions of the *Milk Act* 1946–1947 (WA). Wade received a sum of A£2,016 (A\$4,032) as compensation for the animals that were destroyed. In the same year, he purchased 116 replacement dairy cattle for the sum of A£1,986 (A\$3,972).

In his return of income for the year of income in which this took place [1948] he treated the extra six dairy cattle as a purchase of stock and showed the amount in his livestock account; but he excluded from his revenue account the receipt of £2,016 compensation for

¹⁷ *Wade Case* (n 5).

¹⁸ *Wade v Commissioner of Taxation*, Commonwealth Taxation Board of Review No. 2. (1950) No M37/1950. Note: The matter is also reported as (1950) 1 CTBR (NS) Case 77, 335; and (1950) 1TBRD Case 72, 273.

¹⁹ *Commissioner of Taxation v Wade* (High Court of Australia, Kitto J. 4 September). It is noted that the matter was initially heard by Kitto J alone on 4 September 1951. A decision was not made at that time but rather it was ordered the case to be argued before a Full Court of the High Court.

²⁰ *Wade v Commissioner of Taxation* (n 15).

²¹ John Angus Lancaster Gunn and Richard Esmond O'Neill (eds), *Commonwealth Taxation Board of Review Decisions (New Series)* (Butterworth and Co, 1952) 1; (1 CTBR (NS)).

²² Wolters Kulwer, CCH Australia *CCH iKnow* (online at 2 April 2022) < [FEDERAL COMMISSIONER OF TAXATION v. WADE - CCH iKnow | Australian Tax & Accounting](#)>.

²³ *Commissioner of Taxation v Wade* (n 16).

the 110 cattle condemned. Correspondingly he excluded the cost of the 110 cattle by which he replaced them, an amount of £1,886, placing a note on his return that this was a purely capital transaction.²⁴

The following sequence of events has been compiled from documents contained in the Appeal Book provided to the judges in the Wade Case. The documents contain not only a timeline of the events leading to the Commissioner of Taxation's appeal to the full court of the High Court of Australia but also provide an insight into the facts and points of Law considered by their Honours, but not written into the reported findings of the case.²⁵

B Timeline of events

13 May 1949 - Michael Wade lodged his return of income for the financial year ended 30 June 1948. Of significance to this matter is that he excluded the financial transactions relating to the destruction and replacement of 110 cattle held in his primary production business. However, a note was included in his tax return disclosing the event but stating that the transactions were not disclosed as income as they were of a capital nature and did not form part of Wade's assessable income.²⁶

26 August 1949 - The Commissioner of Taxation issued his assessment of taxation to Wade based on his income tax return, but adjusted to include the transactions relating to the disposal and replacement of the 110 cattle.²⁷

13 September 1949 - Wade objected to the assessment on three grounds –

- (1) 'Cattle condemned and replaced from the compensation paid should not enter the trading stock of cows at all.'
- (2) Milk consumed assessed at the value of £26 was excessive. And
- (3) The reduction of 'Amount expended on food for employees' from £1 per head per week to 15/- was wrong. The original sum of £1 per head per week should be used.²⁸

18 October 1949 - The Deputy Commissioner of Taxation for Western Australia notified Wade that his objection was disallowed and that he may refer the matter to a Board of Review, or to appeal to the High Court or to the Supreme Court of a State. The notice further advised Wade of the requirement of the payment of a fee of £1 to accompany a request to a tribunal.²⁹

14 November 1949 - Wade advised the Deputy Commissioner of Taxation (WA) of his request to have the matter referred to the Board of Review, together with his payment of the £1 prescribed fee.³⁰

²⁴ Wade, 108–9; Fullarton and Pinto, (n 1) 124.

²⁵ The High Court of Australia authorises its findings to be published in the Commonwealth Law Reports 1903- (CLR) by Westlaw Australia and the Australasian Legal Information Institute; and Gunn and O'Neill (n18).

²⁶ *Commissioner of Taxation v Wade* Appeal Book High Court of Australia, 9 of 1950, 18.

²⁷ Ibid 14.

²⁸ Ibid 24-6. Note the symbols £ and /- are for Australian Pounds Sterling and Shillings. Prior to 14 February 1966 Australia used the British Sterling system of currency in which a pound consisted of 20 shillings.

²⁹ Ibid 27-8.

³⁰ Ibid 29.

19 May 1950 - The Second Commissioner of Taxation referred Wade's request for a decision on the objection to his assessment to the Taxation Board of Review No. 2 in Melbourne.³¹

The request was accompanied by a statement that the Commissioner's reasons for disallowing the taxpayer's claims were –

1. That the taxpayer disposed of part of assets of his business being trading stock and the amount of £2 016 is, pursuant to section 36(1) of the Income Tax Assessment Act 1936-1948, assessable income;
alternatively, the amount of £2,016 was received as or by way of insurance or indemnity and is assessable income under the provisions of section 26(j) of that Act.
2. That the value of produce taken from the business and used for the maintenance of the taxpayer and his employees was not less than £26.
3. That the expenditure incurred by the taxpayer in providing food for his employees was not greater than £270.³²

That statement is not helpful unless Wade's income tax return and assessment are considered to provide the points of discrepancy.

1. Wade had not included the £2016 compensation payment in his income tax return, but rather appended a note:

110	Cattle condemned by Stock Department.	
	Received Compensation.	2016
110	Cattle replacement cost	1886
	Purely a Capital transaction.	

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2. Drawings of goods for own use cannot be located on the income tax return³⁴ it is assumed that nil was declared and the Commissioner adjusted the assessment by the entire £26; and
3. Wade claimed £1 per week per employee for food being a total of £360. The Commissioner adjusted that expenditure to 15/- per week per employee to £270.

In total, the Commissioner had increased Wade's assessable income by £2589 from £5025 to £7614.³⁵ The Commissioner had also increased Wade's allowable deductions by £1780 from £3886 to £5666. The result was a net increase in taxable income from £1140 to £1948.³⁶

It is noted that in Australia, in 1948, £808 was a considerable sum of money to a small dairy farmer on the outskirts of Perth in Western Australia, especially to one who had just suffered the misfortune of having his entire dairy herd slaughtered as a quarantine measure to prevent the spread of tuberculosis. By comparison, the average male income was just £7/17/6 (\$15.75)

³¹ Ibid 30.

³² Ibid 31-2.

³³ Note appears to have been glued to page 3 of the income tax return 'LIVE STOCK SCHEDULE. Ibid 18.

³⁴ Ibid 16-20.

³⁵ Ibid 22.

³⁶ To further complicate the analysis Wade had also declared £1 of property income.

or £409/10 (\$819).³⁷ In modern times the argument over the adjustment to Wade's assessable income may appear paltry, but in 1948, it was significant.

12 September 1950 - Wade's evidence was put to the Taxation Board of Review under examination by W E Southwood (representing Wade) and cross-examined by Edward Thomas C Cain (Representing the Commissioner). A transcript of proceedings included in the Appeal Book provided to their Honours in the subsequent appeal to the Full Bench of the High Court.³⁸

The outcome was that Wade withdrew two of the three claims disallowed by the Commissioner namely numbers two and three relating to goods drawn for own use and the value of employee meals. The first, and remaining, claim, that of the compensation and replacement of dairy cattle, to be excluded from the taxpayer (Wade's) assessable income, save for the £130 difference between the compensation paid (£2016) and the cost of replacement of 110 cattle (£1886). The remainder, the £454 (the value of closing stock), to be considered as assessable income.³⁹

8 December 1950 - The Commissioner of Taxation lodged a notice of appeal to the High Court to resolve the following questions of law:

1. Whether the condemnation and killing of the said cattle and the receipt of £2,016 as compensation was a disposal of trading stock within the meaning of section 36 of the Income Tax Assessment Act 1936-1948;
2. Whether the said sum of £2,016 was an amount received by the Respondent by way of insurance or indemnity for or in respect of any loss of trading stock which would have been taken into account in computing assessable income within the meaning of section 26(j) of the Income Tax Assessment Act 1936-1948; and
3. Whether the Board of Review was right in holding that it was not open to it to find that the said amount of £2,016 could have been included under section 26(j) of the Income Tax Assessment Act 1936-1948.⁴⁰

4 September 1951 - The Commissioner of Taxation appealed to the High Court before a single judge, Kitto J, to lodge and appeal to the Full Bench of the High Court.⁴¹ Evidence was presented by N A Lappin for the Commissioner, with Edward Thomas C Cain as witness for the appellant. The order was 'that this case be argued before a Full Court at the present sittings of the Court in Perth'⁴² and that 'the transcript of these notes will be available for the members of the Full Court.'⁴³

10 September 1951 - The Commissioner's appeal was referred by Kitto J in Perth Western Australia to the Full Bench of the High Court.⁴⁴

³⁷ ABS Cat 6350.0

³⁸ *Commissioner of Taxation v Wade* (n 23) 33-8.

³⁹ Ibid 39-61.

⁴⁰ Ibid 14. It is noted that the Commissioner of Taxation might have appealed to the Western Australian Supreme Court in the order of the hierarchy of courts. Since 1977 the matter might have been appealed to the Federal Court, as it refers to Commonwealth Legislation, however it was not, it was referred initially to a single judge of the High Court and the decision to refer the matter to the Full Bench was made by Kitto J.

⁴¹ Ibid 2-9.

⁴² Ibid 9.

⁴³ Ibid.

⁴⁴ Judges Dixon, Fullagar and Kitto.

5 November 1951 - The Commissioner's appeal was heard in Melbourne by the Full Bench of the High Court.⁴⁵ It is noted that the Full Bench included Kitto J who had heard the initial appeal and had the benefit of hearing Wade and the Commissioner's evidence in the Court.⁴⁶

It is also noted that N A Lappin appeared for the Commissioner of Taxation but there was no appearance of Counsel for the respondent. Dixon and Fullagar JJ noted 'There was no appearance upon the appeal for the respondent taxpayer'⁴⁷ and assumed the taxpayer 'doubtless regarded the amount of the consequential reduction of tax as insubstantial'.

However, the transcript of the proceedings before Kitto J on 4 September contains a discussion as to why neither Michael Wade nor his solicitors would not be attending the appeal hearing and an undertaking by N A Lappin 'to see that a copy of [the] notes will be available for the members of the Full Court.'⁴⁸ The transcript also contains a confirmation to an undertaking that the Commissioner would not for an order for costs against [the taxpayer].⁴⁹

No transcript of the hearing before the Full Bench has been found in this research and the findings of that matter rely entirely on the publication found in the Commonwealth Law Reports. However, this paper considers the background of evidence put in the *Wade Case* therefore a verbatim record of proceedings might be considered beyond the scope of this research, but would have been examined if available. The observation as to representation and costs above, is not intended to imply a negative assessment of their Honour's observations, which are obiter dictum or simply an expression of their opinion, but rather to illustrate details which may have been overlooked in the reported findings.

A central tenet of this paper is that reliance on the findings published in the Commonwealth Law Report, while accepted as supporting evidence for an argument before the court, may not be sufficient to provide a concrete base for all similar matters, as the ATO advice may imply. It is also note that the ATO advice contains a disclaimer to the effect that the advice could subsequently be proven incorrect. The small matter outlined above supports the argument of this paper. Wade did not appear, nor did his counsel, as it was previously undertaken by the Crown Solicitor that Wade's evidence would be put to the Full Bench and costs would not be sought by the Commissioner against Wade. He had no need to journey to Melbourne to give the same evidence that he had given in Perth before Kitto J. Kitto J was aware of that, but it appears the other judges were not.

C Taxation Review Board Evidence Applied

Fullarton and Pinto previously examined the High Court's findings of the Wade Case⁵⁰ however those examinations were limited in that they relied on the reported findings of the High Court⁵¹ and a number of assumptions had to be made, such as the actual livestock trading beyond the destruction and replacement of the 110 cattle which were the focus of the case. At

⁴⁵ *Wade Case* (n 5).

⁴⁶ Transcript of Proceedings Before his Honour Mr Justice Kitto 4 September 1951 *Commissioner of Taxation v Wade* (n 22) 2-9.

⁴⁷ *Wade Case* (n 5) 338.

⁴⁸ *Commissioner of Taxation v Wade* (n 23) 9.

⁴⁹ *Ibid* 7.

⁵⁰ Fullarton and Pinto (n 10).

⁵¹ *Wade* (n 7).

that time evidence provided to the Taxation Board of Review was not found.⁵² However, the Appeal Book copies provided to the High Court generally, and to Kitto J specifically, include the decision of the Taxation Board of Review, the statement of reasons supporting that decision and other documents given in evidence by the Commissioner of Taxation and Michael Wade to the Board. Fullarton and Pinto found that Dixon and Fullagar JJ accepted the concept that the cattle were to be considered trading stock, and therefore of a revenue nature, irrespective of the role that they played in the business.⁵³ They also noted that Kitto J was reluctant to accept that principle, but focussed instead on the concept of insurance recoveries and the costs of repairs to support his findings.⁵⁴

Fullarton and Pinto also pointed to a number of relevant previous cases that were not considered by the High Court.⁵⁵ Without supporting documentation other than the report published in the Commonwealth Law Reports it could not be concluded if their Honours were aware of those cases, or if they had been omitted from either the evidence or the findings. The evidence provided by the Appeal Books reveals that those other cases were not put to the High Court for consideration.⁵⁶ Further, the Board heard substantial evidence that Wade had suffered greatly from the loss of his existing herd of cows, and that the replacements were not a ‘like-for-like’ exchange. He pointed to ‘extra labour in bringing them in and getting the quite which was a very hard task and they were not the same class of milkers as I had had on the property for many years.’⁵⁷ None of those ‘non-fiscal’ considerations can be found in the Commonwealth Law Report publication as the reports focus the findings and not the evidence presented to the court.

It is also noted that, in Australia, administrative tribunals are not judicial bodies and may function in a less formal manner than the ‘Judicature’. The decisions of Australian tribunals focus on fairness and equity rather than strict application of the Law. However, Courts may set aside the decisions of tribunals for a number of reasons, but not if it is unreasonable to do so.⁵⁸ That discrimination is significant to the background of this case, as what may have been determined as fair by the Board as matters of equity or social inequality, may not have been in accordance with the application of literal approach to legislative interpretation or ‘Black-Letter Law’ as adopted by the High Court in 1951.⁵⁹ Fullarton and Pinto concluded that are a number of changes which have been made in the past 71 years to approaches to legal interpretation

⁵² It is noted that ‘in Australia, there are many other official bodies though [they are] not courts. These bodies are sometimes said to be performing a ‘quasi-judicial’ function. Decisions of administrative tribunals are sometimes reported in much the same way as court decisions.’ (Catriona Cook et al. *Laying Down the Law* (Butterworths 5th ed, 2001) 82. However, cases may not be reported and the record of *Wade v Commissioner of Taxation* Board of Review No. 2. (1950) was discovered in the copy of the Appeal Book – copy of his Honour Mr Justice Kitto (*Wade v Commissioner of Taxation* (n 12)).

⁵³ Fullarton and Pinto (n 10) 130.

⁵⁴ Ibid.

⁵⁵ Ibid 134-7.

⁵⁶ For example: *Robinson v Federal Commissioner of Taxation* [1927] HCA 8; (1927) 39 CLR 297 held that ewe weaners were not trading stock as they were held for the purposes of breeding and that the proceeds of the sale of such ewe weaners were not assessable income. However, it has been found that s 17 of the ITAA 1922, in force at the time, expressly excluded livestock, which in the opinion of the Commissioner, Assistant Commissioner or Deputy Commissioner, are ordinarily used as beasts of burden or as working beasts or for breeding purposes; (Fullarton and Pinto (n 10) 135).

⁵⁷ *Commissioner of Taxation v Wade* (n 15) 34.

⁵⁸ Commonwealth of Australia, Administrative Appeals Tribunal, ‘Tribunals in Australia: Their Roles and Responsibilities’ (Web Page) <<https://www.aat.gov.au/about-the-aat/engagement/speeches-and-papers/the-honourable-justice-garry-downes-am-former-pres/tribunals-in-australia-their-roles-and-responsibilities>>.

⁵⁹ Catriona Cook et al. *Laying Down the Law* (Butterworths 5th ed, 2001) 208.

which may have significant impact on the outcome of a modern challenge to the findings of the *Wade Case*. They noted:

That the *Wade Case* of 1951 relies substantially on British cases for precedent. In 1951, the British courts were courts of appeal for Australian cases. British court findings have not bound Australian courts since 1986;⁶⁰ therefore, the precedents set by those cases, which bound the High Court in 1951, no longer apply. It is argued that if the *Wade Case* were held in modern times, the outcome may be somewhat different.

Further, since the *Wade Case* of 1951, capital gains tax has been introduced (1985) and the Asprey Report of 1975 indicated that livestock could be considered capital assets rather than trading stock. In addition, the introduction of accounting standards relating to biological assets since 2000 indicate that the ATO view may not be as relevant in 2020 as it was before those events.⁶¹

A significant development in the approach to legislative interpretation is the enactment of s 15AA of the *Acts Interpretation Act 1901* (Cth) which prescribes that:

In interpreting a provision of an Act, the interpretation that would best achieve the purpose or object of the Act (whether or not that purpose or object is expressly stated in the Act) is to be preferred to each other interpretation.⁶²

Therefore, unbound by the restrictions of the use of the literal interpretation that infers all animals are to be included in the case of a business of primary production,⁶³ their honours may have looked at the purpose to which the cattle were put as aids to manufacture. They may have considered that the legislation did not intend to capture animals used as aids to manufacture but rather animals actually used as trading stock for the purposes of making a profit. However detailed investigation of the outcome of the *Wade Case* has been addressed by Fullarton and Pinto⁶⁴ and is beyond the scope of this paper.

The focus of this paper is to examine evidence leading to the appeal to the Full Bench of the High Court of Australia, the final court of appeal used by the Commissioner of Taxation in this matter.⁶⁵ Therefore, this paper moves to examine the decision of the Taxation Review Board and the evidence put to the High Court. It also introduces information not previously considered by Fullarton and Pinto such as Wades actual livestock trading account filed in his 1948 Income Tax Return and amended by the Commissioner of Taxation.

D Analysis of the Taxation Board of Review documents and Transcript of Proceedings

This analysis compares the research published in the Fullarton and Pinto articles⁶⁶ to the evidence presented to the Taxation Board of Review and the Board's findings, with the transcript of proceedings of the first hearing of the High Court before Kitto J in Perth on 4

⁶⁰ *Australia Act* 1986 (Cth).

⁶¹ Fullarton and Pinto (n 10) 138.

⁶² *Acts Interpretation Act 1901* (Cth) s 15AA.

⁶³ *Wade Case* (n 5) 110.

⁶⁴ Fullarton and Pinto (n 10).

⁶⁵ Australian appeals were abolished by a gradual, and messy, legislative process that began in 1968 and ended with the *Australia Acts* 1986 <https://www.hcourt.gov.au/assets/publications/speeches/former-justices/gleeson/cj_18jun08.pdf>.

⁶⁶ Fullarton and Pinto (n 1) and Fullarton and Pinto (n 10).

September 1951.⁶⁷ In the absence of detailed information Fullarton and Pinto made assumptions as to the accounting treatment of Wade's dairy herd for the fiscal year ended 30 June 1948 and what the livestock trading account may have shown in his 1948 income tax return. They stated that:

The findings detail the circumstances related to the reason the cattle were destroyed and the exact number of cattle involved. They detail the sum of compensation paid for the destroyed cattle and the number and cost of the replacement bought by Wade. However, the findings do not detail the livestock trading account furnished by Wade and amended by the Federal Commissioner of Taxation for the year of income ending 30 June 1948.⁶⁸

However, the Commonwealth Taxation Board of Review (New Series) contains a 'summarised result of the [Commissioner's] alterations as regards [Wade's] cattle'⁶⁹ which is an excerpt of Wade's amended livestock trading account. It is noted that the existence of two authorised court reporting publications may assist researchers in their examination of previous cases and an examination of both reports may be warranted to reveal detail not contained in one or the other. It is noted here that the preamble presented in the Australasian Tax Decisions⁷⁰ version of the report of the findings of the *Wade Case* contains a detailed reproduction of the Commissioner's calculations to the adjustments of the Live Stock Schedule to arrive at a trading profit of £584, after considering the 'sale' and 'purchase' of the dairy herd and the impact on the averaging value of closing stock. The Commonwealth Law Report version does not. The Commonwealth Law Report version contains the same detail but in word form, rather than set out in an accounting form.

In this example examination of both publications might have assisted Fullarton and Pinto in their previous article.⁷¹ Detailed discussion of the impacts of the existence of two publications is beyond the scope of this paper but might be considered in future research. Detail of a livestock trading account furnished by Wade in his 1948 income tax return was not found by Fullarton and Pinto. However, it is contained in the copy of Wade's 1948 Income Tax Return contained in the certified copy of the appeal book⁷² and is reproduced in table 1.

Live Stock Schedule for the year ended 30 June 1948
Table 1: Wade's 1948 Live Stock Schedule.

Dr				Cr			
Column A				Column B			
Date	Particulars	No.	Amount	Date	Particulars	No.	Amount
1 Jul 47	Opening stock:				Sales:		
	Cattle	94	£ 748		Cattle	24	£ 208
	Horses	9	68		Horses	3	8
	Purchases:				Deaths:		

⁶⁷ Transcript of Proceedings, *Commissioner of Taxation v Wade* (High Court of Australia, Kitto J, 4 September 1951).

⁶⁸ Ibid.

⁶⁹ Gunn and O'Neill (n 18) (1950) 1 CTBR (NS) Case 77, 339.

⁷⁰ The *Australasian Tax Decisions* (ATD) series contains Australian tax cases from 1930 to 1969. The ATD series was originally published in 15 volumes by the Law Book Company. It was sometimes known as *Australasian Tax Decisions*.

⁷¹ Fullarton and Pinto (n 10).

⁷² Part of Wade's 1948 Income Tax Return is contained in Kitto J's appeal book but several pages, including the Live Stock Schedule, are missing.

	Cattle Horses	24 6	£ 356 75		Horses	3	
	Natural Increase: Cattle	20		30 Jun 48	Closing stock: Cattle Horses	114 10	£ 929 95
		153	£ 1247			153⁷³	£ 1240

The structure of the Live Stock Schedule does not follow modern accounting standards of a Livestock Trading Account however the net loss of £7 is contained in Part D of the 1948 income tax return Income as Farmer, Pastoralist, Horticulturist etc.⁷⁴ The total of Column A is shown at item 43 as income from sales and the total of Column B is shown at item 46 as a deduction from that income. Hence the Live Stock Schedule does not balance with the profit or loss transferred to the Profit and Loss account, as it would in the presentation of a modern set of accounting statements, which was assumed by Fullarton and Pinto.⁷⁵

Table 1 bears little resemblance to the Livestock Trading Account proposed by Fullarton and Pinto shown below in table 2. The discrepancy indicates the danger of making assumptions from part records presented in the authorised law reports of the findings. This paper suggests for a more accurate legal analysis, the evidence submitted to the court and transcripts of the hearings should be consulted as well as the published findings contained in the authorised law reports, as assumptions or inferences drawn from a single source may arrive at misleading or inaccurate conclusions or inferences.

Livestock Trading Account for the year ended 30 June 1948
Table 2: Wade's Suggested Original Livestock Trading Account.⁷⁶

Dr				Cr			
Date	Particulars	No.	Amount	Date	Particulars	No.	Amount
1 Jul 47	Opening stock	110	£1,562 ⁷⁷	14 Dec 47	Sales	110	£ 550 ⁷⁸
14 Feb 48	Purchases	6	£ 102	30 Jun 48	Closing stock	116	£1,886
30 Jun 48	Natural Increase	110	£ 110 ⁷⁹				
	Gross profit transferred to P&L A/c		£ 662				
		226	£2,436			226	£ 2,436

⁷³ There is a mathematical error in that the total of the column is 154 not 153 as shown. It is noted that there are a number of mathematical errors throughout the income tax return and Commissioner's amendments. The Court findings noted the errors and adjusted them accordingly. Therefore, they did not influence the ultimate outcome of the case.

⁷⁴ Commonwealth of Australia (n 17).

⁷⁵ Fullarton and Pinto (n 10).

⁷⁶ Fullarton and Pinto (n 10) 126.

⁷⁷ This amount is interpolated from the sums provided in *Wade*, 109.

⁷⁸ A fictitious figure for illustration purposes. It is assumed that if a fully grown heifer was purchased for £17, then £5 for a weaner would not be unreasonable.

⁷⁹ The nearest valuation of Income Tax regulation 10(3) that could be found was in 1966. The value prescribed at that time was £1. In 1948, it may have been as little as 10/- (shillings: there were 20/- in a £); however, this figure is accepted as sufficient for illustrative purposes. Education Department of Western Australia, *Leaving Accountancy* (Technical Education Publications Trust Fund, Technical Extension Service, 1966) 415.

1 July 48	Opening stock	116	£1,886				
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Table 2 is a construction of Wade's livestock trading account compiled from the data provided in the findings of the *Wade Case*. Sums used reflect the assumed production of calves and the six cattle that he declared as purchases in his original income tax return.⁸⁰ The 110 cattle destroyed and then replaced do not appear in the account in accordance with the findings.⁸¹ It shows a gross profit of £662 rather than a loss of £7. Likewise, the assessed live stock schedule accompanying Wade's notice of assessment is contained in the documents found in the certified appeal book.⁸² It is reproduced here in table 3, shown below.

Amended Live Stock Schedule for the year ended 30 June 1948

Table 3: Amended Live Stock Schedule.

Dr				Cr			
Column A				Column B			
Date	Particulars	No.	Amount	Date	Particulars	No.	Amount
1 Jul 47	Opening stock: Cattle Horses	94 9	£ 748 72		Sales: Cattle Horses	134 3	£2,224 8
	Purchases: Cattle Horses	134 6	£2,242 75	30 Jun 48	Closing stock: Cattle Horses	114 10	£1,383 98
	Natural Increase: Cattle	20					
		263	£3,137			261⁸³	£ 3,713

The assessment as amended by the Commissioner shows a net profit from livestock trading as £576 in place of the £7 loss as disclosed by Wade in his income tax return. The impact of considering the transactions arising from the destruction of the dairy cattle and their replacement as assessable income rather than a capital transaction had the effect of increasing Wade's taxable income by £583. It is noted that, due to the nature of living animals, not only are live stock (as trading stock) costs a combination of opening stock levels and purchases the means of acquiring stock, but animals can also breed, go missing and die. Therefore those 'natural' changes in population must be valued and brought into account. The Commissioner's adjustments to bring the 'capital transactions' into account as 'trading transactions' added the complexity of altering the closing stock value to Wade's assessable income. Therefore, instead of the closing stock of 114 cattle and 10 horses valued at £1024, they became a value of £1481, thus contributing £457 to the overall increase of £583.

⁸⁰ *Wade*, 106.

⁸¹ *Ibid.*

⁸² *Commissioner of Taxation v Wade* (n 23) 23.

⁸³ The Commissioner's assessment has omitted the three horses shown as deaths in Wade's income tax return.

The Appeal Books reveal that the Taxation Board of Review found that the transaction was of a revenue nature and gave its reasons for doing so.⁸⁴ Despite Wade's argument that the dairy cattle were a capital asset the Board decided that:

Section 6 of the [Income Tax Assessment] Act states that, in the Act, unless the contrary intention appears, “‘trading stock’ includes anything produced, manufactured, acquired or purchased of manufacture, sale or exchange and also includes live stock, and live stock’ does not include animals used as beasts of burden or working beasts in a business other than a business of primary production”.

There can be no doubt that, unless the contrary intention appears, intention somewhere appears, the taxpayer's livestock i.e. his cattle, must be regarded as trading stock for the purposes of section 28. We can see nothing in section 28, or elsewhere, to suggest any contrary intention with regard to dairy cattle generally, or this taxpayer's cattle in particular. There is certainly nothing to indicate that the circumstances under which live stock has been acquired are to be enquired into for the purposes of section 28.

‘Live stock’ is ‘trading stock’ for the purposes of the section. If it is on hand at the beginning or end of the year of income, that is enough.⁸⁵

Therefore, the sum of £454, being the value of Wade's cattle on hand at the end of the 1947-8 fiscal year, was considered as assessable income by the Taxation Board of Review. The Commissioner's appeal to the High Court was as to the remainder – namely the £130, being the difference between the £2016, received as compensation, and the £1886, the cost of Wade's cattle. Ultimately, that was the only matter addressed by the High Court.

In making his assessment for that year of income the Commissioner of Taxation **added** the £2,016 to the amount shown in Wade's return under sales and the £1,866 to the amount shown under purchases, thus increasing the assessable income derived from the livestock account by the amount of £584.⁸⁶ (emphasis added)

This paper argues that had the matter considered the definition of live stock as trading stock to be its central focus, then the impact on the entire Live Stock Schedule as to the increased value of the closing stock would have been upheld by the court. However, as the Commissioner's action to the increase in value of Wade's closing stock had been decided in the Taxation Board of Review, the residual excess of compensation paid to the cost of replacement was the single matter addressed by the High Court.

Fullarton and Pinto found that:

the matter before the court did not consider the number of cattle or their value at the beginning of the year but rather focussed on the sum of £130 being the difference between the compensation paid (£2,016) and the expenditure of £1,886.⁸⁷

Therefore, this paper argues that the focus of the *Wade Case* was the assessability of insurance recoveries and the deductibility of the cost of repairs relating thereto, rather than considering the concept of livestock to be trading stock, as inferred in the ATO advice. The reader is reminded that the ATO notices contain a warning that the advice may be incorrect.⁸⁸ It may

⁸⁴ *Commissioner of Taxation v Wade* (n 23).

⁸⁵ *Ibid* 52.

⁸⁶ *Wade*, 106.

⁸⁷ Fullarton and Pinto (n 1) 125.

⁸⁸ Lendon (n 2).

appear a little incongruous that the ‘sale’ and ‘purchase’ of livestock was considered by the Taxation Review Board to be valid in assessing the closing value of livestock, yet the actual trades, and profit arising, were not. Ultimately it was that single fact, the £130 profit arising from the discrepancy between the compensation monies paid to Wade and the cost of the replacement cattle, that was considered by the High Court.

Fullarton and Pinto noted that earlier cases focussing on the sale of livestock in Australia had found that breeding stock were not trading stock.⁸⁹ The following section investigates why the *Wade Case* might have been appealed to the High Court if the matter had already been resolved.

E Previous Litigation presented in the Wade Case

Fullarton and Pinto outlined the cases presented to the High Court in the findings of the *Wade Case* namely:

Commissioners of Inland Revenue v Brooks;⁹⁰ *Commissioners of Inland Revenue v Newcastle Breweries Ltd*;⁹¹ *Commissioners of Inland Revenue v Northfleet Coal & Ballast Co*;⁹² *Commissioners of Inland Revenue v Executors of Williams*;⁹³ *Danmark Pty Ltd v Federal Commissioner of Taxation*;⁹⁴ *Farnsworth v Federal Commissioner of Taxation*;⁹⁵ *The Commissioners of Inland Revenue v J Gliksten & Son, Ltd*;⁹⁶ *Maritime Electric Co Ltd v General Dairies Ltd*;⁹⁷ *The Minister for Lands v Ricketson and the Australian Mortgage, Land & Finance Co*;⁹⁸ *Short Bros., Ltd v Commissioners of Inland Revenue*;⁹⁹ *Stebbing v Metropolitan Board of Works*;¹⁰⁰ *Van Den Berghs, Ltd v Clark*.¹⁰¹

They found that most of the cases did not relate to the distinction between breeding stock as a capital asset and other animals held for the purposes of sale and therefore revenue assets, but rather focussed on the receipt of insurance or compensation monies to be considered as assessable income. They suggested that:

It may be that the *Wade Case* focused on insurance recoveries as assessable income and substituted monies received by way of insurance recoveries as an effective sale of livestock, instead of considering the distinction between breeding stock and trading stock.¹⁰²

Additionally, they also considered a number of other cases which they considered relevant to the *Wade Case* but not used in evidence by either party. Significantly, they examined the findings of *Robinson v Federal Commissioner of Taxation* (‘*Robinson Case*’),¹⁰³ and found that it focused on the sale of sheep in conjunction with the sale of a pastoral property. It was:

⁸⁹ Fullarton and Pinto (n 10) 135.

⁹⁰ (1915) AC 478.

⁹¹ (1927) 12 TC 927. Reported in K.B.D, 42 TLR. 185, CA., 42 TLR. 609, and H.L., *43 TLR. 476.

⁹² (1927) 12 TC 1102.

⁹³ (1943) 1 All E.R. 318.

⁹⁴ (1944) 7 ATD 333.

⁹⁵ [1949] HCA 27; (1949) 78 CLR 504.

⁹⁶ [1929] UKHL TC 14 364 (22 February 1929).

⁹⁷ (1937) AC 610.

⁹⁸ (1898) 19 LR NSW 281.

⁹⁹ (1927) 12 TC 955.

¹⁰⁰ (1870) LR 6 QB 37.

¹⁰¹ (1935) AC 431, 19 TC 390.

¹⁰² Fullarton and Pinto (n 10) 135.

¹⁰³ [1927] HCA 8; (1927) 39 CLR 297 (*Robinson Case*).

Held, that the ewe weaners were not "trading stock" within the definition of that term in sec. 4 of the *Income Tax Assessment Act* 1922-1925, and therefore that the proceeds of the sale of such ewe weaners were not assessable income of the owner under sec. 17 (1) of that Act.¹⁰⁴

They stated that:

The Robinson Case of 1927 supports the distinction but the later Wade Case of 1951 does not. It may be that if the *Robinson Case* had been considered by their Honours in Wade, then the outcome may have been different.¹⁰⁵

As the Robinson Case of 1927 found the opposite of the Wade Case of 1951 – that there is a distinction between animals held in a business of primary production and that some are not be trading stock, this research examined the amendments to income tax legislation that may have occurred in the period between 1927 and 1951. It was found that s 17, referred to in the Robinson Case, had been repealed in 1936. Accordingly, s 17 of the *Income Tax Assessment Act* 1922-34 (ITAA 1922) is examined in detail in the following section of this paper.

F Section 17 – The Forgotten Story

This paper focuses on the ATO's view that *all* livestock held in a business of primary production are trading stock and therefore the fiscal transactions are a form of revenue according to ordinary concepts and subject to income tax. The ATO supports that view with the reported findings of the 1951 *Wade Case*.¹⁰⁶ The matter of accounting for stud or breeding stock was previously examined by Fullarton and Pinto¹⁰⁷ and the findings of the *Wade Case* was further examined by them in detail.¹⁰⁸ This paper has examined the sequence of events and documents from the lodgement of Wade's 1948 income tax return to the final appeal by the Commissioner to the Full Bench of the High Court in 1951 to investigate if the ATO's view is truly supported by the findings of the *Wade Case* or if that opinion might be successfully challenged.

Fullarton and Pinto conclude that significant changes to taxation law have occurred over the past 70 years and that the *Wade Case* may no longer be a concrete foundation to the view that breeding or stud stock should not be treated as capital assets or aids to manufacture rather than goods held for re-sale. This, and the preceding papers, indicate that while the ATO opinion, which relies entirely on the *Wade Case* might be unfounded further research, beyond the scope of this analysis, reveals the ATO view is correct. They found previously that earlier cases, such as the *Robinson Case*¹⁰⁹ of 1927, held that breeding or stud stock were capital assets and therefore not subject to income tax provisions. However, in the *Wade Case* of 1951 it was inferred that livestock were considered to be trading stock. Had there been a significant a change to the legislation in the period 1927 and 1948? The Statement of reasons for the

¹⁰⁴ *Robinson Case*, 297.

¹⁰⁵ Fullarton and Pinto (n 10) 135.

¹⁰⁶ Lendon (n 2).

¹⁰⁷ Fullarton and Pinto (n 1).

¹⁰⁸ Fullarton and Pinto (n 10).

¹⁰⁹ *Robinson Case*, 297.

decision of the Board of Review¹¹⁰ provides the clue. In that statement the Board refers to the consistency of the provisions between the ITAA 1922, and the following *Income Tax Assessment Act* (Cth) 1936 (ITAA 1936). In that statement the Board referred to s 50 of the 'old' act and ss 51 and 51A.

However, there may have been inconsistencies. This research compared the two acts and it was found that section 17 is contained in the ITAA 1922, but not in the following ITAA 1936. Section 17 of the ITAA 1922 contained the following provision:

(4.) In this section— (a) the expression "trading stock" does not include live stock which in the opinion of the Commissioner, Assistant Commissioner or Deputy Commissioner are ordinarily used as beasts of burden or as working beasts or for breeding purposes;¹¹¹

Section 17 expressly identified breeding stock as NOT being trading stock. However, s 17 was deleted from the ITAA 1936 and consequently its repeal brought *all* animals used in primary production into the livestock trading account. This paper suggests therefore, that while the basis for the view might be challenged, the ATO view is correct. Had the assessor and the accountant known of the repeal of s 17 then the Wade Case would never have existed. The ATO could simply have pointed that out to the taxpayer; the board of review; the High Court and so on. It appears the repeal of s 17 became lost in history. In fairness the 1930s and 1940s were tumultuous years for Australia and the World in general. The events of The Great Depression and World War II might have overshadowed the transition of the income tax legislation from the ITAA 1922 to the ITAA 1936. There were also the challenges of the Uniform Tax Cases to help confuse accountants and tax administrators alike.

Detailed examination of the Ferguson Royal Commission on Taxation 1934¹¹² is not conducted here but the brief relevant details as to why it was recommended to repeal s 17 outlined here. The Royal Commission considered arguments made by various Associations of graziers to continue the exemption from income tax for transactions relating to the purchase and sale of breeding stock but found that

The claim [by the associations that the sale of breeding stock should not be included in assessable income] is based upon the argument that live stock used for breeding purposes is equivalent to plant, and that when it is sold the proceeds should be regarded as a realization of capital. But the grazier does not take this view when he buys it, for the cost is debited to his working account, and he is allowed a deduction in full for the amount so expended. If breeding stock is sold otherwise than upon the realization of a business, the proceeds are brought to account as ordinary income, and the grazier is taxed on the profit or allowed for the loss on the transaction. If the argument that breeding stock is capital be sound, it should be treated consistently in all circumstances, and in that event its cost would not be allowed as a deduction, nor would any profit on its realization be taxable.

The truth is that live stock possesses some of the characteristics both of a fixed asset and a trading asset. Although as animal may be acquired primarily for breeding or wool-growing purposes, its ultimate sale in many cases by no means a minor consideration. The life of any stock is limited to a few years, and must eventually be realized or replaced.¹¹³

¹¹⁰ *Commissioner of Taxation v Wade* (n 23) 58.

¹¹¹ *Income Tax Assessment Act 1922* (Cth) s 17.

¹¹² Commonwealth, *Royal Commission on Taxation* (1932-34) (Ferguson Royal Commission Report).

¹¹³ *Royal Commission on Taxation* (Third Report, 12 April 1934) 135.

Although the argument that the assets must be eventually realized or replaced might apply to all capital assets, the dual characteristics of animals in that they can carry out the functions of breeding stock and trading stock simultaneously is considered unique to biological assets, therefore, the Commission's rational is difficult to refute. Accordingly, the Royal Commission made the following recommendation:

We recommend that the proceeds of breeding stock sold upon the realization or discontinuance of a business from any cause whatever shall be included in the assessable income of the taxpayer.¹¹⁴

We recommend that Section 17 of the Commonwealth Income Tax Assessment Act, which permits the purchaser of sheep in the wool to treat the cost as a purchase of sheep and wool as distinct from each other, be deleted from the Act.¹¹⁵

The explanatory memorandum put to Parliament did not provide as much detail as that contained in the report but rather simply stated that the following definition of 'Live stock' does not include animals used as beasts of burden or working beasts in a business other than a business of primary production.¹¹⁶ That definition reflects the repeal of s 17 which had made the distinction between breeding stock and stock held for resale. It is assumed 'working beasts' referred to animals used to produce products for sale, that is growing wool, producing fat lambs or milk. The following footnote was added to the Explanatory Memorandum for clarification as to why the definition was to be included in the legislation:

(e) This definition continues the existing Commonwealth practice except in regard to live stock used as working beasts and beasts of burden by primary producers. In their case, the difficulty of identifying these animals and also the necessity of accounting for any sale of the possible natural increase, make it desirable in the interests of simplicity to bring working beasts and beasts of burden into the live stock schedule.¹¹⁷

It is noted that the reason for the removal of s 17 provided in the Royal Commission report – that is the inability to treat the value of the sheep (a capital asset) distinctly from its wool (a revenue asset) was not contained in the explanatory memorandum. Section 17 was duly omitted from the ITAA 1936 and therefore all animals used in a business of primary production became classified as trading stock regardless of the function those various animals carried out. It is on that basis that the ATO should place its support for its view and not the findings of the Wade Case, which as discussed, might be challenged.

Discussion of how breeding stock could be accounted for, other than being included in the general category of livestock, is beyond the scope of this paper. However, Allen has considered the concept in detail and concludes that:

The tax community should be aware of how the present system for taxing live stock came about and, in particular, why the current valuation methods were avoided for so many years.

¹¹⁴ Ibid.

¹¹⁵ Ibid, 136.

¹¹⁶ Explanatory Memorandum, Bill for an Act to Consolidate and Amend the Income Tax Assessment Act 1922-1934, 1935 (Cth) 8.

¹¹⁷ Ibid 9.

When the current system fails, a better one will be needed based on sound logic and analysis.¹¹⁸

It might also be noted that an aging merino ewe, used for growing wool and producing merino lambs for wool production, might be sent to the abattoirs at the end of her ‘useful life’ but to consider her and a dorper fat lamb bred specifically for the prime lamb meat market to be synonymous might reveal a simplistic view of the pastoral industry. That discussion might be considered in future research.

III SUMMARY AND CONCLUSION

This paper argues that rulings and determinations issued by the ATO should not be considered by tax practitioners as always providing for greater clarity and certainty in the preparation and lodgement of taxation returns and the payment of tax. It notes that tax agents are bound by law to take reasonable care to ensure that taxation laws are applied correctly to the circumstances in relation to which they are providing advice to a client¹¹⁹ and accordingly it asserts that agents should not simply accept the ATO view on a matter as necessarily representing the correct view of an issue. Significantly, it notes that the ATO is not directly responsible for the mistaken belief that rulings and advice given by it provides irrefutable grounds for a particular view or interpretation of tax law. While the ATO may provide guidance on its view, those opinions clearly include a caveat that its opinion may be not be correct. Its written opinions generally include a specific disclaimer which states:

If this advice turns out to be incorrect and you underpay your tax as a result, you will not have to pay a penalty. Nor will you have to pay interest on the underpayment provided you reasonably relied on the advice in good faith. However, even if you don’t have to pay a penalty or interest, you will have to pay the correct amount of tax.¹²⁰

To illustrate its argument the paper uses the case of livestock held in a business of primary production. Previously, Fullarton and Pinto argued that animals kept held for stud or breeding purposes should be considered capital assets and the proceeds of sale of those assets should be subject to capital gains tax provisions and concessions.¹²¹ However, they found that the ATO considered *all* animals held in a business of primary production were held for the purpose of sale and that the proceeds were subject to income tax regardless of their primary function.

On investigation Fullarton and Pinto found that the word all was not contained in legislation but rather the ATO relied on the findings of the Wade Case to support its view. They found that that view remained unchallenged for over 70 years when they conducted their subsequent investigation of the Wade Case.¹²² Their investigation focused on the reported findings of the Wade Case which revealed their Honours had used the inference that all livestock were trading stock to reach their findings. They discovered the findings of the Wade Case was not as

¹¹⁸ Christina Allen, ‘Taxation of Live Stock in Australia: A critical review of Tax Law and Policy’ (2020) 49(3) *Australian Law Review* 209, 231.

¹¹⁹ Code of Professional Conduct *Tax Agent Services Act 2009* (Cth) s 30-10.

¹²⁰ Lendon (n 2).

¹²¹ Fullarton and Pinto (n 1) 68.

¹²² Fullarton and Pinto (n 10).

conclusive as the ATO view suggested, and that in particular, Kitto J was reluctant to accept that principle, but he focussed instead on the concept of insurance recoveries and the costs of repairs to support his findings.¹²³

Therefore, based solely on the reported findings of the Wade Case, Fullarton and Pinto¹²⁴ found that sufficient doubt existed to suggest the Commissioner's view might not be reliably supported by the findings of the Wade Case. Rather, they supported the argument that some animals held in a business used for primary production, such as horses and dogs used for mustering and stud stock used for breeding, or the production of animal products, such as milk or wool, are of a capital nature and should be treated accordingly for taxation purposes.

Fullarton and Pinto's argument however did not reveal the background to the Wade Case which may have consolidated or refuted the ATO view that left the matter open for further research. The subsequent research supporting this paper reveals the reason why it was inferred that all animals held in a business of primary production are considered trading stock. It is not the findings of the Wade Case, as suggested by the ATO advice, but rather the operation of the Law.

In 1934, the section of the ITAA 1922-34 that segregated breeding stock from live stock held for trading purposes was repealed.¹²⁵ This paper reveals that the impact of that change in the legislation brought Wade's dairy cattle into his live stock schedule as assessed by the Commissioner of Taxation. This research reveals that Wade appealed firstly to the CTRB and then to a single judge of the High Court (Kitto J). His appeal was based on the distinction between animals held for production purposes and therefore should be considered as capital assets, but while the distinction of his dairy cattle being a means of production – a capital asset, and not a product for sale – a revenue asset, s 17 was not considered in any evidence provided to the CTRB or the High Court. Section 17 expressly identified breeding stock as NOT being trading stock. However, s 17 was omitted from the ITAA 1936 and consequently its omission brought *all* animals used in primary production into the livestock trading account. This paper suggests therefore, that while the basis for the view might be challenged, the ATO view is correct. However, it appears the repeal of s 17 became lost in history. In fairness the 1930s and 1940s were tumultuous years for Australia and the World in general. The events of The Great Depression and World War II might have overshadowed the transition of the income tax legislation from the ITAA 1922 to the ITAA 1936. There were also the challenges of the Uniform Tax Cases to help confuse accountants and tax administrators alike.

The conclusion of this paper is that had the assessor and the accountant known of the repeal of s 17 then the Wade Case would never have existed. The ATO could simply have pointed that out to the taxpayer; the board of review; the High Court and so on. This paper acknowledges that to research every matter of precedent reported and used in the courts to the level conducted in this research would be an unrealistic expectation for tax preparers, legal practitioners and the courts to conduct it does highlight the need to independently research the background of similar cases. This paper points to the statutory requirement that tax agents are duty bound to take reasonable care to ensure that taxation laws are applied correctly to the circumstances in relation to which they are providing advice to a client¹²⁶ and in that context, it asserts that agents

¹²³ Ibid.

¹²⁴ Fullarton and Pinto (n 10) 121.

¹²⁵ *Income Tax Assessment Act 1922* (Cth) s 17.

¹²⁶ Code of Professional Conduct *Tax Agent Services Act 2009* (Cth) s 30-10.

should not simply accept the ATO view on a matter as necessarily representing the correct view of an issue.

IV SUGGESTED FURTHER RESEARCH

This paper finds that the consideration that all animals held in a business of primary production in Australia are classified as trading stock is a matter of taxation legislation. That was not always the case. Prior to its repeal in 1934, s 17 of the *ITAA 1922-34* provided that breeding stock were considered capital assets. The basis of Wade's omission of the transactions relating to the destruction and replacement of his dairy cattle was that it was argued that the cattle were not trading stock, but rather aids to manufacture and therefore 'purely a capital transaction', as noted in his 1948 Income Tax Return.

Fullarton and Pinto also argued that breeding stock should be treated as capital assets. They pointed to the efflux of time, the recommendations of the Asprey Report¹²⁷ and the introduction of capital gains tax in 1985 as factors to reconsider some live stock as capital assets rather than trading stock regardless of their function in the business. The 1934 Ferguson Royal Commission on Taxation recommended the repeal of s 17 of the *ITAA 1922-34* to simplify the distinction between live stock as capital assets and their product as revenue assets. However, the basis for the recommendation was not the difficulty is distinguishing stud sheep from market sheep but rather the difficulty in distinguishing the sheep from its wool.¹²⁸ That detail was omitted from the explanatory memorandum given in the Bill to enact the *ITAA 1936*.

Therefore, while it is accepted that all animals held in a business of primary production are considered trading stock by operation of the legislation, the matter as to why breeding stock, and other animals held as aids to manufacture should not be regarded as capital assets remains. It is inequitable that retiring farmers, pastoralists and graziers should pay significantly more tax on the proceeds of the sale of their businesses than other business owners do on the sale of their capital assets due to their breeding or stud animals being regarded as trading stock by operation of the law. This paper suggests that the repeal of s 17 should be investigated and researched such that the situation argued by Wade, and addressed by statute prior to 1934, be reinstated and accounted for using modern electronic data processing systems and accounting procedures to permit the distinctions to be effectively returned to farmers, pastoralists and graziers for taxation purposes. What may have been complex in 1934, may be simplified in the 21st Century.

¹²⁷ Taxation Review Committee, The Parliament of the Commonwealth of Australia, *Full Report* (Parliamentary Paper No 136, January 1975) (Asprey Report).

¹²⁸ *Royal Commission on Taxation* (Third Report, 12 April 1934) (Ferguson Report) 135.

THE DETERMINANTS OF REVENUE IN MALAYSIA: THE ROLE OF E-FILING, TAX ADMINISTRATION, AND TAX COMPLIANCE

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Abstract

Tax revenue can be affected by the electronic tax filing system (e-filing), the effectiveness of tax administration with tax compliance as the mediator. This study aims to investigate the impact of e-filing and the effectiveness of tax administration on tax revenue in Malaysia, which is crucial for the government and the nation. Partial Least Square Structural Equation Modelling (PLS-SEM) was used to analyse data. The findings revealed a significant relationship between the effectiveness of e-filing and tax administration and the full mediation effect of tax compliance on the effectiveness of tax administration and tax revenue.

Key words: E-filing; tax administration; tax compliance; tax revenue; PLS-SEM

I INTRODUCTION

The Malaysian Minister of Finance reported that the national debt reached RM1.087 trillion on the government balance sheet in 2017.¹ The amount has further increased to RM1.169 trillion in 2019 and is estimated to reach RM1.257 trillion by the end of September 2020.² The Ministry of Finance Malaysia also reported that the federal government total expenditure has increased to RM314.7 billion from the initial budget of RM297 billion.³ Additionally, the government implemented an expansionary fiscal policy due to the prolonged COVID-19 crisis, which adversely impacted the economy.⁴ Thus, the Malaysian government revenue has become one of the main concerns given its significance in supporting government spending and debt payment.

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¹ Ministry of Finance Malaysia, *Fiscal outlook and federal government revenue estimates 2019* (28 February 2021) <<https://www.treasury.gov.my/index.php/en/archives/2019/item/698-fiscal-outlook-and-federal-government-revenue-estimates-2019.html>>.

² Ministry of Finance Malaysia, *2021 Fiscal outlook and federal government revenue estimates* (11 March 2021) <<https://belanjawan2021.treasury.gov.my/index.php/en/tf-2021>>.

³ Ministry of Finance, *Budget 2021 Official Website* (28 February 2021) <<http://www1.treasury.gov.my/index.php/en/tf-2021>>.

⁴ Ibid.

Malaysia acquires its national revenue through tax and non-tax revenue. Tax revenue can be collected directly or indirectly by the Inland Revenue Board of Malaysia (IRBM) and Royal Customs and Excise Department, while non-tax revenue is collected from other sources. Taxation is an essential element worldwide as it allows the government to collect the funds needed for crucial obligations.⁵

The Ministry of Finance Malaysia underlined that the total estimated government revenue is formed by a combination of revenue and borrowings, which is estimated to be RM322,540 million in 2021.⁶ Approximately 54.1% or RM174,494.14 million of the estimated government revenues are from direct and indirect tax collection. The government is predicted to receive 19.4%, which is equivalent to RM62,572.76 million of its revenue from non-tax sources and 26.5% or RM85,473.10 million from government assets and borrowings. These statistics signify that over half of the government revenue relies on tax collection. The total tax revenue is usually the major contributor to the Malaysian government revenue.⁷

The IRBM has been established as the acting agent of the government that assumes several tax responsibilities, such as tax service administration, tax assessment, tax collection, and enforcement.⁸ The effectiveness of tax administration is critical in influencing people's willingness to pay taxes,⁹ which significantly impacts tax revenue.¹⁰ Hence, tax administration becomes a vital subject to analyse. Tax compliance is also an essential component to assessing tax revenue considering that an effective tax administration¹¹ results in high tax compliance, which generates high tax revenue.¹²

The IRBM launched an e-filing system in 2004 to increase taxpayers' compliance and tax revenue. The e-filing system reduces the time spent on tax filing transactions, allows tax officers to issue refunds and assessments faster, and improves information accuracy. The Ministry of Finance Malaysia reported that apart from 2009, 2018, and 2020, the Malaysian total tax revenue increased rapidly from 2004 upon the introduction of the e-filing system.¹³

⁵ Osundina, C. Kemisola and Gbolaga Oluwasegun Olanrewaju, 'Welfare effects of taxation on the Nigerian economy' (2013) 8(2) *International Journal Humanities Social Science Invent* 76, 82.

⁶ Ministry of Finance Malaysia, *Budget 2021 Speech* (23 March 2021) <<http://belanjawan2021.treasury.gov.my/pdf/speech/2021/bs21.pdf>>.

⁷ Razieh Tabandeh, Mansor Jusoh, Nor Ghani Md. Nor and Mohd Azlan Shah Zaidi 'Estimating factors affecting tax evasion in Malaysia: A neural network method analysis' (2012) *Prosiding Persidangan Kebangsaan Ekonomi Malaysia Ke VII* 1525; Azhar Mohamad, Mohd Hasrol Zakaria and Zarinah Hamid 'Cash economy: tax evasion amongst SMEs in Malaysia' (2016) 23(4) *Journal of Financial Crime* 974, 986.

⁸ Inland Revenue Board of Malaysia *IRBM's Profile* (11 March 2021) <http://www.hasil.gov.my/bt_goindex.php?bt_kump=2&bt_skum=2&bt_posi=1&bt_unit=2&bt_sequ=1&bt_lgv=2>.

⁹ Azhar Mohamad, Mohd Hasrol Zakaria and Zarinah Hamid 'Cash economy: tax evasion amongst SMEs in Malaysia' (2016) 23(4) *Journal of Financial Crime* 974, 986.

¹⁰ Arindam Das-Gupta, Gemma B. Estrada and Park Donghyun. 'Measuring Tax Administration Effectiveness and its Impact on Tax Revenue' (2016) *Economic Research Institute for ASEAN and East Asia*.

¹¹ Center for Tax Policy and Administration (CTPA) *Forum on tax administration: Compliance sub-group. Final Report. Monitoring taxpayers' compliance: A practical guide based on Revenue body experience* (23 March 2021) <www.oecd.org>.

¹² Inland Revenue Board of Malaysia *Annual Report 2016: Inland Revenue Board Malaysia* (23 March 2021) <http://lampiran1.hasil.gov.my/pdf/pdfam/annual_report_2016.pdf>.

¹³ Ministry of Finance *Pencapaian kutipan cukai langsung bagi tahun 2018* (28 February 2021) <<http://www.treasury.gov.my/index.php/galeri-aktiviti/siaran-media/item/4835-siaran-media-pencapaian-kutipan-cukai-langsung-bagi-tahun-2018.html>>.

The utilisation of e-filing gained popularity in 2012, which benefited the tax authority¹⁴ and positively impacted the tax authority and taxpayers in terms of tax administration. Meanwhile, tax authorities encounter challenges in the utilisation of e-filing due to taxpayers' compliance behaviour as they need to self-assess and take the initiative to file taxes online. Hence, the effectiveness of e-filing should be investigated. The effectiveness of tax administration in Malaysia is highly concerning as Tax Reform Committee (TRC) was established in 2018 to identify the measures that reduce tax leakages, ways to access the underground economy, improve tax administration and seek new sources of revenue.¹⁵ Tax administration has been emphasised as a function that forms a successful state.¹⁶ Therefore, examining the effectiveness of tax administration and ways to improve the system is essential as it significantly impacts tax revenue, which is crucial to the national economy.¹⁷

This study addressed the research question, 'What is the relationship between e-filing, tax administration, tax compliance, and tax revenue?', which was further divided into three sub-questions: 'Does e-filing increase the effectiveness of tax administration?', 'Does tax compliance mediate the relationship between Malaysian tax administration and tax revenue?', and 'What are the impacts of the effectiveness of tax administration on tax revenue?'

This study aimed to determine the relationship between e-filing, tax administration, tax compliance, and tax revenue. Specifically, this study aims to determine the connection between e-filing and the effectiveness of tax administration, the mediating effect of tax compliance on the effectiveness of tax administration and tax revenue, and the impacts of the effectiveness of tax administration on tax revenue. The findings could serve as a reference to government and tax authorities in improving tax administration. Moreover, the role of tax compliance in mediating the relationship between the effectiveness of tax administration and tax revenue could bridge the current literature gap.

II LITERATURE REVIEW

Technology plays a critical role in the efficiency, accuracy, and comprehensive and interactive capability to manage the entire national revenue system as a consequence of global technological advancement.¹⁸ Information technology (IT) remains critical to the taxation system administration. Moreover, IT enables tax administrators to modernise their approaches to administering the tax system and interacting with taxpayers. Tax administrations are shifting from face-to-face and paper-based interactions to a modern form of interaction with taxpayers through online administration, such as e-filing and e-payment.¹⁹

¹⁴ World Bank *Implementing electronic tax filing and payments in Malaysia* (2013)

¹⁵ Prime Minister's Office of Malaysia *Keynote address at Invest Malaysia Conference 2019* (28 February 2021) <<https://www.pmo.gov.my/2019/03/keynote-address-at-invest-malaysia-conference-2019/>>.

¹⁶ *Ibid.*, 14.

¹⁷ *Ibid.*, 7.

¹⁸ Margaret Cotton and Gregory Dark, *Use of Technology in Tax Administrations 1: Developing an Information Technology Strategic Plan (ITSP)* (International Monetary Fund, 2017).

¹⁹ *Ibid.*

As an effort to improve the accuracy and timeliness of information, introducing e-filing due to its timeliness, information accuracy, and ability to reduce tax administration costs was suggested.²⁰ The online tax filing system could be more effective and efficient.²¹ Similarly, the success of e-filing relies on the e-service quality and the satisfaction brought to its users.²² The employment of e-filing contributed to high voluntary tax compliance among individual taxpayers in Malaysia due to the convenience and economic transaction for taxpayers.²³ A discovery of positive outcomes in adopting the e-tax system among taxpayers in Kenya has increased national revenue.²⁴ Meanwhile, e-filing has substantially reduced the submission processing costs of the Internal Revenue Service (IRS).²⁵ Apart from benefiting the tax administrator, e-filing has reduced taxpayers' burden by lowering the error rate on e-filing returns.

Tax administration refers to the administration, management, conduct, direction, and supervision of the execution and application of the internal revenue laws and regulations in the country. The term includes assessment, collection, enforcement, litigation, publication, and statistical gathering functions under the revenue laws.²⁶ Many governments use administrative tax measures, such as fines, penalties, rates, and tax audits to ensure tax enforcement.²⁷ The examination of the efficiency of different tax administration organisations in evaluating public sector efficiency is important.²⁸

The tax administrative agency needs to implement relevant strategies for high compliance among taxpayers.²⁹ An effective tax administration should ensure high compliance among

²⁰ Katherine Baer and Carlos Silvani, *Designing a tax administration reform strategy: Experiences and guidelines* (International Monetary Fund, 1997).

²¹ Dody Setia Rahman and Triana Mayasari 'The effect of innovation attributes and taxpayer's experience on the interest of the use of online tax filing system on individual taxpayers in Surabaya' (2015) 5(1) *The Indonesian Accounting Review* 77, 86.

²² Mohd. Khirzan Badzli A Rahman, Abdul Kadir Othman and Nurulhuda Amrin 'The effects of e-service quality on users' satisfaction: a case of e-filing at LHDN' (2018) *In Proceedings of the 2nd Advances in Business Research International Conference, Springer, Singapore* 87, 98.

²³ Raihana Mohdali, Khadijah Isa and Salwa Hana Yusoff 'The impact of threat of punishment on tax compliance and non-compliance attitudes in Malaysia' (2014) 164 *Procedia-Social and Behavioral Sciences* 291, 297.

²⁴ Harrison Mwangi Muturi and Nahashon Kiarie 'Effects of online tax system on tax compliance among small taxpayers in Meru County, Kenya' (2015) 3(12) *International Journal of Economics, Commerce and Management* 280.

²⁵ Kai S. Koong, Shuming Bai, Sara Tejinder and Charlotte Morris 'Advancements and forecasts of electronic tax return and informational filings in the US' (2019) 27(2) *International Journal of Accounting & Information Management* 352, 371.

²⁶ Kathleen M. Kowalski *Federal estate & gift taxes: Code and regulations including related income tax provisions* (CCH, 2008).

²⁷ Chepkurui Chebusit, Prof. G. S. Namusonge, Oteki Evans Biraori and Ezekiel Chirchir Kipkoech 'Factors affecting tax compliance among small and medium enterprises in Kitale town Trans-nzoia county, Kenya' (2014) 1(3) *International Journal of Recent Research in Commerce Economics and Management* 60, 75; Samuel Nduati Kariuki and John Mukundi Njeru Zachary 'Determinants of tax compliance by small and medium businesses in Embu County, Kenya' (2019).

²⁸ Trang T. T. Nguyen, Diego Prior and Stefan Van Hemmen 'Stochastic semi-nonparametric frontier approach for tax administration efficiency measure: Evidence from a cross-country study' (2020) 66 *Economic Analysis and Policy* 137, 153.

²⁹ Ibid, 11.

taxpayers and maintain lower administrative costs compared to the collected tax revenue.³⁰ Furthermore, administrations need to possess the competencies to manage the increasing number of taxpayers and the amount of information to handle tax complexities.³¹ The tax administration needs to be more transparent, efficient, and responsive to fulfil the needs of taxpayers and the government.³² The effectiveness of tax administration influenced the success of the tax amnesty programme, which affects the Indonesian tax revenue.³³ It plays a vital role in developing countries regarding tax collection.³⁴

Tax compliance denotes a taxpayer's voluntary behaviour to report all earned income.³⁵ The reinforcement of tax compliance is highly prioritised in numerous economies given that improving compliance increases revenue and builds strong trusted institutions.³⁶ Taxpayer compliance behaviour may be influenced by attitudes towards tax authority, while some taxpayers comply with taxes due to a sense of civic duty.³⁷ The threat of punishment does not impact Malaysian taxpayers who are willing to comply with tax laws.³⁸ Tax authorities are advised to reward taxpayers who comply with tax laws to raise tax compliance among Malaysian taxpayers.³⁹ Positive inducements and rewards are one of the most popular tax administration and compliance tools.⁴⁰

Since 1978, Greece has offered 11 voluntary tax programmes, including tax amnesties and forgiveness programmes to raise national tax compliance.⁴¹ Similarly, the government of Indonesia implemented a successful tax amnesty in 2016 and 2017, which positively influenced tax revenue, tax base, and tax compliance.⁴² Conversely, it is discovered that the repeated amnesty programme in Turkey reduced tax compliance as the public had lost trust in

³⁰ World Health Organization *WHO technical manual on tobacco tax administration* (2010) World Health Organization.

³¹ Ibid, 18.

³² Ibid.

³³ Mokhamad Khoirul Huda and Agus Yudha Hernoko 'Tax amnesties in Indonesia and other countries: Opportunities and challenges' (2017) 13(7) *Asian Social Science* 52, 61.

³⁴ Ibid, 10.

³⁵ Bee Yew, Valentin Milanov and Robert W. McGee 'An analysis of individual tax morale for Russia: before and after flat tax reform' (2015) 8(1) *International Business Research* 60, 80.

³⁶ International Monetary Fund *Current Challenges in Revenue Mobilization: Improving Tax Compliance* (DC, 2015).

³⁷ Joel Slemrod 'Tax compliance and enforcement' (2019) 57(4) *Journal of Economic Literature* 904, 54.

³⁸ Ibid, 23.

³⁹ Nuridayu bt Yunus, Rosiati bt Ramli and Norul Syuhada bt Abu Hassan 'Tax penalties and tax compliance of Small Medium Enterprises (SMEs) in Malaysia' (2017) 12(1) *International Journal of Business, Economics and Law* 81, 91.

⁴⁰ Paul E. Carrillo, Edgar Castro and Carlos Scartascini 'Public good provision and property tax compliance: Evidence from a natural experiment' (2021) 198 *Journal of Public Economics* 104422.

⁴¹ Yazan Al-Karablieh, Evangelos Koumanakos and Stefanie Stantcheva 'Clearing the bar: Improving tax compliance for small firms through target setting' (2021) 130 *Journal of International Economics* 103452.

⁴² Ain Hajawiyah, Trisni Suryarini, Kiswanto and Tarsis Tarmudji 'Analysis of a tax amnesty's effectiveness in Indonesia' (2021) 44 *Journal of International Accounting, Auditing and Taxation* 100415.

its tax laws.⁴³ Tax compliance is significantly influenced by the tax administration.⁴⁴ The tax administration is assessed based on government effectiveness and tax system transparency.

Tax revenue is the number of tax payments received by the tax office from taxpayers.⁴⁵ Tax revenue is one of the essential components in the consumption basket and gross domestic product (GDP) of a nation.⁴⁶ Tax revenue also sustains the economy and supports infrastructure investment.⁴⁷ Tax revenue is also used to provide public goods and services and maintain the economic machine. Moreover, it supports government services used to manage the economy and financial markets,⁴⁸ infrastructure development, and social programmes, which benefit society.⁴⁹ Malaysians with high net worth are more concerned with how the government spends the tax revenue.⁵⁰

A lack of experience in tax administration leads to tax crimes and policing and corruption, which generates low tax revenue.⁵¹ Meanwhile, higher tax compliance would generate greater tax revenues for the country. Ghana established a series of tax reforms to ensure higher tax compliance and reduce tax evasion to raise national tax revenue.⁵² Taxpayers who place greater trust in the government are more willing to comply with taxes than those who do not. Accordingly, the government should reveal the usage of tax revenue to the taxpayers to deter people's negative attitudes towards tax payments.⁵³ The number of taxpayers and tax revenue in Indonesia has increased upon the implementation of the policy and tax amnesty programme. This situation compels the government to improve the tax administration for increased tax revenue.⁵⁴

The effectiveness of e-filing was examined based on the Technology Acceptance Model (TAM), while the principal-agent approach supported the connection between the study variables: tax administration, tax compliance, and tax revenue. The taxpayers' attitudes towards the e-filing system, which includes the ease of use of the e-filing system, usage of the

⁴³ Osman Fatih Saraçoğlu and Eren Çaşkurlu 'Tax amnesty with effects and effecting aspects: Tax compliance, tax audits and enforcements around; the Turkish case' (2011) 2(7) *International Journal of Business and Social Science* 95, 103.

⁴⁴ Stephen Korutaro Nkundabanyanga, Philemon Mvura, David Nyamuyonjo, Julius Opiso and Zulaika Nakabuye 'Tax compliance in a developing country: Understanding taxpayers' compliance decision by their perceptions' (2017) 44(6) *Journal of Economic Studies* 931, 957.

⁴⁵ Ibid.

⁴⁶ Muazu Ibrahim, Alhassan Musah and Abdallah Abdul-Hanan 'Beyond enforcement: what drives tax morale in Ghana?' (2015) 31(4) *Humanomics* 399, 414.

⁴⁷ Juliana Akyoo Isaac and Isaac Kazungu 'Tax Administration Integrity and its implications on effective revenue collection in Local Government Authorities: Insights from Moshi Tanzania' (2016) 4(5) *European Academic Research Journal* 221, 223; Muazu Ibrahim, Alhassan Musah and Abdallah Abdul-Hanan 'Beyond enforcement: what drives tax morale in Ghana?' (2015) 31(4) *Humanomics* 399, 414.

⁴⁸ Ibid.

⁴⁹ Ibid.

⁵⁰ ⁵⁰ Rasyidah Che Rosli, Lai Ming Ling and Roslani Embi 'Tax malfeasance of high net-worth individuals in Malaysia: tax audited cases' (2018) 25(1) *Journal of Financial Crime* 155, 169.

⁵¹ Ibid.

⁵² Ibid.

⁵³ Charles Peprah, Ibrahim Abdulai and Williams Agyemang-Duah 'Compliance with income tax administration among micro, small and medium enterprises in Ghana' (2020) 8(1) *Cogent Economics & Finance* 1782074.

⁵⁴ Afrizal Tahar, Hosam Alden Riyadh, Hafiez Sofyani and Wahyu Eko Purnomo 'Perceived ease of use, perceived usefulness, perceived security and intention to use e-filing: The role of technology readiness' (2020) 7(9) *The Journal of Asian Finance, Economics, and Business* 537, 547.

e-filing system, and the taxpayers' experience of the e-filing system were designed based on perceived ease of use, perceived usefulness, and attitude towards technology. Attitude and perceived behavioural control from the Theory of Planned Behaviour (TPB) were assessed through the questionnaire to investigate the taxpayers' perceptions towards the Malaysian taxation system, tax declaration, and tax compliance. Subjective norm was omitted from this study due to its insignificance. Summarily, a partial TPB was integrated to investigate tax compliance in the current study.

The agency theory was used as a general model of tax administration, which explains tax administration. Tax collection systems was modelled as agency relations and the ruler was considered as the principal, while state officials who perform delegated policies are regarded as agents.⁵⁵ Accordingly, the government (ruler) is considered the principal, while IRBM (tax official), which performs tax-related matters on behalf of the government is considered the agent based on the agency theory. The tax collectors (agents) may be involved in corruption by exempting individuals or firms from taxes, which could result in a loss in tax revenue.⁵⁶ This situation causes a conflict of interest between the principal and the agent. Figure 1 illustrates the proposed research framework for the present study.

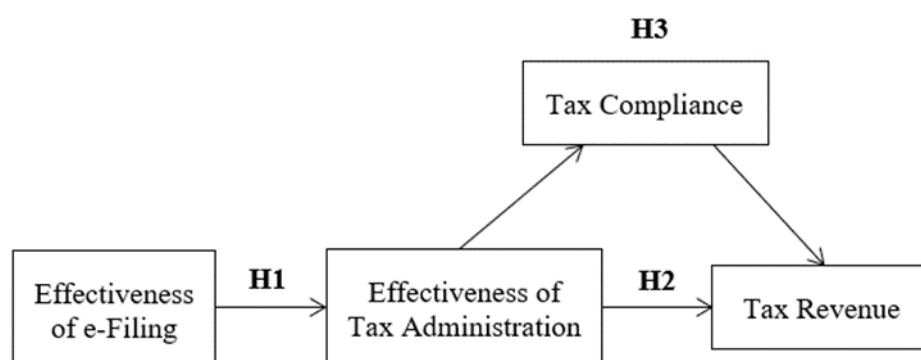


Fig. 1 Proposed Research Framework

The following hypotheses were proposed based on the past literature review, theoretical background, and proposed research framework:

Hypothesis 1: A more effective e-filing results in a more effective tax administration.

Hypothesis 2: A more effective tax administration increases tax revenue.

Hypothesis 3: Tax compliance mediates the relationship between the effectiveness of tax administration and tax revenue.

⁵⁵ Edgar Kiser and Audrey Sacks 'African patrimonialism in historical perspective: Assessing decentralized and privatized tax administration' (2011) 636(1) *The ANNALS of the American Academy of Political and Social Science* 129, 149.

⁵⁶ Susan Rose-Ackerman *Corruption: A study in political economy* (Academic Press, 2013).

III METHODOLOGY AND DATA SOURCES

This study employed a quantitative research method that is deductive in nature based on questions or hypotheses of existing theory and knowledge. A causal study method was conducted based on an exploratory setting under a non-contrived setting. The data was gathered individually, which was completed within a specific timeframe. The study population included individual taxpayers (employed labours) and small-medium enterprise (SME) owners in Malaysia. Approximately 2,570,964 individuals⁵⁷ and 907,065 SMEs were recorded in Malaysia in 2016.⁵⁸ The sample size was 384 respondents calculated based on the formulae.⁵⁹

Purposive and convenience sampling methods were employed due to the unavailability of the target respondents' (SME establishments and taxpayers) listing during the study. The respondents resided in the five states of Malaysia (Selangor, Wilayah Persekutuan Kuala Lumpur, Johor, Perak, and Pulau Pinang), which recorded the highest growth and share of GDP in 2018 taking into consideration the constant price in the year 2015.⁶⁰

Data were collected through a self-administered online questionnaire distributed among Malaysian taxpayers via messages and emails, which included respondents outside of Malaysia but originating from the selected sample location. Physical distribution of questionnaires to the target respondents was not conducted due to the Movement Control Order (MCO) in Malaysia, which restricted the researcher from physically travelling and meeting respondents. The data collection process was completed in six months (June 2020 to November 2020). The response rate was 19.75% with a total of 395 complete and usable questionnaires, which were returned to the researcher. The demographic questions designed for this study applied nominal and ordinal scales. Specifically, the gender and state of residence questions were designed based on a nominal scale, while age, education level, and income level were measured using the ordinal scale. All variable-related questions used the interval scale by applying a seven-point Likert scale.

Structural equation modelling (SEM) was used as the study comprised several latent variables and multiple relationships between the predictors. Moreover, this study is exploratory in nature, hence PLS-SEM is suitable as the statistical analysis tool. All constructs for the present study were measured using reflective measurement. The estimation of PLS-SEM models includes estimating the measurement model and structural model. The measurement model was assessed for its internal consistency reliability, convergent validity, and

⁵⁷ Ministry of Finance *Economic Data* (2 March 2021)

<<https://www.treasury.gov.my/index.php/en/economy/economic-data.html>>; Department of Statistics Malaysia *Key statistics of labour force in Malaysia* (23 March 2021).

⁵⁸ SME Corporation Malaysia *SMEs Statistics* (23 March 2021)

<<http://www.smecorp.gov.my/index.php/en/policies/2015-12-21-09-09-49/sme-statistics>>.

⁵⁹ Robert V. Krejcie and Daryle W. Morgan 'Determining sample size for research activities' (1970) 30(3) *Educational and psychological measurement* 607, 610.

⁶⁰ Department of Statistics Malaysia 2019b, *State socioeconomic report 2018* (23 March 2021)

<https://dosm.gov.my/v1/index.php?r=column/ctHEMEByCat&cat=102&bul_id=a0c3UGM3MzRHK1N1WGU5T3pQNTB3Zz09&menu_id=TE5CRUZCblh4ZTZMODZlbnk2aWRRQT09>.

discriminant validity, while the structural model assessment involves evaluation for collinearity issues, the significance and relevance of the structural model relationships, and the level of R^2 . The structural and measurement model was also evaluated using bootstrapping and blindfolding techniques.⁶¹ The mediation effect of tax compliance towards the relationship between the effectiveness of tax administration and tax revenue was evaluated before verifying the results of hypotheses testing based on the t-value, p-value, and β value. All data collected were analysed using Smart Partial Least Squares (SmartPLS) 3 software to determine the results.

IV RESULTS AND INTERPRETATION

Table 1 presents that female respondents were 13% higher than male respondents. Most respondents (42.3%) were between 31 and 40 years old followed by those aged between 21 and 30 (23.3%), 41 and 50 (20.3%), 51 and 60 (9.6%), and above 60 (4.3%). Meanwhile, only 1 respondent was 20 years old or less (0.3%). Over half (50.6%) of the respondents were married, while 46.6% were single and 2.8% were divorced or widowed. A total of 164 respondents (41.5%) were from Pulau Pinang, while 20.5% were from Perak. Meanwhile, 18.7% of the respondents were from Selangor and 19.2% were equally from Wilayah Persekutuan Kuala Lumpur and Johor.

Most respondents (37.2%) possessed a Master's or Professional degree, while 34.2% possessed an Undergraduate or Bachelor's Degree, 13.2% with a Doctorate (PhD) or Post Doctorate qualification, 7.8% of the respondents possessed a Diploma or Vocational qualification, 2.5% were STPM/Certificate/Matriculation/Pre-University graduates, and 5.1% of the respondents possessed an SPM qualification.

In terms of income, most respondents earned below or equal to RM42,000 per annum (22.8%) and RM42,001 to RM52,000 per annum (20.5%). Meanwhile, 15.2% of the respondents earned between RM52,001 and RM62,000 annually and 9.1% earned above RM62,000 per annum. The respondents with annual income ranging from RM62,001 to RM72,000, RM72,001 to RM82,000, and RM82,001 to RM92,000 were 8.4%, 7.6%, and 6.3%, respectively. A total of 24 respondents (6.1%) earned RM92,001 to RM102,000 per annum, while 10 respondents (2.5%) earned RM102,001 to RM112,000 per annum, and only 6 respondents (1.5%) earned RM112,001 to RM122,000 per annum.

Approximately 88.5% of the respondents did not run a business or generate business income. Moreover, 31 businessmen (7.8%) earned under RM100,000 per annum followed by 8 respondents (2%) earning RM100,001 to RM200,000 annually from businesses. Only 2 respondents (0.5%) earned RM200,001 to RM300,000 per annum and 3 respondents (0.8%) earned above RM300,000 per annum.

⁶¹ Joseph F. Hair Jr., G. Tomas M. Hult, Christian M. Ringle and Marko Sarstedt *A primer on partial least squares structural equation modelling (PLS-SEM)* (Sage publications, 2014).

Table 1: Respondents' Profile

Gender	Frequency	Per cent
Male	172	43.5
Female	223	56.5
Total	395	100
Age Group	Frequency	Per cent
20 or below	1	0.3
21 – 30	92	23.3
31 – 40	167	42.3
41 – 50	80	20.3
51 – 60	38	9.6
Above 60	17	4.3
Total	395	100
Marital Status	Frequency	Per cent
Single	184	46.6
Married	200	50.6
Divorced/Widowed	11	2.8
Total	395	100
Location	Frequency	Per cent
Selangor	74	18.7
Wilayah Persekutuan Kuala Lumpur	38	9.6
Johor	38	9.6
Perak	81	20.5
Pulau Pinang	164	41.5
Total	395	100
Education Qualification	Frequency	Per cent
SPM	20	5.1
STPM/Certificate/Matriculation/Pre-U	10	2.5
Diploma/Vocational course	31	7.8
Undergraduate/Bachelor's Degree	135	34.2
Master/Professional qualification	147	37.2
Doctorate (PhD)/Post Doctorate	52	13.2
Total	395	100
Personal Income	Frequency	Per cent
≤ RM42,000	90	22.8
RM42,001 – RM52,000	81	20.5
RM52,001 – RM62,000	60	15.2
RM62,001 – RM72,000	33	8.4
RM72,001 – RM82,000	30	7.6
RM82,001 – RM92,000	25	6.3
RM92,001 – RM102,000	24	6.1
RM102,001 – RM112,000	10	2.5
RM112,001 – RM122,000	6	1.5
Above RM122,000	36	9.1
Total	395	100
Business Income	Frequency	Per cent

The results in Table 2 indicate that the composite reliability (CR) for the effectiveness of e-filing, the effectiveness of tax administration, tax compliance, and tax revenue was 0.9701, 0.8708, 0.8864, and 0.8829, respectively. The internal consistency reliability was achieved as all the CR values were within the acceptable range. suggested that the CR values of 0.60 to 0.70 are acceptable in exploratory research, while values of 0.70 to 0.90 are considered satisfactory in more advanced research stages.⁶²

The internal consistency reliability was further established as all the Cronbach's alpha values above 0.70. All the study indicators were significant as all the factors loadings in Table 2 exceeded 0.50.⁶³ The findings in Table 2 indicated that all constructs achieved AVE values over 0.50 as recommended.⁶⁴ Thus, convergent validity was established.

⁶² Jum C. Nunnally and Ira H. Bernstein *Psychometric theory* (1994).

⁶³ Joseph F. Hair Jr., William C. Black, Barry J. Babin, Rolph E. Anderson and Ronald L. Tatham *Multivariate data analysis* (Pearson Education Limited Harlow, 7th ed, 2014).

⁶⁴ Claes Fornell and David F. Larcker 'Evaluating structural equation models with unobservable variables and measurement error' (1981) 18(1) *Journal of marketing research* 39, 50; Richard P. Bagozzi and Youjae Yi 'On the evaluation of structural equation models' (1988) 16(1) *Journal of the academy of marketing science* 74, 94; Joseph F. Hair Jr., G. Tomas M. Hult, Christian M. Ringle and Marko Sarstedt *A primer on partial least squares structural equation modelling (PLS-SEM)* (Sage publications, 2014).

Table 2: Reflective Measurement Model Results

Construct	Items/ Indicators	Loadings	AVE	CR	Cronbach 's alpha
Effectiveness of e-filing	EEF1	0.5805	0.7013	0.9701	0.9658
	EEF2	0.7678			
	EEF3	0.7006			
	EEF4	0.7123			
	EEF5	0.9119			
	EEF6	0.8996			
	EEF7	0.8507			
	EEF8	0.8935			
	EEF9	0.8846			
	EEF10	0.8999			
	EEF11	0.8693			
	EEF12	0.8557			
	EEF13	0.9121			
	EEF14	0.9044			
Effectiveness of tax administration	ETA2	0.7513	0.5296	0.8708	0.8221
	ETA3	0.7589			
	ETA4	0.7200			
	ETA5	0.7580			
	ETA6	0.7031			
	ETA7	0.6707			
Tax compliance	TC1	0.7539	0.6127	0.8864	0.8372
	TC2	0.8819			
	TC3	0.8771			
	TC4	0.7198			
	TC5	0.6554			
Tax revenue	TR2	0.8709	0.7904	0.8829	0.7363
	TR4	0.9068			

This study achieved discriminant validity based on the results in Table 3, which revealed that the square root of AVEs on the diagonal was the highest for all constructs.

Table 3: Discriminant Validity Analysis (Fornell-Larcker Criterion)

	Effectiveness of e-filing	Effectiveness of tax administration	Tax compliance	Tax revenue
Effectiveness of e-filing	0.8374			
Effectiveness of tax administration	0.5579	0.7277		
Tax compliance	0.6325	0.6185	0.7827	
Tax revenue	-0.1855	-0.0557	-0.2030	0.8891

The discriminant validity was established based on the Heterotrait-Monotrait Ratio (HTMT) approach (see Table 4) where all the values were under 0.85⁶⁵ and 0.90.⁶⁶

Table 4: Discriminant Validity Analysis (HTMT Ratio)

	Effectiveness of e-filing	Effectiveness of tax administration	Tax compliance	Tax revenue
Effectiveness of e-filing				
Effectiveness of tax administration	0.6204 CI ₉₀ (0.5407, 0.6883)			
Tax compliance	0.7006 CI ₉₀ (0.6337, 0.7681)	0.7371 CI ₉₀ (0.6698, 0.7999)		
Tax revenue	0.2213 CI ₉₀ (0.1219, 0.3215)	0.0732 CI ₉₀ (0.0400, 0.0888)	0.2530 CI ₉₀ (0.1419, 0.3382)	

The results in Table 5 highlight no collinearity issues in this study as all VIF values were under 5.0 and 3.3 based on the rule of thumb.⁶⁷

⁶⁵ Rex B. Kline *Principles and practice of structural equation modeling* (Guilford publications, 2015).

⁶⁶ Andrew H. Gold, Arvind Malhotra and Albert H. Segars 'Knowledge management: An organizational capabilities perspective' (2001) 18(1) *Journal of management information systems* 185, 214.

⁶⁷ Joseph F. Hair Jr., Christian M. Ringle and Marko Sarstedt 'PLS-SEM: Indeed a silver bullet' (2011) 19(2) *Journal of Marketing theory and Practice* 139, 152; Adamantios Diamantopoulos and Judy A. Siguaw 'Formative versus reflective indicators in organizational measure development: A comparison and empirical illustration' (2006) 17(4) *British journal of management* 263,282.

Table 5: Variance Inflation Factor (VIF) for Structural Model

	Effectiveness of e-filing	Effectiveness of tax administration	Tax compliance	Tax revenue
Effectiveness of e-filing	1.0000			
Effectiveness of tax administration		1.0000		
Tax compliance			1.0000	
Tax revenue				1.0000

Table 6 presents that the R^2 for the effectiveness of tax administration was 0.3112, which denotes that 31.12% of the variance could be explained by the effectiveness of e-filing. Meanwhile, the R^2 value for tax compliance was 0.3826, which explained that the 38.26% variance in tax compliance could be interpreted by the effectiveness of tax administration. Lastly, the R^2 value for tax revenue was 0.0491, thus indicating that 4.91% of the variance in tax revenue could be explained by the effectiveness of tax administration and tax compliance.

Table 6: Coefficient of Determination (R^2)

Relationship	R^2
Effectiveness of tax administration	0.3112
Tax compliance	0.3826
Tax revenue	0.0491

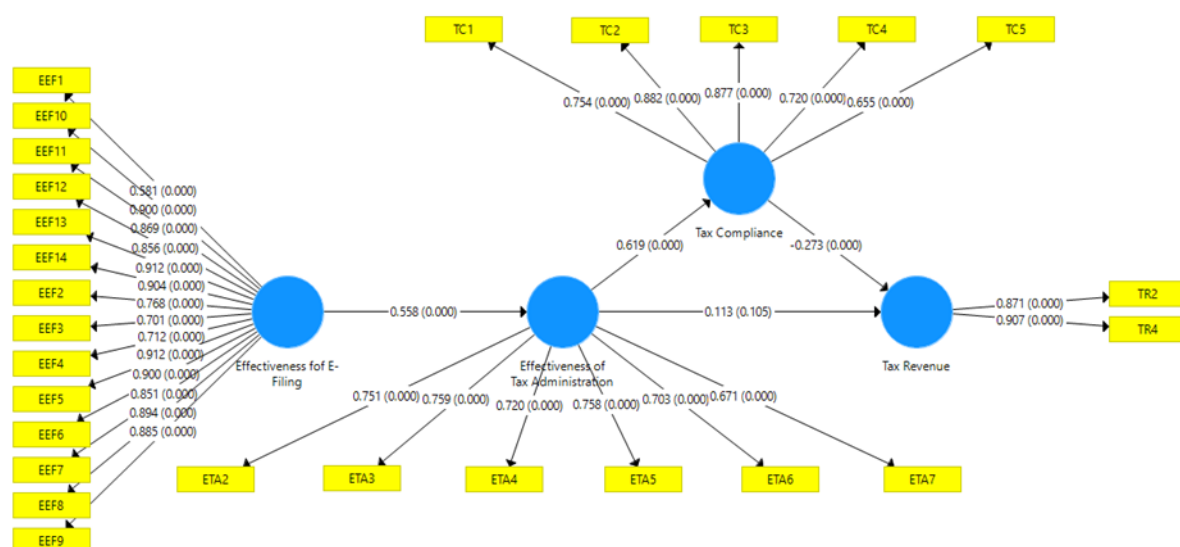


Fig. 2: Measurement Model and Structural Model Results

Figure 2 depicts the outer loadings and p-value between each path and indicator with its corresponding constructs in the measurement and structural model, which is further explained in Table 7. Resultantly, the effectiveness of e-filing positively contributed to the effectiveness of tax administration where $\beta = 0.5579$ at $p < 0.05$, thus supporting Hypothesis 1. The effectiveness of tax administration influenced tax compliance where $\beta = 0.6185$ ($p < 0.05$), while tax compliance influenced tax revenue where $\beta = -0.2729$ at $p < 0.05$. Meanwhile, the effectiveness of tax administration did not significantly affect tax revenue where $\beta = 0.1131$ at $p = 0.1046$ with a 90% confidence interval. Hence, Hypothesis 2 is not supported.

Table 7: Significance and Path Coefficients

Table 7: Significance and Path Coefficients

Relationship	Beta	Standard Error	<i>t</i> value	<i>p</i> value
Effectiveness of e-filing -> Effectiveness of tax administration	0.5579	0.0451	12.3707	0.0000
Effectiveness of tax administration -> Tax compliance	0.6185	0.0326	18.9919	0.0000
Effectiveness of tax administration -> Tax revenue	0.1131	0.0696	1.6258	0.1046
Tax compliance -> Tax revenue	-0.2729	0.0574	4.7489	0.0000

Table 8 demonstrates the significant indirect effect of tax compliance based on the bootstrapping method where $\beta = -0.1688$ and t -value = 4.5621 with $p < 0.05$. The results in Tables 7 and 8 indicate that tax compliance fully mediates the relationship between the tax effectiveness of tax administration and tax revenue. Thus, Hypothesis 3 is supported. Table 9 summarises the hypotheses results.

Table 8: Indirect Effect of Tax Compliance

Relationship	Standard Beta	Standard Error	<i>t</i> -value	<i>p</i> -value
Tax compliance mediates the relationship between effectiveness of tax administration and tax revenue	-0.1688	0.0370	4.5621	0.0000

Table 9: Summary of Hypotheses Results

Hypotheses	Result
H1: A more effective e-filing results in a more effective tax administration.	Supported
H2: A more effective tax administration increases tax revenue.	Not Supported
H3: Tax compliance mediates the relationship between the effectiveness of tax administration and tax revenue.	Supported

The results of Hypothesis 1 signified a positive relationship between the effectiveness of e-filing and the effectiveness of tax administration. Essentially, digital transformation enables tax administration to develop better accountability to promote effectiveness, timeliness, and anti-corruption in delivering public services.⁶⁸ Contactless processes and procedures in tax-related matters, such as e-filing and tax return collections have been strongly publicised during the COVID-19 outbreak to increase self-assessment of taxes and minimise physical contact. Such efforts have demonstrated increasing effective e-filing towards an effective tax administration.⁶⁹

The report showed that the development of information and communication technology (ICT) in e-filing improved service efficiency and quality among taxpayers.⁷⁰ The use of poorly designed online services would increase the burden of tax administration.⁷¹ The current findings and the aforementioned past studies suggested that the promotion of e-filing services in Malaysia has improved the effectiveness of tax administration in Malaysia. The e-filing service was introduced in 2008, which gained momentum drastically in 2012 and benefited the tax authority⁷² by increasing the convenience of tax filing, thus lowering tax administration costs and saving time. Accordingly, the tax administration in Malaysia has become more effective with the increased effectiveness of e-filing.

Hypothesis 2 contradicts⁷³ who stressed the effectiveness of tax administration as a potentially significant determinant of tax revenue. The summary of tax policy and tax administration responses to COVID-19 in the Asia-Pacific region emphasised that tax administrations played a vital role during the crisis by reducing complexities in cash flow, lowering compliance burdens, and offering assistance to businesses and people.⁷⁴ The COVID-19 pandemic impacted the tax revenue in most countries due to the direct and

⁶⁸ Asian Development Bank (ADB) *Asian Development Outlook 2020* (8 June 2021) <<http://www.adb.org/sites/default/files/publication/575626/ado2020.pdf>>.

⁶⁹ ⁶⁹ International Monetary Fund *Tax issues: An overview, Special Series on COVID-19* (11 May 2021) <<https://www.imf.org/en/Publications/SPROLLS/covid19-special-notes>>.

⁷⁰ OECD *Revenue Statistics in Asian Countries 2017-Trends in Indonesia, Japan, Kazakhstan, Korea, Malaysia, the Philippines and Singapore* (OECD Publishing, 2017).

⁷¹ OECD *Survey of Trends and Developments in the Use of Electronic Services for Taxpayer Service Delivery* (2010).

⁷² Ibid.

⁷³ Arindam Das-Gupta, Gemma B. Estrada and Park Donghyun (n 10).

⁷⁴ OECD *Tax policy and administration responses to COVID-19. Revenue Statistics in Asian and Pacific Economies 2020* (OECD Publishing, 2020).

indirect effects of the economic slowdown and tax policy and tax administration measures.⁷⁵ The change in tax revenue differs during the economic downturn caused by the COVID-19 pandemic, specifically in aviation, construction, energy, telecommunications, and retail trading, such as decreasing sales tax revenue due to airport closure and the negative impacts towards the hospitality industry.⁷⁶ Hence, the decline in tax revenue is unrelated to the effectiveness of tax administration.

In Malaysia, the tax revenue was not influenced by the effectiveness of tax administration but was affected by tax collection.⁷⁷ The federal government revenue in Malaysia decreased by 14% (RM37.1 billion) from RM264.4 billion in 2019 to RM227.3 billion in 2020 due to lower tax collection due to COVID-19.⁷⁸ The items that measured the effectiveness of tax administration and tax revenue in the questionnaire indicated a significant relationship between the effectiveness of tax administration and tax revenue during both periods of pilot studies conducted before COVID-19 at the end of 2019 and the beginning of 2020, respectively. Nonetheless, the results from the same questions suggested insignificance during the actual data collection when the impact of MCO severely affected Malaysians.

The significant results obtained pre-COVID-19 and insignificant results post-COVID-19 implied that the reduction in tax revenue is caused by COVID-19 and not the effectiveness of tax administration. Furthermore, the decrease in tax revenue for 2020 was due to a lower estimated average crude oil price of USD40 per barrel. Therefore, tax revenue was not influenced by the effectiveness of tax administration in Malaysia in 2020.⁷⁹

Tax compliance fully mediated the relationship between the effectiveness of tax administration and tax revenue, thus Hypothesis 3 was supported. The COVID-19 crisis hindered the administration of tax collection, which affected tax compliance due to the informal economy enlargement during the outbreak.⁸⁰ Tax compliance would decline due to the challenges in business survival during the crisis.⁸¹ About 81% of SME owners could not survive for over three months while only 1% of SME owners managed to sustain for over one year if the implementation of MCO in Malaysia was prolonged.⁸² This scenario worsened in 2021 as over 90% of SME entrepreneurs are at risk of closure under a prolonged MCO in Malaysia.⁸³ Hence, tax compliance behaviour among business taxpayers will change and eventually affect tax revenue collection.

⁷⁵ International Monetary Fund *Challenges in forecasting tax revenue, Special Series on COVID-19* (11 May 2021) <<https://www.imf.org/en/Publications/SPROLLs/covid19-special-notes>>.

⁷⁶ Ibid.

⁷⁷ Ibid.

⁷⁸ Ibid.

⁷⁹ International Monetary Fund (n 75).

⁸⁰ Ibid 75.

⁸¹ Ibid.

⁸² SME Corporation Malaysia *Sebahagian besar PKS bermasalah jika PKP dipanjangkan* (11 May 2021) <<https://www.smecorp.gov.my/index.php/en/resources/2015-12-21-10-55-22/news/4120-sebahagian-besar-pks-bermasalah-jika-pkp-dipanjangkan>>.

⁸³ SME Corporation Malaysia *Entrepreneurs risk closing down if MCO prolonged, says Wan Junaidi* (11 May 2021) <<https://www.smecorp.gov.my/index.php/en/resources/2015-12-21-10-55-22/news/4357-entrepreneurs-risk-closing-down-if-mco-prolonged-says-wan-junaidi>>.

Tax administration is significantly challenged by the global financial and economic crisis as the taxpayers' compliance declines during an economic downturn.⁸⁴ Moreover, non-compliance could be entrenched among taxpayers, which eventually causes a long-term decline in tax revenue. Tax agencies are urged to contain non-compliance issues by working on tax administration services to sustain tax revenue. Upon recovery from the COVID-19 pandemic, the economy is expected to recover through several temporary management arrangements, such as revenue administrations, which should prioritise the safety and health of all parties and safeguard the availability of taxpayer services to secure taxpayers' compliance.⁸⁵

The effectiveness of tax administration is critical in recovering taxpayers' compliance, which could return the tax revenue to the pre-crisis level and prepare for further improvement. The crisis also deteriorated tax filing, declaration, and payment compliance due to the extended deadlines and limited tax agency staff availability, which caused significant risk to the tax revenue.⁸⁶ A good tax administration raises tax compliance, which forms confidence in the taxation system and increases tax revenue.⁸⁷ The same concept is applicable in Malaysia.

V CONCLUSION AND RECOMMENDATIONS

The effectiveness of tax e-filing positively influenced the effectiveness of tax administration. The findings revealed that individual and business taxpayers perceived e-filing as an effective tool in the tax filing process, which is crucial to the administration of the taxation system. The convenience and effectiveness of e-filing benefit taxpayers and tax agents in tax filing and administration.

Resultantly, tax compliance fully mediated the relationship between the effectiveness of tax administration and tax revenue. Thus, the study presented a significant contribution to developing a new concept of tax compliance regarding tax administration and tax revenue, which had not been investigated. The mediating effect of tax compliance on the effectiveness of tax administration and tax revenue is a critical finding, specifically when the economy is under a crisis that weakens taxpayers' compliance due to the challenging tax administration, which lowers tax revenue.⁸⁸ Summarily, an effective tax administration improves tax compliance in an economy, which increases national tax revenue.

⁸⁴ John Brondolo 'Collecting taxes during an economic crisis: challenges and policy options' (2009) 017 *IMF Staff Position Notes*.

⁸⁵ International Monetary Fund *Revenue administration: Reinvigorating operations to safeguard collection and compliance, Special Series on COVID-19* (11 May 2021).

⁸⁶ *Ibid.*

⁸⁷ ⁸⁷ Farah Rosley *How simplifying tax administration may encourage higher tax collection* (6 June 2021) <https://www.ey.com/en_my/tax/simplifying-tax-administration-and-compliance>.

⁸⁸ John Brondolo 'Collecting taxes during an economic crisis: challenges and policy options' (2009) 017 *IMF Staff Position Notes*; International Monetary Fund *Challenges in forecasting tax revenue, Special Series on COVID-19* (11 May 2021) <<https://www.imf.org/en/Publications/SPROLLs/covid19-special-notes>>; International Monetary Fund *Revenue administration: Reinvigorating operations to safeguard collection and compliance, Special Series on COVID-19* (11 May 2021) <<https://www.imf.org/en/Publications/SPROLLs/covid19-special-notes>>; International Monetary Fund *Tax issues: An overview, Special Series on COVID-19* (11 May 2021)

The effectiveness of tax administration and tax revenue outlined no significant direct effect, hence implying no positive relationship between the effectiveness of tax administration and tax revenue. Tax revenue was significantly affected by factors, such as economic downturn, negative impacts due to unforeseen global issues, and disruption of economic activity. Meanwhile, tax policy and administration indirectly impacted tax revenue.⁸⁹ The current findings are more precise as the data collection was conducted during the global economic downturn due to the lockdowns in most countries following the COVID-19 pandemic.

Future researchers should concentrate on a specific group of respondents with assistance from IRBM to allow data collection using the probability sampling method. Furthermore, the results can be generalised by including technologically illiterate respondents. Similar research should be conducted under a normal tax assessment year, excluding special programmes.

<<https://www.imf.org/en/Publications/SPROLLs/covid19-special-notes>>; Farah Rosley *How simplifying tax administration may encourage higher tax collection* (6 June 2021)

<https://www.ey.com/en_my/tax/simplifying-tax-administration-and-compliance>.

⁸⁹ Ibid.

PRO BONO TAX CLINICS: AIDING AUSTRALIA'S TAX ADMINISTRATION AND DEVELOPING STUDENTS' SELF-EFFICACY

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Abstract

Recently Australia has added another aspect to its tax administration via the introduction of pro bono tax clinics which allow university tax students to assist disadvantaged members of the community. In addition to assisting the community, the clinics are helping to build the next generation of tax professionals. This article presents an international first by reporting a longitudinal study of students' self-efficacy in pro bono tax clinic settings across multiple Australian universities, finding that overall students' self-efficacy levels are improved by their involvement in tax clinics, although with some differences due to age, gender and levels of prior work experience.

Keywords: work integrated learning, tax clinic, self-efficacy, service learning, professional identity

I INTRODUCTION

Dealing with tax obligations can be daunting for taxpayers, as they can feel intimidated by the bulk and complexity of the tax regulations that applies to them, which can be adverse to effective tax administration. Additionally, there can be notions of fear when dealing with tax regulatory bodies, such as the Australian Taxation Office ('ATO'), including the perception of a power imbalance.¹ For those operating a small business in particular, tax obligations can

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¹ Justin Dabner and Mark Burton, 'The 'Enhanced Relationship' Model Collides with Reality – The Determinants of the Relationship between Tax Administrators and Tax Intermediaries', Address to The Law and Society Association Annual Conference (2012). <<https://ssrn.com/abstract=2701036> or <http://dx.doi.org/10.2139/ssrn.2701036>>

be seen as ‘an add on’ that interferes with conducting their business,² and due to scale, the compliance costs can be regressive.³ This may explain why approximately, 70% of Australia’s taxpayers rely on the services of tax agents for preparation and lodgement of tax returns; one of the highest engagement percentages of tax agents globally.⁴ While the ATO provides many free mechanisms to assist taxpayers, including the pre-filling of tax returns with some data, online software, guidebooks and enquiry hotlines, some sections of the community can feel overwhelmed; and/or cannot afford to appoint a tax agent to assist them. This is of concern, as incorrect tax returns, non-lodgement or under-payment can have adverse cost and physiological implications for those concerned, even if unintentional.⁵ A supplementary detriment can include adverse implications on the level of welfare support given the interaction between public support mechanisms and the tax system.⁶

In recognition of the complexity of the Australian taxation system and with a particular focus on assisting members of the community who might otherwise be unable to afford professional tax advice, Curtin University successfully piloted a student tax clinic in 2018.⁷ Subsequently, the Australian Government funded the expansion of this concept under the National Tax Clinic Program to 10 selected universities across Australia, as an aid to improve Australia’s tax administration.⁸ The universities selected were: Curtin University,⁹ University of South Australia,¹⁰ University of Tasmania,¹¹ University of Melbourne,¹² Australian

² Sue Yong and Brett Freudenberg, ‘Perceptions of Tax Compliance by SMEs and Tax Practitioners in New Zealand: A Divergent View?’ (2020) 26(1) *New Zealand Journal of Taxation Law and Policy* 57-85.

³ Phil Lignier, Chris Evans and Binh Tran-Nam, ‘Tangled up in tape: the continuing tax compliance plight of the small and medium enterprise business sector’ (2014) 29(2) *Australian Tax Forum* 217-247.

⁴ Australian Taxation Office, ‘Taxation statistics 2016-17’ (Australiana Taxation Office, 2018) <<https://www.ato.gov.au/About-ATO/Research-and-statistics/In-detail/Taxation-statistics/Taxation-statistics-2016-17/?page=8>>

⁵ Margaret McKerchar, ‘*The impact of complexity upon unintentional non-compliance for Australian personal income taxpayers*’ PhD Thesis (University of New South Wales, 2002).

⁶ Toni Chardon, Brett Freudenberg and Mark Brimble, ‘Tax literacy in Australia: not knowing your deduction from your offset’ (2016) 31(2) *Australian Tax Forum* 321-362.

⁷ Donovan Castelyn, Stephanie Bruce and Annette Morgan, ‘2019 National Tax Clinic Project: Curtin University – Curtin Tax Clinic’ (2020) 22(2) *Journal of Australian Taxation* 1-26.

⁸ Stuart Robert (The Hon, MP, Assistant Treasurer), ‘Address to the Australasian Tax Teachers Association 31st annual conference’, Duxton Hotel, Perth, 16 January 2019 <<https://ministers.treasury.gov.au/ministers/stuart-robert-2018/speeches/address-australasian-tax-teachers-association-31st-annual>>

⁹ Castelyn, Bruce and Morgan (n 7).

¹⁰ Robert Whait, ‘2019 National Tax Clinic Project: UniSA Tax Clinic’ (2020) 22(2) *Journal of Australian Taxation* 137-161.

¹¹ John McLaren, ‘2019 National Tax Clinic Project: University of Tasmania’ (2020) 22(2) *Journal of Australian Taxation* 96-115.

¹² Sunita Jogarajan, Kate Fischer-Doherty and Julian Panetta, ‘2019 National Tax Clinic Project: Melbourne Law School Tax Clinic’ (2020) 22(2) *Journal of Australian Taxation* 27-48.

National University,¹³ Western Sydney University,¹⁴ UNSW Sydney,¹⁵ Griffith University,¹⁶ James Cook University¹⁷ and Charles Darwin University.¹⁸

While the details of their operation varied, these tax clinics, essentially provide student participants under the supervision of tax professionals the opportunity to provide free assistance to unrepresented taxpayers who were otherwise unable to access tax advice and support.¹⁹ The exposure for students normally occurs over a teaching period running for approximately 3 to 4 months and in some cases up to 12 months where students are not limited to teaching period constraints. Student assistance in the respective tax clinics typically involves preparing and reviewing draft tax returns, navigating online tax return lodgements through *myGov* or tax return software, negotiating with the ATO over assessments, waivers, penalty notices, and contributing to free community educational seminars and general tax-related resources for the public.

In doing so, this clinical experience provides students with work integrated learning ('WIL') opportunities in the tax profession. Such a WIL experience is aimed at addressing skills gaps that industry has expressed about university students,²⁰ as it offers a 'rich, active and contextualised learning experience'.²¹ Through this learning environment, student participants are encouraged to reflect on their own technical knowledge²² and generic skills (such as interpersonal, written and oral communication, team work, self-management and professionalism) in assisting their clients.²³ Further, they receive feedback from their

¹³ Ben Raines and Sonali Walpola, '2019 National Tax Clinic Project: The ANU Tax Clinic' (2020) 22(2) *Journal of Australian Taxation* 193-206.

¹⁴ Connie Vitale and Michelle Cull, '2019 National Tax Clinic Project: Western Sydney University' (2020) 22(2) *Journal of Australian Taxation* 116-136.

¹⁵ Ann Kayis-Kumar, Gordon Mackenzie and Michael Walpole, 'Interprofessional Collaborative Practice in Pro Bono Tax Clinics: A Case Study Approach' (2020) 22(2) *Journal of Australian Taxation* 49-63.

¹⁶ Brett Freudenberg, Colin Perryman, Kristin Thomas and Melissa Belle Isle, 'Griffith Tax Clinic' (2020) 22(2) *Journal of Australian Taxation* 64-95.

¹⁷ Van Le and Tina Hoyer, '2019 National Tax Clinic Project: James Cook University Tax Clinic' (2020) 22(2) *Journal of Australian Taxation* 162-173.

¹⁸ Indra Abeysekera, 'National Tax Clinic Program Model Innovation' (2020) 22(2) *Journal of Australian Taxation* 174-192.

¹⁹ Michael Blissenden, 'Forward' (2020) 22(2) *Journal of Australian Tax* i-ii.

²⁰ Binh Bui and Brenda Porter, 'The Expectation-Performance Gap in Accounting Education: An exploratory study' (2010) 19(1-2) *Accounting Education: An International Journal* 23-50; Paul De Lange, Beverley Jackling and Anne-Marie Gut, 'Accounting graduates' perceptions of skills emphasis in undergraduate courses: an investigation from two Victorian universities' (2006) 46(3) *Accounting and Finance* 365-386

²¹ Belinda McLennan and Shay Keating, 'Work-integrated learning (WIL) in Australian universities: The challenges of mainstreaming WIL' in Proceedings of the Career Development Learning – Maximising the Contribution of Work Integrated Learning to the Student Experience NAGCAS Symposium, Melbourne (2008), 4 <<http://citeseerx.ist.psu.edu/viewdoc/summary?doi=10.1.1.530.4443>>.

²² John Arnold, John Loan-Clarke, Amanda Harrington and Cathy Hart, 'Students' Perceptions of Competence Development in Undergraduate Business related Degrees' (1999) 24(1) *Studies in Higher Education* 43-59.

²³ Alison Blackwell, Lindsey Bowes, Lee Harvey, Anthony J. Hesketh and Peter T. Knight, 'Transforming work experience in higher education' (2001) 27(3) *British Educational Research Journal* 269-285; Denise Jackson, 'The contribution of work-integrated learning to undergraduate employability skill outcomes' (2013) 14(2) *Asia-Pacific Journal of Cooperative Education* 99-115; Brenda Little and Lee Harvey, 'Learning through work placements and beyond: A report for HECSU and the Higher Education Academy's Work Placements Organisation Forum' (Centre for Higher Education Research and Information, Open University, 2006) http://www.hecsu.ac.uk/assets/documents/Learning_through_work_placements_and_beyond.pdf; Gary Lock, Kathleen Bullock, V Gould and Momna Hejmadi, 'Exploring the industrial placement experience for mechanical engineering undergraduates' (2009) 4(1) *Engineering Education* 42-51.

supervisors, peers and clients. The tax clinic experience also provides the opportunity to observe others preparing or giving advice, allowing students to model their conduct and develop their professional identity.²⁴ It is these skills that can assist students as they transition from university to industry, given that these skills are highly desired by industry.²⁵

Of particular relevance to this article is how students' self-efficacy could be affected by participation at a tax clinic.²⁶ A student's self-efficacy may play an important role in preparing for work in the real-world in that it allows students to see that they have the agency and perceived capability to manage their career choices.²⁷ With higher levels of self-efficacy, students can devote more effort toward career planning,²⁸ and this can be important in building the next generation of tax professionals.

Against this background, section 0 of this article provides a broad summary of WIL and its relationship with self-efficacy, and how the tax clinics established under the National Tax Clinic Program could enable the development of self-efficacy. Section 0 outlines the research methodology undertaken and comments on the demographics of the student participants, which is followed by a discussion of the results in section 4. In view of the prior discussion, recommendations are proposed and areas for future research outlined in section 5 and 6 (respectively), followed by the conclusion in section 7.

II WORK INTEGRATED LEARNING AND SELF-EFFICACY

A Work Integrated Learning

Abeysekera describes WIL as providing advanced experiences in integrating theory and practice.²⁹ It has been defined by Patrick et al. as 'an umbrella term used for a range of

²⁴ Carol-joy Patrick, Deborah Peach, Catherine Pocknee, Fleur Webb, Marty Fletcher and Gabriella Pretto, 'The WIL [Work integrated learning] report: A national scoping study' (Queensland University of Technology, 2008); Nick Wilton, 'The impact of work placements on skills development and career outcomes for business and management graduates' (2012) 37(5) *Studies in Higher Education* 603-620; Richard Coll, Chris Eames, Levinia Paku, Mark Lay, Dave Hodges, Ravi Bhat, Shiu Ram, Diana Ayling, Jenny Fleming, Lesley Ferkins, Cindy Wiersma and Andrew Martin, 'An exploration of the pedagogies employed to integrate knowledge in work-integrated learning' (2009) 43(1) *Journal of Cooperative Education & Internships* 14-35.

²⁵ Sarah Davidson, 'Future Tensions in Professional Associations' in J. Guthrie, E. Evans and R. Burritt (eds) *Relevance and Professional Associations in 2026*, (RMIT and Chartered Accountants ANZ, 2016), pp. 79-83; Sharon Hayes, Brett Freudenberg and Deborah Delaney, 'Role of Tax Knowledge and Skills: What are the graduate skills required by small to medium Accounting firms' (2018) 13(1) *Journal of Australasian Tax Teachers Association* 152-186.

²⁶ Mark Scherer, James Maddux, Blaise Mercandante, Steven Prentice-Dunn, Beth Jacobs and Ronald Rogers, 'The self-efficacy scale: Construction and validation' (1982) 5(2) *Psychological Reports* 663-671; Gilad Chen, Stanley Gully and Dov Eden, 'Validation of a new general self-efficacy scale' (2001) 4(1) *Organizational Research Methods* 62-83; Brett Freudenberg, Mark Brimble, Victoria Vyvyan and David Corby, 'A Penny for Your Thoughts: Can participation in a Student-Industry conference improve students' presentation self-efficacy and more?' (2008) 1(5) *The International Journal of Learning* 188-200.

²⁷ Daniela Spanjaard, Tim Hall and Nicole Stegemann, 'Experiential learning: Helping students to become 'career ready'' (2018) 26 *Australasian Marketing Journal* 163-171.

²⁸ *Ibid.*

²⁹ Indra Abeysekera, 'Issues Relating to Designing a Work-Integrated Learning (WIL) Program in an Undergraduate Accounting Degree Program and Its Implications for the Curriculum' (2006) 7(1) *Asia-Pacific Journal of Cooperative Education* 7-15.

approaches and strategies that integrate theory with the practice of work within a purposefully designed curriculum³⁰ and can include an array of on-campus or off-campus workplace learning experiences.³¹ Ideally, the students first acquire knowledge and skills in an educational setting and then learn to apply these in practice.³² The objective of WIL is to blend academic learning with its workplace application to develop students' abilities, transfer theoretical knowledge to practice, and to develop generic skills to improve graduate employability.³³

Undertaking a WIL experience does not guarantee that the student will have a positive learning experience. It has been identified that WIL needs to be an integrated part of the curriculum, rather than as a 'bolt on' experience.³⁴ Notions that underscore a successful WIL experience include a shared understanding of purpose and role, quality supervision, appropriate task allocation, student preparedness, and authentic assessment practices.³⁵ Billett identifies several curriculum and pedagogic practices for combining WIL effectively into a higher education setting, emphasising the importance of integrating on-campus learning and workplace learning environments to enable students to link their learning in different settings and to understand what is required in the workplace.³⁶

The different modes of WIL include a placement-based opportunity (generally off-campus) which is facilitated by the university in partnership with a host organisation to expose the student to an authentic employment setting with the aim of developing their knowledge, skills and attributes.³⁷ However, numerous other forms of WIL have been developed and undertaken in recent years and have been shown to be effective, including mentorships,³⁸ computer technology simulations,³⁹ embedded live case studies,⁴⁰ capstone courses using

³⁰ Patrick, Peach, Pocknee, Webb, Fletcher and Pretto (n 24) 9.

³¹ Calvin Smith, 'Evaluating the quality of work-integrated learning curricula: a comprehensive framework' (2012) 31(2) *Higher Education Research & Development* 247-262.

³² Ern Reeders, 'Scholarly Practice in Work-based Learning: Fitting the glass slipper' (2000) 19:2 *Higher Education Research & Development* 205-220.

³³ Stephen Billett and S. Choy, 'Emerging perspectives and the challenges for workplace learning' in J. Higgs, R. Barnett, S. Billett, M. Hutchings and F. Trede (eds), *Practice-Based Education*, (SensePublishers, 2012), pp. 145-160.

³⁴ Patrick, Peach, Pocknee, Webb, Fletcher and Pretto (n 24) vi.

³⁵ Ibid.

³⁶ Stephen Billett, 'Curriculum and pedagogical bases for effectively integrating practice-based experiences' (Australian Learning and Teaching Council, 2011).

³⁷ V Warren, 'Recognising student leadership outside formal learning settings: An alternative approach to WIL and service learning' Paper presented at ACEN Conference, Gold Coast (2014).

³⁸ Ralph Adler and Carolyn Stringer, 'Practitioner mentoring of undergraduate accounting students: helping prepare students to become accounting professionals' (2018) 58(4) *Accounting & Finance* 939-963.

³⁹ Wanda Lester and John Cole, 'Using a financial trading room to facilitate an interdisciplinary, learner-centered paradigm: One school's experience' (2009) Spring *Southwestern Business Administration Journal* 44-57.

⁴⁰ Stuart Schonell and Rob Macklin, 'Work integrated learning initiatives: live case studies as a mainstream WIL assessment' (2018) 44(7) *Studies in Higher Education* 1197-1208.

problem-based learning,⁴¹ virtual WIL using simulation⁴² and e-internships.⁴³ The proliferation of modified and virtual WIL experiences in recent times is in part due to the recognition that traditional WIL placements or internships are resource intensive and place additional demands on industry partners.⁴⁴ Many of the tax clinics established under the National Tax Clinic Program represent a WIL experience that is conducted under the professional supervision of an external or internal tax professional on-and/or off-campus for some or all of the student's WIL experience.

Whilst WIL was traditionally undertaken by only a minority of students, it is becoming increasingly popular for developing work-readiness in new graduates,⁴⁵ acknowledging the successes of improving written and oral communication skills, interpersonal skills, and teamwork.⁴⁶ Blissenden demonstrated that a WIL experience for tax students providing free tax return preparation advice can lead to improved learning outcomes for tax students.⁴⁷ In addition to these skills, WIL can influence students' self-efficacy.

B Self-efficacy

Self-efficacy is a person's 'beliefs in one's capabilities to organize and execute the courses of action required to produce given attainments'.⁴⁸ The concept of self-efficacy focusses on a person's belief of their capabilities, which in turn may influence their own level of functioning and, consequently, their performance.⁴⁹ Further, the way students approach their learning can be affected by their perception of the task's requirements,⁵⁰ as well as the specific learning context.⁵¹

⁴¹ Trevor Stanley and Stephen Marsden, 'Accountancy capstone: Enhancing integration and professional identity' (2013) 31 *Journal of Accounting Education* 363-382.

⁴² Rafael Bautista-Mesa, Horacio Molina Sánchez and Jesús Nicolás Ramírez Sobrino, 'Audit workplace simulations as a methodology to increase undergraduates' awareness of competences' (2018) 27(3) *Accounting Education* 234-258.

⁴³ Leopold Bayerlein and Debora Jeske, 'Student learning opportunities in traditional and computer-mediated internships' (2017) 60(1) *Journal of Education and Training* 27-38.

⁴⁴ Georgina Atkinson, Josie Misko and John Stanwick, 'Work integrated learning in STEM disciplines: Employer perspectives' (Office of the Chief Scientist, 2015) <<https://www.chiefscientist.gov.au/2015/08/report-work-integrated-learning-in-stem-disciplines-employer-perspectives>>.

⁴⁵ Denise Jackson, Ruth Sibson and Linda Riebe, 'Delivering work-ready business graduates - keeping our promises and evaluating our performance' (2013) 4(1) *Journal of Teaching and Learning for Graduate Employability* 2-22.

⁴⁶ Brett Freudenberg, Mark Brimble and Craig Cameron, 'WIL and generic skill development: The development of business students' generic skills through work-integrated learning' (2011) 12(2) *Asia-Pacific Journal of Cooperative Education* 79-93.

⁴⁷ Michael Blissenden, 'Service Learning: An example of experiential education in the area of taxation law' (2006) 16(1) *Legal Education Review* 183-193.

⁴⁸ Albert Bandura, *Self-efficacy: The exercise of control* (W H Freeman/Times Books/ Henry Holt & Co, 1997), 3.

⁴⁹ Albert Bandura, 'Self-efficacy: Toward a unifying theory of behavioral change' (1977) 84(2) *Psychological Review* 191-215.

⁵⁰ Michelle Cull and Glenda Davis, 'Students' Perceptions of a Scaffolded Approach to Learning Financial Planning: An Empirical Study' (2013) 22(2) *Accounting Education: an international journal* 125-146.

⁵¹ L Gow, D Kember & Barry Cooper, 'The teaching context and approaches to study of accountancy students' (1994) 9(1) *Issues in Accounting Education* 118-130.

There are two ways self-efficacy can be conceptualised; general and task specific. General self-efficacy describes peoples' perceptions of their capabilities across a wide range of situations. Conversely, task-specific self-efficacy describes people's perceptions of their capabilities about a specific domain or task.⁵²

Improvements in self-efficacy can be related to performance, satisfaction, academic persistence and choice of career opportunities.⁵³ For example, self-efficacy has been found to be a predictor of persistence in studies for Australian first year university students,⁵⁴ and academic performance.⁵⁵ However, perceived self-efficacy does not always match objective indicators of actual ability. Individuals may not be accurate in estimating their abilities potentially leading to errors of judgment and suffering the consequences as a result.⁵⁶ Inaccurate perceptions are a concern, as they may cause an individual to eliminate potential university courses and careers, rather than the person's lack of capability or skill.⁵⁷ This is particularly insightful in light of research suggesting that individuals can overcome their inhibitions when they continue to participate in challenging activities which implies that self-efficacy can be developed through learning, experience, and feedback.⁵⁸ By participating in a WIL program, students have the opportunity to develop and better understand their self-efficacy, and this intervention can assist students to make more appropriate decisions that correspond to their actual abilities, and know what areas they need to improve.⁵⁹

The importance of accurate self-appraisal cannot be underestimated since 'acting on misjudgement of personal efficacy can produce adverse consequences'.⁶⁰ As student's self-reflective capabilities increase, so too does their self-efficacy judgement which later becomes a substitute for external guidance.⁶¹ Furthermore, increases in perceived capability lead students to take on more challenging goals.⁶² Therefore, programs that provide mastery and vicarious experiences plus opportunities for feedback and self-reflection not only assist in the

⁵² Bandura (n 48).

⁵³ Albert Bandura, 'Self-efficacy mechanism in human agency' (1982) 37(2) *American Psychologist* 122-147; Marilyn Gist and Terence Mitchell, 'Self-efficacy: A theoretical analysis of its determinants and malleability' (1992) 17 *Academy of Management Review* 183-211.

⁵⁴ P Quinn and B Hemmings, 'The role of personal and environmental factors in predicting persistence and satisfaction in tertiary agricultural study', paper presented at the Australian Association for Research in Education Conference: Global Issues and Local Effects: The Challenge for Educational Research, Melbourne (1999).

⁵⁵ Kirsten McKenzie and Robert Schweitzer, 'Who Succeeds at University? Factors predicting academic performance in first year Australian university students' (2001) 20(1) *Higher Education Research and Development* 21-33. John Holland, 'Making vocational choices: A theory of vocational personalities and work environments' (Prentice-Hall, 1985);

⁵⁶ Albert Bandura, *Social foundations of thought and action: A social cognitive theory* (Prentice- Hall, 1986).

⁵⁷ Holland (n 55); Theodore Christensen, Timothy Fogarty and Wanda Wallace, 'The Association between the Directional Accuracy of Self-Efficacy and Accounting Course Performance' (2002) 17(1) *Issues in Accounting Education* 1-26.

⁵⁸ Gist and Mitchell (n 53).

⁵⁹ Mary Tucker and Anne McCarthy, 'Presentation Self-Efficacy: Increasing Communication Skills Through Service-Learning' (2001) 13(2) *Journal of Managerial Issues* 227-244.

⁶⁰ Bandura (n 53) 123.

⁶¹ Bandura (n 48).

⁶² Barry Zimmerman, Albert Bandura and Manuel Martinez-Pons, 'Self-motivation for academic attainment: The role of self-efficacy beliefs and personal goal setting' (1992) 29(3) *American Educational Research Journal* 663-676.

accurate appraisal of student's own capabilities, but are essential to informing and supporting students to become independent learners.

C Self-efficacy development and WIL

Several studies have demonstrated that students' self-efficacy has changed while undertaking a WIL experience. Subramaniam & Freudenberg established that experiencing a simulated WIL during an undergraduate degree associates positively with the student's self-efficacy.⁶³ This was confirmed by Satchakova who highlighted the three general self-efficacy factors of initiative, effort, and persistence as outcomes of a WIL experience.⁶⁴ Further, students who have participated in practical work experience in the form of WIL during their studies have been found to have higher grade-point averages, are more likely to use deep learning strategies and are more intrinsically rather than extrinsically motivated.⁶⁵

Due to improved domain-specific knowledge and feedback from work supervisors, Coll, Lay and Zegwaard found that students in science and technology increased their self-efficacy when participating in co-operative education.⁶⁶ In addition, Sawyer, Tomlinson and Maples note that incorporating real-world simulations as part of tertiary studies can also develop student competencies well beyond just their technical knowledge.⁶⁷ Freudenberg, Cameron and Brimble found that for students involved in a simulated WIL Program over 12 months there was generally an increase in 20 of the 21 dimensions of self-efficacy, with the largest growth in terms of their 'future employment'.⁶⁸

Business degree students who participated in an integrated WIL program have shown greater improvement in all the measured self-efficacy dimensions compared with students in the same degree who did not have the WIL experience.⁶⁹ There was a greater than 10% improvement for 20 of the 21 students in the WIL program whereas for the control group, only 2 dimensions increased by 10%, and two dimensions declined over the course of their degree.⁷⁰

The longitudinal study conducted by Freudenberg et al. demonstrated that the way in which WIL is conducted that is, on or off-campus, could also affect self-efficacy.⁷¹ In this study, the

⁶³ Nava Subramaniam and Brett Freudenberg, 'Preparing accounting students for success in the professional environment: enhancing self-efficacy through a work integrated learning program' (2007) 8(1) *Asia-Pacific Journal of Cooperative Education* 77-92.

⁶⁴ Liubov Satchakova, 'The role of self-efficacy factors, individual characteristics and WIL participation on accounting near-graduate students' employment outcomes' PhD Thesis (Victoria University, 2018).

⁶⁵ Maureen Drysdale and Margaret McBeath, 'Motivation, self-efficacy and learning strategies of university students participating in work-integrated learning' (2018) 31(5-6) *Journal of Education and Work* 478-488.

⁶⁶ Richard Coll, Mark Lay and Karsten Zegwaard, 'The influence of cooperative education on student self-efficacy towards practical science skills' (2001) 36(2) *Journal of Cooperative Education* 58-72.

⁶⁷ Adrian Sawyer, Stephen Tomlinson and Andrew Maples, 'Developing essential skills through case study scenarios' (2000) 18(3) *Journal of Accounting Education* 257-282.

⁶⁸ Brett Freudenberg, Craig Cameron and Mark Brimble, 'The Importance of Self: Developing Students' Self Efficacy Through Work Integrated Learning' (2010) 17(10) *The International Journal of Learning* 479-496.

⁶⁹ Brett Freudenberg, Mark Brimble, Craig Cameron, Kirsten MacDonald and Dianne English, 'I am what I am: Am I? The development of self-efficacy through work integrated learning' (2013) 19(3) *The International Journal of Learning* 177-192.

⁷⁰ Ibid 187.

⁷¹ Ibid.

researchers found that for the first year of their degree the WIL activities were largely simulated and occurred on-campus, and during this time there was a substantial increase in students' self-efficacy in this very structured environment.⁷² However, in second and third year WIL activity occurred off-campus, which resulted in some self-efficacy dimensions decreasing, particularly in the second year.⁷³ The study observes that that during their first year on-campus WIL experience, students may have developed over-confidence in terms of their ability, which was then re-adjusted once faced with a more authentic off-campus working environment. Importantly, the study recognises that this is not necessarily a negative consequence as better self-realisation can assist people to have a better understanding about their own capabilities and to know what they need to improve.

To aid the development of self-efficacy there are four recognised categories of experiences; mastery experiences, modelling, social persuasion, and judgements of own physiological states,⁷⁴ and WIL can provide opportunities for each of these experiences.⁷⁵ For example, to aid self-efficacy through mastery, students need to be given opportunities to master an idea or concept.⁷⁶ Stronger self-efficacy is associated with students who have had an opportunity to repeat tasks successfully and perform such tasks under varied conditions and levels of difficulty,⁷⁷ with WIL being able to allow for this.⁷⁸ It is envisaged that the tax clinics allow for mastery experiences when student participants deal with client issues, as they have the opportunity to master an idea, area of tax, skill or concept. This could include how to conduct a client interview, how to research a tax topic, how to apply the tax law to their client circumstance, how to utilise various software programs with the lodgement of tax returns and how to communicate with others such as their supervisor, fellow student participants, clients, external stakeholders or the ATO.

The development experience of modelling involves students having the opportunity to observe others, including the ability to compare themselves to others,⁷⁹ which can be useful when observing how others have managed difficult situations. The tax clinics allow for modelling to occur when students observe and compare themselves to others. This could include observing how the tax professional or academic staff supervising them communicates with clients, external stakeholders, the ATO, or other student participants. Furthermore, students could observe first-hand how others conduct research and the process they undertook to problem solve a client's tax issues. Additionally, modelling could occur by observing other student participants, which could include notions of comparison with students with different levels of capabilities in different areas, and how others presented at tax seminars or developed materials.

⁷² Ibid 185.

⁷³ Ibid.

⁷⁴ Bandura (n 53); Robert Wood and Albert Bandura, 'Social cognitive theory of organizational management' (1989) 14(3) *Academy of Management Review* 361-384; Sanjib Chowdhury, Megan Lee Endres and T Lanis, 'Preparing students for success in team work environments: the importance of building confidence' (2002) 14(3) *Journal of Managerial Issues*:346-359.

⁷⁵ Subramaniam and Freudenberg (n 63).

⁷⁶ Chowdhury, Endres and Lanis (n 74).

⁷⁷ Robert Lent, Steven Brown and Gail Hackett, 'Monograph: Toward a Unifying Social Cognitive Theory of Career and Academic Interest, Choice and Performance' (1994) 45 *Journal of Vocational Behavior* 79-122.

⁷⁸ Tucker and McCarthy (n 59).

⁷⁹ Ibid.

Considering the development experience of social persuasion; this involves students obtaining feedback from others, which can be particularly effective when it comes from a respected source, such as a supervisor.⁸⁰ However, feedback could come from other students as well.⁸¹ Persuasion and feedback could occur at the tax clinics when student participants receive verbal and non-verbal feedback from their tax professional and/or academic supervisors. Additionally, this persuasive feedback could be from clients who express their view on the assistance provided by the student. Even fellow student participants could provide feedback to their colleagues about how they did in researching a problem or handling a client situation.

Students may also improve their self-efficacy by being aware of one's own physiological state, especially when confronted with a task. This self-awareness can assist students to modify (or manage) their physiological state, and thereby allow for self-efficacy to be improved.⁸² At the tax clinics, student participants are encouraged to make judgements about their own physiological state as they reflect on their physiological and emotional condition when tasked with difficult or challenging circumstances, such as a client interview, client phone call or public education seminar. This could also include obtaining advice from others about how best to manage these situations, so that they are able to take appropriate action the next time they encounter similar circumstances.

Of course, each student's background including their prior experience is likely to influence their current self-efficacy, as well as its development during a WIL experience. Suppositionally, students who have higher self-efficacy at the beginning of their WIL experience may have better confidence and self-belief to deal with the challenges of a WIL experience, although this could be influenced by the 'accuracy' of students' assessment of their self-efficacy. Other variables that may affect how students perceive their WIL experience and influence their learning include gender, age, and prior work experience ('PWE'). Each of these variables may also affect how students perceive their experience in the tax clinic and are discussed below.

D Factors affecting self-efficacy

1. Gender

Gender has previously been identified as a factor that may affect self-efficacy on certain tasks.⁸³ In particular, females may have low levels of self-efficacy, particularly in traditionally male pursuits such as mathematics⁸⁴ and entrepreneurship.⁸⁵ In the accounting

⁸⁰ Wood and Bandura (n 74).

⁸¹ Joyce Fletcher, 'Self Esteem and Cooperative Education: A Theoretical Framework' (1990) 26(3) *Journal of Cooperative Education* 41-55.

⁸² Wood and Bandura (n 74).

⁸³ Lent, Brown and Hackett (n 77).

⁸⁴ Kay Bussey and Albert Bandura, 'Social cognitive theory of gender development and differentiation' (1999) 106(4) *Psychological Review* 676-713.

⁸⁵ Fiona Wilson, Jill Kickul and Deborah Marlino, 'Gender, Entrepreneurial Self-Efficacy, and Entrepreneurial Career Intentions: Implications for Entrepreneurship Education' (2007) 31(3) *Entrepreneurship Theory and Practice* 387-406.

discipline it has been found that there can be significant differences in certain sub-dimensions of self-efficacy between male and female students, with males demonstrating greater self-efficacy overall.⁸⁶ However, other studies have demonstrated that cooperative education can have a positive effect on women as they move through the experience, whereas with males the effect was insignificant.⁸⁷ Thus it follows that males may be more likely to perceive higher self-efficacy than females as they embark on the tax clinic experience.

2. Age

As students with high self-efficacy are more likely to adopt a deep or strategic approach to studying,⁸⁸ it follows that older students (who have been found to adopt a deeper approach to learning than younger students) are more likely to perceive higher levels of self-efficacy than younger students⁸⁹ as they draw from their rich life experience. In this respect, it is expected that older students in the tax clinic will hold higher levels of self-efficacy and have higher expectations about their ability to help clients in the tax clinic.

E Prior professional work experience (PWE)

Research has demonstrated that the lack of career-related work experience can be a large disadvantage to graduates, leading to lower initial wages which can lag over time.⁹⁰ One such prior experience is the extent to which students have relevant professional work experience ('PWE') to their WIL engagement. In the context of a simulated WIL experience from financial planning students, students with prior PWE in financial planning had more moderate growth in self-efficacy due to WIL (43.2%), compared to more substantial growth for those students without relevant prior work experience (63.7%).⁹¹ This is supported by Cull, who found students without full time work perceived more difficulty in simulated WIL activities, especially compared to students with work experience in the area related to simulation.⁹² For students without this relevant prior professional work experience, they may need more assistance to enhance their learning, which according to Cull may include

⁸⁶ Subramaniam and Freudenberg (n 63).

⁸⁷ W Wessels and G Pumphrey, 'The Impact of Cooperative Education on Wages' (1996) 32(1) *Journal of Cooperative Education* 36-51.

⁸⁸ Carole Ames, 'Classrooms: Goals, structures, and student motivation' (1992) 84(3) *Journal of Educational Psychology* 261-271; Drysdale and McBeath (n 65); Carol Dweck and Ellen Leggett, 'A Social-Cognitive Approach to Motivation and Personality' (1988) 95(2) *Psychological Review* 256-273; Mercè Prat-Sala and Paul Redford, 'The Interplay between Motivation, Self-Efficacy, and Approaches to Studying' (2010) 80(2) *British Journal of Educational Psychology* 283-305.

⁸⁹ Phillip L Ackerman and Margaret E Beier, 'Determinants of Domain Knowledge and Independent Study Learning in an Adult Sample' (2006) 98(2) *Journal of Educational Psychology* 366-381; John Richardson, 'Mature students in higher education: II. An investigation of approaches to studying and academic performance' (1995) 20(1) *Studies in Higher Education* 5-17; Eugene Sadler-Smith, 'Approaches to Studying: age, gender and academic performance' (1996) 22(3) *Educational Studies* 367-379.

⁹⁰ Philip Gardner and Garth Motschenbacher, 'Early Work Outcomes of Co-op and Non-co-op Engineers: A Comparison of Expectations, Job Level, and Salary' (1997) 33(1) *Journal of Cooperative Education* 6-24.

⁹¹ Freudenberg, Brimble, Vyvyan and Corby (n 26) 195.

⁹² Michelle Cull, 'Learning to Produce a Financial Plan: Student Perceptions of Integrating Knowledge and Skills' (2019) 5(1) *Financial Planning Research Journal* 29-54.

industry visits, real-life scenarios and industry guest lectures.⁹³ Thus, it follows that students with the least professional experience can benefit the most from participation in WIL⁹⁴ and reach higher levels of self-efficacy as students build their confidence from the experience. For counselling students, prior work experience has been linked with greater self-efficacy.⁹⁵ Additionally, students with part-time work have been found to have greater levels of self-efficacy.⁹⁶ Indeed, it has been demonstrated that students with the least professional experience can gain more from a simulated WIL experience.⁹⁷ However, it is possible that on-campus simulated WIL experiences could cause higher levels of increased in self-efficacy due to the more structured and scaffolded environment, which could lead students to be slightly over-confident.⁹⁸

Consequently, it can be appreciated that WIL can influence students' development of self-efficacy. Given the prior discussion, this article seeks to report on such a WIL experience, by analysing seven of the universities involved in the National Tax Clinic Program. In particular, the core focus of the article is on how students' self-efficacy was influenced by their participation in the program through mastery, modelling, social persuasion, and judgements of own physiological states.

III RESEARCH METHODOLOGY

This section describes the research methodology utilised to consider students' self-efficacy and the results of the study. Employing a longitudinal survey methodology, students completed a pre- and post-survey, to try to ascertain the influence, if any, of participating in their respective tax clinic, on the students' self-efficacy. The pre-survey instrument was administered at the start of the semester when students initially commenced at their clinic, capturing the students' perceived self-efficacy prior to their extensive engagement with the clinic. The instrument was then readministered at the end of the semester or their time with the clinic to gauge the level of student development. The survey was conducted at seven of the 10 universities involved in the National Tax Clinic Program during the first 18 months of operation, from approximately March 2019 to August 2020. The three universities from the National Tax Clinic Program not participating in this research were: University of Melbourne, Australian National University and Charles Darwin University.

The pre-survey instrument had two parts, being demographics and self-efficacy dimensions, with the post-survey having an additional third part for students to write comments about

⁹³ Ibid 45.

⁹⁴ Mahmoud Haddaram and Heather Skanes, 'A reflection on cooperative education: from experience to experiential learning' (2007) 8(1) *Asia-Pacific Journal of Cooperative Education* 67-76.

⁹⁵ Mei Tang, Kathleen Addison, Danielle LaSure-Bryant, Rhonda Norman, William O'Connell and Joseph Stewart-Sicking, 'Factors that influence self-efficacy of counselling students: An exploratory study' (2004) 44(1) *Counselor Education and Supervision* 70-80.

⁹⁶ Liubov Satchakova and Alex Taube, 'The Role of Self-Efficacy on Accounting Near-Graduate Students' Employment Outcomes' (2020) 10(2) *International Journal of Academic Research in Business and Social Sciences* 814-837.

⁹⁷ Haddaram and Skanes (n 94).

⁹⁸ Freudenberg, Brimble, Cameron, MacDonald and English (n 69).

their learning experience. The measurement of self-efficacy in prior work has focused on general self-efficacy, as well as task-specific dimensions.⁹⁹ General self-efficacy dimensions have demonstrated valid associations with initiation and persistence in behaviour.¹⁰⁰ In addition, it is useful to have task-specific dimensions to better predict individual behaviour in terms of different skills. This is empirically supported by Wang & Richarde who found that task-specific dimensions can better predict performance of cognitive tasks compared to a general efficacy dimension.¹⁰¹

For this study, a 16-item measure of self-efficacy was adopted, comprising of both general and task specific dimensions: refer to Table 3 for a full set of self-efficacy dimensions used. The first three dimensions of the questionnaire were adapted from Chen et al.'s general self-efficacy scale, which has been demonstrated to correlate more highly with several motivational variables including goal orientation and performance.¹⁰²

In terms of task-specific variables, another fourteen dimensions were developed under the themes of 'Profession'; 'Communication', 'Team' and 'Problem Solving'. This was based on prior research that indicates these are attributes that industry is looking for in graduates.¹⁰³ The lead directive for each item was "*How confident are you in your ability to*", and a six-point Likert scale was provided to participants to respond with, where 0 = Not confident at all to 5= Very confident.

A Participants

A total of 133 students completed surveys at the beginning of the semester and 94 at end of the semester. During this time there was 214 students who had participated in one of the seven tax clinics. The demographic composition of the student participants is summarised in Table 1.

Table 2: Demographics

Attribute	Beginning of tax clinic (n = 133)	Percent (Beginning)	End of tax clinic	Percent (End) (n = 94)
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⁹⁹ Rudolf Bosscher and Johannes Smit, 'Confirmatory factor analysis of the general self-efficacy scale' (1998) 36(3) *Behaviour Research & Therapy* 339-343; Gilad Chen and Stanley Gully, 'Specific self-efficacy, general self-efficacy, and self-esteem: Are they distinguishable constructs?' Paper presented at the 57th Annual Meeting of the Academy of Management (1997); Andrea Kirk-Brown and David Brown, 'Latent constructs of proximal and distal motivation predicting performance under maximum test conditions' (2003) 88(1) *Journal of Applied Psychology* 40-49.

¹⁰⁰ Scherer, Maddux, Mercandante, Prentice-Dunn, Jacobs and Rogers (n 26).

¹⁰¹ Alvin Wang and R Stephen Richarde, 'Global versus task-specific measures of self-efficacy' (1988) 38 *The Psychological Record* 533-541.

¹⁰² Chen, Gully and Eden (n 26).

¹⁰³ Hayes, Freudenberg and Delaney (n 25).

			(n = 133)	(n = 94)	
Gender	Male	49	36.84%	35	37.23%
	Female	84	63.16%	58	61.70%
	Not disclose			1	1.06%
University	Curtin University	19	14.29%	13	13.83%
	Griffith University	34	25.56%	26	27.66%
	James Cook University	5	3.76%	7	7.45%
	UNSW Sydney	16	12.03%	10	10.64%
	University of South Australia	16	12.03%	15	15.96%
	University of Tasmania	30	22.56%	4	4.26%
	Western Sydney University	13	9.77%	19	20.21%
Age	<20 years	11	8.27%	6	6.38%
	20 – 30 years	84	63.16%	61	64.89%
	31 – 40 years	27	20.30%	21	22.34%
	>40 years	11	8.27%	6	6.38%
Nationality	Domestic	66	49.62%	58	61.70%
	International	67	50.38%	36	38.30%
First in family (parent not a university graduate)	Yes	77	57.89%	55	58.51%
	No	56	42.11%	39	41.49%
Professional work experience	No	60	45.11%	38	40.43%
	Yes - less than 3 months	22	16.54%	17	18.09%

	Yes - 3 months but less than 6 months	12	9.02%	9	9.57%
	Yes - more than 6 months	39	29.32%	30	31.91%

Nearly two thirds of the students surveyed were female and around the same proportion were aged between 20 – 30 years old. Half of the beginning survey participants were domestic students as were just over 60% of participants in the end survey. Many students were ‘first in family’ as their parents had not graduated from university (58%), with less than half having no prior PWE. While the survey was completed anonymously by students, there was some comfort for the comparison of students’ demographics at the ‘beginning’ and ‘end’ of the semester, as most characteristics remain fairly consistent, and it was essentially the same cohort of students. The only exception was for students at University of Tasmania where only 4 students completed the end survey compared with 30 completing the beginning survey. This had an impact on the proportion of domestic/international students in the end survey with 90% of those completing the beginning survey at University of Tasmania being international students.

B Results

The results are discussed in terms of the overall aggregated student experience, and then considered in terms of gender, age, and prior PWE.

1. Overall student experience

In terms of perceived improvement in self-efficacy, Table 3 below provides a detailed outline of the total responses to the 16 self-efficacy dimensions at the beginning and then the end of semester, including the percentage change experienced over the semester.

Overall, this demonstrates that there was a 8% growth in self-efficacy in terms of the aggregated dimensions during the semester, with the top four areas of growth being in relation to: ‘*to communicate with clients in an effective manner*’ (15% growth); ‘*to coordinate tasks within my work group*’ (11% growth), ‘*to be clear when presenting my ideas*’ (12% growth) and ‘*to research tax issues confidently*’ (10% growth).

Table 3: Self-Efficacy: All Students

<i>How “confident” are you in your ability to</i>	Beginning of tax clinic (n = 133)	End of tax clinic (n = 94)	Change Over tax clinic experience
General			
... accomplish difficult tasks when faced with them.	3.50	3.81	9%
... perform quite well under pressure.	3.70	3.83	4%
... to better manage time.	3.93	4.01	2%
Task specific			
Profession			
... begin a career in the Degree I am studying.	3.95	4.19	6%
... to achieve my career goals	3.74	4.10	10%
... to understand what is expected of me as a professional advisor.	3.66	4.01	10%
Communication			
... to communicate with clients in an effective manner	3.47	4.00	15%
... structure and write an advice.	3.32	3.64	10%
... to be clear when presenting my ideas.	3.46	3.86	12%
... to communicate with colleagues in an effective manner	3.95	4.28	8%
Team			
... to coordinate tasks within my work group.	3.88	4.31	11%
... to contribute ideas for a team result.	3.94	4.30	9%
Problem solving			
... to research tax issues confidently.	3.69	4.07	10%
... use a range of software applications.	3.59	3.68	3%

... analyse topics to identify what information I need to produce a good result.	3.59	3.88	8%
... critically evaluate the relevance, reliability and authority of information I find so that I know what to use and what to discard.	3.56	3.79	6%
Overall average	3.68	3.98	8%

Note: 0 = Not confident; 1= A little confident; 2 = Slightly confident; 3 = Moderately confident; 4 = Quite confident; 5 = Very confident

It appears that ‘task specific’ dimensions (under the headings of Profession, Communication, Team and Problem Solving) had the largest increases over the tax clinic experience, although the ‘*ability to use a range of software applications*’ had one of the lowest increases (3%). The general self-efficacy dimensions had some of the lowest increases, particularly ‘*to better manage time*’ (2%) and ‘*perform quite well under pressure*’ (4%); although there was a greater sense of being able to ‘*accomplish difficult tasks when faced with them*’ (9%).

With regards to the task-specific self-efficacy dimensions, students were asked to choose one dimension, and to provide a comment as to how it impacted on their learning experience as part of the tax clinic. Below is a more detailed discussion of the task-specific self-efficacy dimensions, as supported by relevant student quotes.

2. Professional identity

The task specific questions around professional identity saw growth in confidence (6 to 10%: Table 2), even though these dimensions were above the overall average score at the beginning of the semester. It is suggested that the development of students’ professional identity will hold them in good stead for their future careers. Examples of how students perceived the tax clinic assisted in building their confidence in understanding their own professional identity are provided below:

This experience gives me a chance to enhance my confidence in the profession I would like to pursue in the future.

Tax clinic helped me to enhance my professional identity by creating a professional workplace environment.

I enjoyed the learning experience as we got to meet clients, manage meetings, documents our work and work just as we would in a normal practice. I was able to secure work post university because of this experience. I am grateful for the opportunity with the tax clinic.

Observably, it appears this professional identity development was linked with students’ experience of client interactions in the tax clinic:

Being able to interact and talk to clients at the tax clinic allowed me to develop my communication and professional skills...I am now able to interview clients and complete the

initial form. A significant aspect is that as I have experienced difficult clients, I am now able to effectively handle these clients when issues arise.

I had no idea how important it was to always remain professional with clients.

As indicated by student comments, confidence in developing their professional experience in the tax clinic was aided by the opportunity to interact with clients which involved various forms of communication.

3. *Communication skills*

At the beginning of the tax clinic experience, three of the four communication dimensions had some of the lowest self-efficacy scores, with only '*communication with colleagues*' higher than the overall average. This could suggest that initially students were apprehensive about being able to communicate effectively. However, by the end of the tax clinic experience, the communication dimensions had increased substantially, with confidence in communicating with clients in an effective manner increasing by 15%, the largest increase across all self-efficacy dimensions. While this referred mostly to verbal and non-verbal communication, '*structure and write an advice*' was below the overall end average; this may be attributed to the fact that students did not frequently encounter this task. In the end survey, students provided examples of activities that they felt aided their communication skills which included answering phone calls, meeting with clients, answering e-mails, calling the ATO and communicating with different types of people within the clinic such as supervisors, teammates, and administrative staff.

Moreover, it appears that students perceived their confidence in verbal communication skills improved primarily due to their interaction with clients which provided students with an opportunity to practise and refine their communications skills. This is evident in the following free-form responses provided by students in the end survey. Moreover, these responses each demonstrate mastery, persuasion and feedback occurring while in the tax clinic:

Constantly explaining areas of tax law to clients helped me improve my ability to communicate as I was not confident of communicating in a workplace where people predominantly spoke with an Australian accent.

The clinic has provided many opportunities to liaise with clients from various backgrounds, ranging from little to no financial literacy. This has helped enhance my communication skills by toning the conversations to the client's level.

In addition, the complexities of communicating with real-life clients exposed students to situations that allowed them to learn new ways of communicating that would benefit them in their future careers:

I found the Tax Clinic valuable for developing my skills around explaining complex tax ideas to a layperson. The Tax Clinic has improved my ability to empathise with people who have fallen behind in their tax obligations after being faced with personal adversity. Additionally, I have improved my ability to ask clarifying questions of the clients, allowing me to better understand their issue and provide tailored advice to them.

Working with actual clients who are in financial or mental distress has helped me develop my communication skills as there are times we have work closely with them to extract the right information. For example, sometimes the client would be talking in circles and we have to bring the client back to the main problem.

Importantly, students appeared to appreciate that effective communication involves more than just speaking but that it also relies on listening and body language:

I think the most important thing I learned regarding communication with clients is listening. Listen [to] the clients carefully and ask relevant questions.

Since this term's clinic operated virtually, all client interviews were conducted via phone and interactions with my supervisors were done through Microsoft Teams. As such, I wasn't able to rely on visual cues such as body language and facial expressions when interviewing clients. This really helped me enhance my communication skills by forcing me to actively listen to the client, and capture subtle auditory cues such as a shift in tone or quickened speech patterns to ascertain the mood/emotions of the client and navigate through the interview accordingly.

In this regard there were some of examples of students acknowledging their own physiological state to improve their communication:

The most useful communication skill I learned from tax clinic is talking slowly. It helps me calm down when I talk to [a] client, it also provides time for me to think and structure my answers better.

Additionally, students expressed that communication was important to their future professional careers:

...I learnt a lot [about] what to say appropriately and got more confident when I got to speak to anyone. It will help my future career a lot.

Modelling occurred through being able to observe their tax supervisor, as it gave student participants perspective about how to communicate professionally:

I had much chance to sit in front of clients, listening to my supervisor communicating with them and I also had [the] chance to ask questions. Finally, I called one client with one of my team members without [the] supervisor beside us and we got all the information needed to proceed the case. It was a precious experience for me to prepare and talk to client to get information independently.

I had an opportunity to improve my communication skills, especially during client interview and advice sessions... I learn[ed] how to effectively use open-ended questions to identify relevant issue, I also learn[ed] how to portray professionalism and empathy in communicating to better understand clients' needs or issues during appointments. This is primarily due to the direct guidance and supervision working closely with tax practitioners, supervisors and distinguished Academics.

While there were many positive experiences related to verbal communication, one student commented that 'more written communication tasks should be there as well such as communicating information to the client'. This also supports the survey results more broadly as the increase in confidence in written communication for clients was at a lower rate (10%) than that for other forms of communicating with the client (15%).

4. Teamwork

Self-efficacy dimensions for the team dimensions were high at the beginning of the semester (both greater than the overall average score), however, there was still very strong growth at 11% and 9% respectively (refer Table 2). Consequently, it appears that the tax clinic experience assisted in developing students' confidence in coordinating and contributing to a team. While students are often required to (often reluctantly) work as a team to complete university assignments, the ability for students to work together on real-life issues presented in the tax clinic seemed to assist students to understand the importance of team work and to find strategies that assisted them to work in a team environment. Students provided insight how their confidence with teamwork developed, and how they appreciated the support provided to each other:

Working alongside the other student advisers and supporting each other as well as working with a partner on the presentation and bouncing ideas off of each other really contributed to the improvement of my teamwork skills ...

Teamwork was important to students in the tax clinic as they looked to solve real-life problems and students also found their confidence to problem solve increased due to their experience in the tax clinic, as discussed below.

5. Problem solving and research skills

A key skill for providing tax advice is the ability to conduct research and problem solve, and this was a task specific dimension that had good growth in confidence during the tax clinic experience with an 10% increase: Table 2. Although the other dimensions of problem solving had more modest increases (ranging from 3% to 8%):

Through this process, I was able to improve my understanding of tax law at a deeper level and thus, developed my research skills.

The tax clinic enhanced my problem-solving skills as it allowed me to apply my theory learned in class to real-life cases.

Students appreciated the role of their tax specialist supervisor in helping them to improve, which appeared through the development experiences of mastering and modelling:

From the experience, I understood that problem-solving skill[s] is [are] important because it helps to develop practical solutions and show my independence and initiative as a professional.

I learnt how to search some tax related problems in ATO and other related website. In addition to that I learnt to do extended research about some issues related into the particular cases.

The domain of 'problem-solving' also included a specific reference to '*use a range of software applications*' to solve problems. The small 3% increment of efficacy may be a consequence of the circumstances in which students engage with software in the tax clinic when it comes to assisting clients. Their encounter with software may be supervised by a tax

professional when a client accesses their return through *myTax* and *myGov* and when the tax professional uses their Tax Agent Portal ('TAP') or professional tax return preparation software. Depending on the complexity of tax matters, access, privacy and security issues, time constraints and operation of the clinic, students' use of *myGov*, the TAP or tax return preparation software, may be limited. As a result, it appears that the use of software applications was one of the problematic areas of the tax clinic experience for students and students would have liked to have more exposure to the use of such software. Depending upon the structure and operation of the tax clinic it is possible that the relevant clinic did not engage with *myGov* or professional software or that only the tax professional had access to information via the TAP. The possibility that self-efficacy may not have reached its potential with regards to using software to solve problems is supported by student comments:

I think the tax clinic was a great experience. The only issue I can think of was the lack of access with the ATO portal and the Xero tax portal due to really high security on the uni computer system. Access was provided using [tax professional's] log in although I didn't get to familiarise myself with the systems as I couldn't work on them myself using my log in.

If we could be provided with ATO portal access this will help the clinic finalise [sic] returns at first contact. It would also help us to understand the client profile and resolve other tax matters the client may not know are outstanding.

While overall improvement was found in students' self-efficacy as a result of participating in the tax clinic, in some cases the demographic background of students (e.g. gender, age, prior PWE) may have influenced the levels of self-efficacy reported against different dimensions, which is explored below.

6. Impact of demographic variables on student experience- Gender

The study conducted an analysis in terms of students' gender to consider whether it influenced students' self-efficacy. As shown in Table 3, females had the largest overall average increase in self-efficacy (9%) compared to their male colleagues (7%). However, part of this difference might be attributed to females having on average lower self-efficacy at the beginning of their experience compared to males (3.67 *c.f.* 3.71). This is consistent with prior research that demonstrates that males can initially have more confidence.¹⁰⁴

¹⁰⁴ Subramaniam and Freudenberg (n 63).

Table 4: Self-Efficacy: Gender

How “confident” are you in your ability to	Male			Female		
	Beginning of tax clinic (n = 49)	End of tax clinic (n = 35)	Change Over tax clinic	Beginning of tax clinic (n = 84)	End of tax clinic (n = 58)	Change Over tax clinic
General						
... accomplish difficult tasks when faced with them.	3.61	3.71	3%	3.44	3.86	12%
... perform quite well under pressure.	3.80	3.69	-3%	3.64	3.91	7%
... to better manage time.	3.86	4.00	4%	3.98	4.05	2%
Task specific						
Profession						
... begin a career in the Degree I am studying.	4.08	4.17	2%	3.88	4.22	9%
... to achieve my career goals	3.86	4.23	10%	3.68	4.05	10%
... to understand what is expected of me as a professional advisor.	3.65	3.91	7%	3.67	4.07	11%
Communication						
... to communicate with clients in an effective manner	3.53	4.03	14%	3.44	3.98	16%
... structure and write an advice.	3.39	3.63	7%	3.29	3.66	11%
... to be clear when presenting my ideas.	3.53	3.86	9%	3.42	3.88	13%
... to communicate with colleagues in an effective manner	4.14	4.23	2%	3.85	4.31	12%

Team						
... to coordinate tasks within my work group.	3.78	4.23	12%	3.94	4.36	11%
... to contribute ideas for a team result.	3.94	4.26	8%	3.94	4.33	10%
Problem solving						
... to research tax issues confidently.	3.65	4.03	10%	3.71	4.10	11%
... use a range of software applications.	3.51	3.89	11%	3.64	3.57	-2%
... analyse topics to identify what information I need to produce a good result.	3.51	3.86	10%	3.63	3.91	8%
... critically evaluate the relevance, reliability and authority of information I find so that I know what to use and what to discard.	3.55	3.57	1%	3.56	3.93	10%
Overall average	3.71	3.96	7%	3.67	4.01	9%

Note: 0 = Not confident; 1 = A little confident; 2 = Slightly confident; 3 = Moderately confident; 4 = Quite confident; 5 = Very confident

For males the general dimension scores had lower growth than their female colleagues, with ‘*perform quite well under pressure*’ dimension actually reducing (3% decline for males). This could indicate that the tax clinic experience has given the male participants a more realistic understanding of their capabilities. For females they started from a slightly lower confidence base when compared to males (3.67 *c.f.* 3.71), but the tax clinic may have provided females a more realistic understanding of their capabilities in building confidence over the experience (4.01 *c.f.* 3.96). This may also have impacted on the confidence levels pertaining to professional identity, specifically students’ ability to ‘*begin a career in the Degree I am studying*’, with female students having a bigger improvement in their confidence levels than males (9% *c.f.* 2%) and surpassing the males with their confidence in this area (4.22 *c.f.* 4.17) at the end of the tax clinic experience after starting from a much lower base.

The task specific dimensions for ‘communication’ saw strong growth for both genders, although females on each dimension had stronger growth. There appears to be a large difference in the problem-solving dimension of ‘*use a range of software applications*’ with males having 11% increase, with females going slightly backwards (2% decline). This could indicate that females’ confidence in using software applications is faltering or no real change. Contrary to the overall trend that males started from a slightly higher confidence base, when

it came to '*use a range of software applications*' females indicated a higher confidence at the start (3.64 *c.f.* 3.51) and ended in lower confidence (3.57 *c.f.* 3.89). This may indicate inherent problems with access to software themselves and the small 2% increment of efficacy as noted above which may be limited by the complexity of tax matters, the time constraint on client matters and the overall scope of operation of the tax clinic. Notably, the latter does not explain the different efficacy experienced by male compared to females.

7. Age

To consider whether the experience of the student participants was affected by their age, the student data was analysed across four age brackets: < 20 years, 20 to 30 years; 31 to 40 years and > 40 years (see Table 4). Overall, the age bracket with the biggest growth in self-efficacy were students being 20 to 30 years of age, with an average 10% growth. While only a small number of students were in the under 20 years age bracket (n = 11 and 6) there are some interesting initial observations that can be made. Firstly, these students started their experience with the overall highest level of self-efficacy (3.97), which may indicate some over-confidence compared to older students. Also, students between 20 to 30 years of age appeared to have greater variance in their experience, with a number of negative growth dimensions, but then some with large positive growth. This variance may indicate that younger students have a less accurate understanding of their own capabilities, especially in a WIL experience provided by tax clinics.

The older students (> 40 years) ended their tax clinic experience with an overall average self-efficacy score of 3.94, which was a similar end score to other age brackets (3.96; 4.01 and 3.94). While only a small number of students were in the oldest bracket, they had a large negative change in the self-efficacy dimension for '*to use a range of software applications*' (23% decline), although they started with the highest confidence (3.91). This may be because older students may have had more opportunity during their life experience to be exposed to a range of software programs and thus felt more confidence in using software and may have overrated their ability in this area. Finding difficulty with both using and accessing the wider range of specialised software in the tax clinic would have impacted on the negative result. Students aged 20 to 30 years old had the lowest initial confidence with software programs, possibly due to their limited life experiences but experienced a positive change of 5% ending on higher confidence (3.64 *c.f.* 3).

In terms of problem solving, the increase in confidence to '*critically evaluate the relevance, reliability and authority of information I find so that I know what to use and what to discard*' was highest for the 31-40 years age group (11%), although this came from a lower initial ranking. The tax clinic experience seems to have proven to this age group that they have the capability to do this, while the lowest age group (< 20 years) had a decrease in confidence for this task (-4%). This decrease could be due to unrealistic expectations in their abilities that have carried through from theory-based studies, with the WIL experience in the tax clinic revealing deficiencies in applying theoretical knowledge to a real-life situation. This is supported by the following student comment from the <20 years old age group:

The tax clinic enhanced my problem-solving skills as it allowed me to apply my theory learned in class to real-life cases. At first, it was difficult to know how to start with solving

clients' tax matters. But over time, the tax clinic taught me how to handle different situations in the correct way.

Table 5: Self-Efficacy: Age

How “confident” are you in your ability to	< 20 years			20 – 30 years			31 – 40 years			> 40 years		
	Beginning	End	Change	Beginning	End	Change	Beginning	End	Change	Beginning	End	Change
General												
... accomplish difficult tasks when faced with them.	3.73	3.67	- 2%	3.49	3.79	9%	3.44	3.90	13%	3.55	3.83	8%
... perform quite well under pressure.	4.27	4.00	- 6%	3.57	3.80	6%	3.85	3.90	1%	3.73	3.67	- 2%
... to better manage time.	4.27	4.67	9%	3.86	3.93	2%	4.07	4.05	0%	3.82	4.00	5%
Task specific												
Profession												
... begin a career in the Degree I am studying.	4.36	4.17	- 4%	3.96	4.18	6%	3.67	4.19	14%	4.18	4.33	4%
... to achieve my career goals	4.27	4.17	- 2%	3.60	4.15	15%	3.89	3.95	2%	4.00	4.00	0%
... to understand what is expected of me as a professional advisor.	3.82	4.17	9%	3.65	4.03	10%	3.67	4.00	9%	3.55	3.67	3%
Communication												
... to communicate with clients in an effective manner	3.91	4.50	15%	3.39	3.89	15%	3.41	4.14	21%	3.82	4.17	9%

... structure and write an advice.	3.8 2	4.1 7	9%	3.2 0	3.5 6	11 %	3.4 8	3.6 2	4%	3.3 6	4.0 0	19 %
... to be clear when presenting my ideas.	3.8 2	4.0 0	5%	3.3 3	3.8 2	15 %	3.7 0	4.0 0	8%	3.4 5	3.6 7	6%
... to communicate with colleagues in an effective manner	4.2 7	4.3 3	1%	3.8 5	4.3 0	12 %	4.0 7	4.1 9	3%	4.1 8	4.3 3	4%
Team												
... to coordinate tasks within my work group.	4.0 9	4.1 7	2%	3.8 2	4.3 1	13 %	4.0 0	4.3 3	8%	3.8 2	4.3 3	13 %
... to contribute ideas for a team result.	4.1 8	4.5 0	8%	3.8 5	4.3 0	12 %	4.0 7	4.2 4	4%	4.0 9	4.3 3	6%
Problem solving												
... to research tax issues confidently.	3.3 6	4.0 0	19 %	3.6 9	4.1 0	11 %	3.7 8	4.0 0	6%	3.8 2	4.1 7	9%
... use a range of software applications.	3.7 3	4.0 0	7%	3.4 8	3.6 4	5%	3.7 8	3.9 0	3%	3.9 1	3.0 0	- 23 %
... analyse topics to identify what information I need to produce a good result.	3.6 4	4.1 7	15 %	3.5 5	3.8 9	10 %	3.7 0	3.8 6	4%	3.5 5	3.6 7	3%
... critically evaluate the relevance, reliability and authority of information I find so that I know what to use and what to discard.	4.0 0	3.8 3	- 4%	3.5 0	3.7 4	7%	3.5 2	3.9 0	11 %	3.6 4	3.8 3	5%
Overall average	3.9 7	4.1 6	5%	3.6 1	3.9 6	10 %	3.7 6	4.0 1	7%	3.7 8	3.9 4	4%

Note: 0 = Not confident; 1= A little confident; 2 = Slightly confident; 3 = Moderately confident; 4 = Quite confident; 5 = Very confident

8. *Professional Work Experience (PWE)*

To consider the possible effect of PWE,

Table 6 details those students with no PWE compared to those with some PWE. What becomes evident immediately is that on average students with no PWE started the tax clinic with lower overall self-efficacy (3.58) compared to those with some PWE (3.76). It appears that over the course of the tax clinic experience that those students with some PWE gained greater increases in self-efficacy compared to those who had no PWE. This result initially appears inconsistent with other studies that suggest students with no PWE can gain greater enhancement with WIL experiences.¹⁰⁵

However, these prior studies involved ‘simulated’ WIL experiences and the tax clinics are arguably more realistic. It is possible that simulated WIL provides a safe and structured learning experience so students with no PWE are able to enhance their self-efficacy, but WIL experiences such as those in tax clinics that engage with real-life clients and scenarios are more challenging due to their unstructured and unpredictable environment. This can lead to students without PWE struggling to meet the challenges associated with this new environment. In contrast, students with some PWE are likely to have greater self-efficacy to meet the challenges associated with the tax clinic environment and the complexities associated with real-life scenarios.

Students with no PWE at the end of their tax clinic experience had lower self-efficacy in terms of their ability ‘*to understand what is expected of me as a professional advisor*’ compared with student participants who had some PWE (3.66 *c.f.* 4.25). This could indicate that for no PWE students more professional context is required beyond that offered by the tax clinic. Further, it is possible that industry visits or greater training/induction prior to commencing work in the tax clinic is required to better prepare no PWE students.

¹⁰⁵ Brett Freudenberg and Anna Mortimore, ‘Building students’ self-efficacy through the ‘tax firm’ case studies: The effect of prior professional work experience’ (2020) 15(1) *Journal of Australasian Tax Teachers Association* 165-197.

Table 6: Self-Efficacy: Professional Work Experience: None and Some

How “confident” are you in your ability to	No Professional Work Experience (PWE)*			Some Professional Work Experience (PWE)*		
	Beginning of tax clinic (n = 60)	End of tax clinic (n = 38)	Change Over tax clinic	Beginning of tax clinic (n = 73)	End of tax clinic (n = 56)	Change Over tax clinic
General						
... accomplish difficult tasks when faced with them.	3.42	3.66	7%	3.55	3.91	10%
... perform quite well under pressure.	3.65	3.63	-1%	3.76	3.96	5%
... to better manage time.	3.77	3.89	3%	4.08	4.09	0%
Task specific						
Profession						
... begin a career in the Degree I am studying.	3.68	3.89	6%	4.20	4.39	5%
... to achieve my career goals	3.50	3.79	8%	3.98	4.30	8%
... to understand what is expected of me as a professional advisor.	3.55	3.66	3%	3.82	4.25	11%
Communication						
... to communicate with clients in an effective manner	3.42	3.84	12%	3.47	4.11	18%
... structure and write an advice.	3.27	3.53	8%	3.39	3.71	9%
... to be clear when presenting my ideas.	3.43	3.66	7%	3.47	4.00	15%

... to communicate with colleagues in an effective manner	3.90	4.18	7%	4.02	4.34	8%
Team						
... to coordinate tasks within my work group.	3.75	4.18	11%	3.96	4.39	11%
... to contribute ideas for a team result.	3.90	4.16	7%	3.86	4.39	14%
Problem solving						
... to research tax issues confidently.	3.66	3.89	6%	3.76	4.20	12%
... use a range of software applications.	3.40	3.45	1%	3.69	3.84	4%
... analyse topics to identify what information I need to produce a good result.	3.48	3.63	4%	3.67	4.05	10%
... critically evaluate the relevance, reliability and authority of information I find so that I know what to use and what to discard.	3.52	3.53	0%	3.53	3.96	12%
Overall average	3.58	3.79	6%	3.76	4.12	10%

Note: 0 = Not confident; 1 = A little confident; 2 = Slightly confident; 3 = Moderately confident; 4 = Quite confident; 5 = Very confident

*Students may have had other non-professional work experience.

Also, it appears that students with no PWE experienced little growth in the problem-solving self-efficacy dimensions, compared to those students with some PWE, specifically '*critically evaluate the relevance, reliability and authority of information I find so that I know what to use and what to discard*'. Another plausible explanation for the lower increase in self-efficacy in these domains may be that no PWE students became more aware of the challenges and complex problems that may be faced by professional advisors through their WIL tax clinic experience leading to less confidence about knowing what to do in these situations. The following comments from no PWE students support this:

Each client had a different situation, which required students to apply suitable tax knowledge to solve the issues. This helped better understanding of the realistic aspect of tax law in the real-life.

... I now know that it is important to have a comprehensive understanding of both the current tax law application, but also the historical changes in tax law that may be relevant when providing advice regarding earlier periods.

Lower increases in confidence was also found for no PWE students in the domain of communication compared to students with PWE, specifically '*to communicate with clients in an effective manner*' (12% c.f. 18%) and '*to be clear when presenting my ideas*' (7% c.f. 15%). This may be for similar reasons for the lower levels of self-efficacy improvement for problem solving, with some students considering that they still needed further practice:

As a non-experienced, shy international student, I needed more practice and more opportunities for leading client meetings in order to overcome my nervousness and lack of confidence.

While it may be concerning that the self-efficacy of students with no PWE did not increase as much as students with PWE by the end of the clinic experience, it should be noted that after the clinic experience, students with no PWE are at the same level that students with PWE were before completing the clinic experience. Therefore, students with no PWE may be more likely to experience greater improvements in self-efficacy during another, subsequent WIL experience.

Given the results from this longitudinal study some recommendations and observations will be formulated in the next section.

III RECOMMENDATIONS

Overall, the findings suggest that students benefited from their tax clinic experience, with their average of each self-efficacy dimension improving during their experience. However, the results also indicated that there was room for improvement in some areas.

Recommendations to improve the student learning experience and self-efficacy across a range of dimensions can be made in relation to group interaction and communication, training and software. These recommendations are discussed below.

A Group interaction/communication

It appears that students appreciated the interaction with their tax supervisors, fellow students and clients, as this interaction provided modelling and social persuasion to assist with their development of their self-efficacy. However, some students noted how they would benefit from additional debriefing (or insight) between their supervisor and other student participants so they could hear about other topics being worked on in the clinic:

It would be good if once or twice during the 10 weeks there was the opportunity to come together as a group and debrief the clients and issues, what was solved etc. This would be helpful as we were usually assigned clients and did not do much work looking at others client issues

This was seen to be valuable by students who had already experienced debriefing as part of their tax clinic experience:

Of benefit was the debriefing after client appointments with the tax professional and then reporting back to the team.

Indeed, weekly debriefing (or team) meetings could be useful to provide the opportunity for improvements in self-efficacy through modelling and social persuasion,¹⁰⁶ as students can get feedback on their own experiences, as well as learning from others and share ideas with respect to dealing with common or even complex issues. Some students also suggested that they would have appreciated being given more opportunity to practice their communication skills before being placed in front of a client:

Practice meetings would help improve the confidence of volunteers as it would allow them to understand the level of professionalism that needs to be undertaken when meetings with clients.

While role plays were utilised at some tax clinics to assist in preparing students, it is suggested that these be used more broadly and more often to ensure that students are well rehearsed prior to meeting with a client. It is suggested that these sessions can be incorporated as part of the curriculum or scheduled during a tax clinic's ongoing training agenda.

Moreover, students also valued the learning experiences obtained from the real-life client meetings and felt that these were more effective for building their problem-solving abilities than traditional research -based assignments. As a result, it may be beneficial to allow students to have greater interaction with clients where possible, as suggested by students themselves:

The tax clinic have already provided the learning that the students needed but could be improve if the dominant student tax adviser will be pair with also a dominant one in order to have a level of talking and not only always do the talking. Giving the other students a chance to assist clients in fairly manner could help to improve the tax clinic.

Accordingly, students may need to take a more active role in the client interviews and interaction, which may require the supervises to intervene to give the less dominant student opportunity to engage meaningfully. However, while this interaction is important it necessarily depends on the student's ability, as well as the ability of the tax professional to adequately supervise.

Also, from the results, it appears that males may be too over-confident at the start of their tax clinic experience and may need more assistance with improving their communication skills. Additionally, an area of communication that had less growth was written advice. The tax clinics should consider if there is more opportunity to write and structure advice letters. This could be due to the compliance-based nature of much of the tax services being provided by the tax clinic (that is helping with the completion and lodgement of tax returns), rather than more complex tax advisory work.

¹⁰⁶ Bandura (n 53).

B Onboarding and Training

It is evident that students will start their tax clinic experience with different levels of competency and self-efficacy, with some students' misjudging their capability. To address this, more can be done in terms of training and orientation for the students. This could include that each student undertakes a self-assessment to allow training to be tailored to their needs. Items to be included might relate to office procedures, file notes, client interviews, researching and use of software. This would need to be balanced with the time constraints of a one-semester based unit (in most cases) and could possibly be better integrated throughout the students' degree program.

This training could be very important as it could enhance student self-efficacy and promote the extra degree of confidence and resources to deal with the challenges of working at a tax clinic. This particularly, might be useful for students under 20 years of age and those with no prior professional work experience, as it appears that PWE could influence students' confidence in dealing with the challenges presented by working at the tax clinics. It has been previously argued by Freudenberg and Mortimore that for a simulated WIL experience that students with no PWE need more scaffolded resources (and examples) to get a better idea of how to approach simulated WIL activities.¹⁰⁷ This is due to the fact that students with low PWE will find such WIL activities more difficult.¹⁰⁸ Noting that different tax clinics have different induction and orientation procedures, students across all tax clinics recognised that further training and resources would aid their self-efficacy:

I would like to see all training completed prior to being exposed to clients. As valuable as the role play scenarios used for training were additional and/or more challenging scenarios would help students to further develop their tax skills.

I think some more time spent training, even showing students where to find the information they will require as it seemed like some students just didn't know where to find the answers, Also I think students should write a review of their own role plays after they have received feedback which will ensure they eventually source the correct information to provide answers to clients.

Other suggestions for further training and preparation of tax clinic participants include creating a series of interactive staff training videos for students to complete when they are not meeting with clients.¹⁰⁹ Further, the 10 National Tax Clinics could share their video resources across clinics and students or possibly consider undertaking virtual or in-person training between clinics to alleviate time or resource constraints. An additional recommendation is that students could video record their role-play scenarios and then these could be replayed by the tax professional and discussed with students with feedback provided along the way.

The implementation of an intensive orientation and training week with training manuals and procedures would also assist students in the tax clinic to improve their self-efficacy across multiple domains. Support for these recommendations is evident in student comments, with one student commenting as follows:

¹⁰⁷ Freudenberg and Mortimore (n 105).

¹⁰⁸ Cull (n 92).

¹⁰⁹ Vitale and Cull (n 14).

1. More structure in the initial training - MyGov (but I know this was meant to be done).
2. Maybe look at doing video content for future advisers to refer to for operational procedures.
3. Possibly look at blocking out several hours throughout the semester to do mock interviews.
4. Keep up the good work.

C Software

A problematic area is the use of software, as this had one of the lowest growths in self-efficacy overall (2%). Self-efficacy in this area decreased for females (-2%), and for students above 40 years old (-23%). The use of software (including tax software) has been found to be a desirable skill for accounting graduates.¹¹⁰ However, access to some tax-specific software and the ATO systems can be problematic because it often relies on a registered tax agent's TAP access or clients' *myGov* access. It should be noted that the tax clinics included students from both accounting and law degree programs. While accounting student were likely to have previous exposure to accounting software in their course, this is less likely for law students. Further, using accounting software in a fictional assignment provides a different learning experience than the learning that would take place when accessing the accounting software of an actual client. Students indicated that their ability to improve their problem solving skills was impacted by the limited access to software and made suggestions to improve this for future students undertaking WIL in the tax clinic:

... teach software such as MYOB, Xero.

It will be great if we can get chance to use Xero Tax software and ATO portal. It will provide the opportunities for us to get working experience for these useful tax tools.

I felt like everything was perfect, but I would love to gain more experience on the tax tool used (handi tax).

It has been previously recommended that 'it would be advantageous to have access to the ATO portal for each clinic, with a multiple access license under the approval of a recognised supervisor'.¹¹¹ An alternative could be that 'each student tax clinic could have its own Tax Agent number'.¹¹² Such recommendations might improve the interaction for students with software, although training and supervision would be paramount.

IV LIMITATIONS OF RESEARCH AND FUTURE RESEARCH

Like any study there are a number of limitations that should be acknowledged. This includes that the findings of this study are preliminary in nature of the evidence, and the short-time frame of the data collection. Additionally, the study essentially involves a case study of the

¹¹⁰ Hayes, Freudenberg and Delaney (n 25).

¹¹¹ Freudenberg, Perryman, Thomas and Belle Isle (n 15) 92.

¹¹² Vitale and Cull (n 14) 135.

National Tax Clinic Program so the external validity to other WIL programs may be questionable. Furthermore, self-efficacy of students was ‘self-reported’, which can be problematic and at times inaccurate as it is based on student perceptions of self-efficacy rather than objective test results or measurements. However, given that students self-reported pre- and post-engagement with the relevant tax clinics, it is possible that their interaction and feedback over their experience improved the accuracy of their perceptions.

While considered separately in this article, the factors of age and prior professional work experience, may not be mutually exclusive, as it could be that older students may be more likely to have prior professional work experience. Additionally, a low improvement score on a self-efficacy measure may have more to do with the fact that the students did not get enough exposure to a particular task to allow for mastery to occur.

Future research could consider other factors about the tax clinic experience for students, looking at aspects such as domestic vs international student experience and how the tax clinic was conducted (external or internal tax professional supervisors). Additionally, given that students could come from different courses such as accounting, commerce or law (or a combination of courses), future research could examine whether discipline of study affects students’ tax clinic experience. Also, future research could consider the impact (if any) of student self-efficacy on the client experience with the tax clinic. Further, as the issue of additional training and access and use of tax software featured prominently in student comments, it would be beneficial to conduct further research to assess how these interventions may further influence student self-efficacy and students’ WIL experience in the tax clinic.

Ultimately, there is considerable potential for future research as it relates to the improvement of student outcomes from their involvement in university-based pro bono tax clinics. It would be beneficial to measure and evaluate student outcomes across the short-, medium- and long-term.¹¹³ Such outcomes include: professional skills, tax technical skills and empathy (short-term), graduate capabilities, mindset for tax justice and career readiness (medium-term), and the emergence of justice-focussed tax professionals (long-term).

V CONCLUSION

While the central focus of the National Tax Clinic Program was to support unrepresented Australians with their tax obligations, it was also thought that student participants would benefit from this rich learning environment by assisting in developing their problem-solving skills, research skills, communication skills and in developing their professional identity, thus producing graduates who have the requisite skills required by industry. Further, the expectation was that these students would build their confidence in these areas and be ‘job-ready’, allowing them to move directly into a graduate role.

This article has evaluated improvements to students’ self-efficacy in both general and task specific dimensions from pre- and post-surveys conducted across seven of the ten tax clinics

¹¹³ Kayis-Kumar, Mackenzie and Walpole (n 15).

established across Australia's National Tax Clinic Program. Self-efficacy is an important attribute for students as it can positively influence future behaviour and confidence to face new challenges, such as preparing for their future careers.

This article found an increase in self-efficacy, with particularly strong growth in communication, coordination of group tasks, presenting ideas and researching tax issues among student participants. Moreover, through analysing student demographic data, the study identified key differences within gender, age and prior PWE. Findings suggest that female students commence with less self-efficacy at the beginning, but by the end are similar to their male counter parts. Also, it appears that students who are very young (less than 20 years of age) have a more varied experience during their time at the tax clinic. Students with some PWE commence the tax clinic with higher levels of self-efficacy and this continues to grow throughout their time in the clinic. In contrast, students without prior PWE, can find that while their self-efficacy does improve it is not as pronounced compared with student participants with some PWE, which may indicate they are struggling with the challenging WIL that is the tax clinic.

The study also found that training and orientation is important for students prior to commencing at the tax clinic to ensure that they have the foundational skills and confidence to work effectively and make the most out of learning experience while in the tax clinic. Additionally, it appears interaction with the tax professionals, fellow students and clients is most important for the students participating in the tax clinic to develop their self-efficacy. These findings make an important contribution to the future of the taxation profession in Australia by identifying the WIL experiences that are most beneficial to student learning and most likely to produce a graduate who has the requisite communication skills, problem solving skills, team-building skills, and confidence in their ability to meet the challenging demands of a taxation professional.

AUSTRALIAN TAXATION OFFICE PRONOUNCEMENTS: WHY TAX ADVISERS NEED TO EXERCISE CAUTION

ALEXANDER FULLARTON* AND DALE PINTO#

Abstract

In the modern environment of complex taxation law there is ever-evolving legislation and interpretation. To maintain the high professional standards that are ethically and legally required, tax practitioners are obliged to engage in close scrutiny of the law to obtain a clear understanding. However, tax practitioners find it increasingly difficult to keep themselves informed while dealing with the pressures of their workloads. Therefore, to assist practitioners, professional bodies are constantly providing information and commentary about changes to statutory and case law. Further, the Australian Tax Office (ATO) issues its own interpretations, rulings and other such proclamations, to guide taxpayers and practitioners and assist in compliance. The authors' research suggests that the sometimes confusing and apparently convoluted legislative change and evolving case law are leading practitioners to become increasingly reliant on ATO rulings and advice rather than conducting their own legislative research and making their own interpretations of statutes.

This article argues that the practice of accepting ATO opinions without challenge can have extremely significant fiscal impacts on taxpayers and tax collections. It warns that tax practitioners should not always consider that the rulings, determinations and advice provided by the ATO give the greater clarity and certainty in the preparation and lodgement of taxation returns and the payment of tax that are sought by practitioners.

I INTRODUCTION

In the modern environment of complex taxation law there is ever-evolving legislation and interpretation. To maintain the high professional standards that are ethically and legally required, tax practitioners are obliged to engage in close scrutiny of the law to obtain a clear understanding. However, tax practitioners find it increasingly difficult to keep themselves informed while dealing with the pressures of their workloads. Therefore, to assist practitioners, professional bodies are constantly providing information and commentary about changes to statutory and case law. Further, the Australian Tax Office (ATO) issues its own interpretations,

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This paper comments on research published in articles by Alexander Fullarton and Dale Pinto in the *New Zealand Journal of Taxation Law and Policy*. Alexander Robert Fullarton and Dale Anthony Mark Pinto, 'Tax Accounting for Livestock: Mother or Meat/Capital or Revenue' (2021) 27(1) *New Zealand Journal of Taxation Law and Policy* 39; 'The Wade Case: An Analysis' (2021) 27(2) *New Zealand Journal of Taxation Law and Policy* 121.

rulings and other such proclamations, to guide taxpayers and practitioners and assist in compliance.

The authors' research suggests that the sometimes confusing and apparently convoluted legislative change and evolving case law are leading practitioners to become increasingly reliant on ATO rulings and advice rather than conducting their own legislative research and making their own interpretations of statutes. This article argues that the practice of accepting ATO opinions without challenge can have extremely significant fiscal impacts on taxpayers and tax collections. It warns that tax practitioners should not always consider that the rulings, determinations and advice provided by the ATO give the greater clarity and certainty in the preparation and lodgement of taxation returns and the payment of tax that are sought by practitioners.

Tax agents are duty bound to take reasonable care to ensure that taxation laws are applied correctly to the circumstances in relation to which they are providing advice to a client,¹ and in that context this article asserts that agents should not accept that the ATO's view on a matter is unquestionably correct. Further, it is noted that, while the ATO provides guidance and views, their written advice usually contains a statement to the effect that they are for guidance only and may not be binding in a court. Their written opinions often include a specific disclaimer that states:

If this advice turns out to be incorrect and you underpay your tax as a result, you will not have to pay a penalty. Nor will you have to pay interest on the underpayment provided you reasonably relied on the advice in good faith. However, even if you don't have to pay a penalty or interest, you will have to pay the correct amount of tax.²

Therefore, it is clear that the ATO assumes no responsibility to taxpayers or practitioners for misinterpretations or misapplications of the law. Taxpayers and their agents must make reasonable independent inquiry to ensure compliance and the correct payment of tax.

II LIABILITY FOR GIVING ADVICE

The authors examined an uncommon, but significant, business transaction that occurs in rural and remote Australia each year – the sale of a pastoral lease by a sole trader, partnership, or similar business structure. In the sale of a pastoral and farming property as a going concern, the ATO view is that *all* animals held in a business of primary production are considered to be trading stock, regardless of the function that they perform in that business. The impact of this is that all receipts from the sale of animals in conjunction with the sale of a primary production business are taxed as income according to ordinary concepts. Therefore, individual pastoralists,

¹ Code of Professional Conduct *Tax Agent Services Act 2009* (Cth) s 30-10.

² Letter from Alison Lendon, Deputy Commissioner of Taxation, to Alexander Fullarton, 6 November 2019. The following articles have a copy of the letter from the Deputy Commissioner of Taxation. Alexander Robert Fullarton and Dale Anthony Mark Pinto, 'Tax Accounting for Livestock: Mother or Meat/Capital or Revenue' (2021) 27(1) *New Zealand Journal of Taxation Law and Policy* 39; 'The Wade Case: An Analysis' (2021) 27(2) *New Zealand Journal of Taxation Law and Policy* 121.

graziers and farmers are denied the tax concessions that other business proprietors are granted on the sale of capital assets included in the transfer of their businesses.

In their publications,³ the authors challenge that opinion and argue that animals used for breeding or other purposes are not trading stock, but rather should be considered as capital assets used for the purposes of manufacture.⁴ They argue that the word all is not contained in s 995 of the *Income Tax Assessment Act 1997* (ITAA 1997), and they note that the ATO relies on the decision in *Federal Commissioner of Taxation v Wade* (the ‘Wade Case’)⁵ to validate its opinion. They find that the ATO’s reliance on the decision in the Wade Case for support may be somewhat problematic.⁶

The authors argue that there *is* a distinction between breeding animals and livestock produced for sale, and that such animals should be accounted for and taxed accordingly.⁷ The authors’ research has established that, while the ATO view is correct, it is based on a false premise and might fail if challenged in court. However, it appears that tax professionals have generally accepted the ATO view without challenge for over 70 years and have been advising their clients accordingly. It is the authors’ view that, if the matter were to be challenged and taxpayers were found to have been overpaying tax, then the caveat contained in the ATO advice might place the liability on the professionals providing the advice to the taxpayer and not on the ATO.

III THE WADE CASE STUDY

To consolidate their argument, the authors have examined the evidence presented to the High Court in the Wade Case.⁸ Their publications look at the ATO advice that all animals held in a business of primary production are trading stock, and the basis on which the ATO holds that belief. They find that, while the ATO advice is correct, the basis for that view is not.

The ATO’s view is that it:

considers that the definition of live stock in section 995-1 of the *Income Tax Assessment Act 1997* includes all animals in a primary production business for the reason that the majority ruling of Dixon and Fullagar JJ in the High Court Decision of *Federal Commissioner of Taxation v Wade* (1951) 84 CLR 105 (Wade’s Case) provides [that] ‘The definition of trading stock brings “live stock” within s 36(1). There is a definition of livestock which, by inference, makes it clear that all animals are to be included case of a business of primary production. Notwithstanding, therefore, the taxpayer’s claim that the destruction and replacement of 110 head of his dairy herd is a capital transaction it is clear enough that for the purposes of s 36(1) the cattle fall within the expression of “trading stock”.’⁹

³ Alexander Robert Fullarton and Dale Anthony Mark Pinto, ‘Tax Accounting for Livestock: Mother or Meat/Capital or Revenue’ (2021) 27(1) *New Zealand Journal of Taxation Law and Policy* 39; ‘The Wade Case: An Analysis’ (2021) 27(2) *New Zealand Journal of Taxation Law and Policy* 121.

⁴ Ibid, ‘Tax Accounting for Livestock’ (n 3) 67.

⁵ (1951) 84 CLR 105.

⁶ Fullarton and Pinto, ‘The Wade Case: An Analysis’ (n 1).

⁷ Fullarton and Pinto, ‘Tax Accounting for Livestock’ (n 3) 47.

⁸ Alexander Fullarton and Dale Pinto ‘The Foundations of the Wade Case’ (n 3).

⁹ Lendon (n 2).

Despite the fact that, intuitively, stud bulls, cows, rams and ewes as well as dairy cattle, mustering horses and dogs might be considered, and valued, as aids to manufacture rather than as trading stock held for the purposes of sale, the matter appears to have been unchallenged for over 70 years. It appears that retiring pastoralists, graziers and farmers have remitted income tax on the basis that the proceeds of the sale of their stock in conjunction with the sale of their properties is income according to ordinary concepts, or a trading profit rather than a capital gain. Consequently, the authors argue, these taxpayers have over-remitted tax on the basis of advice provided by their tax advisers, accountants and other professionals.

The authors investigated the reported decision in the Wade Case and concluded that:

Based solely on the reported decision of the Wade Case, [the authors] found that sufficient doubt existed to suggest the Commissioner's view might not be reliably supported by the decision of the Wade Case. Instead, the reported decision supported the argument that some animals held in a business of primary production, such as horses and dogs used for mustering, stud stock used for breeding, or animals used for the production of animal products, such as milk or wool, are of a capital nature and should be treated accordingly for taxation purposes.¹⁰

Subsequently, the authors' research looked beyond the reported decision of the Wade Case¹¹ and found that hearings before the Commonwealth Taxation Board of Review and an earlier case heard by the High Court provide evidence and background that is not presented in the authorised case reports.¹² They suggest that the reasons given by Dixon and Fullagar JJ for their decision may have been taken out of context by the ATO. They note that:

Dixon and Fullagar JJ accepted the concept that the cattle were to be considered trading stock, and therefore of a revenue nature, irrespective of the role that they played in the business. They also noted that Kitto J was reluctant to accept that principle, but focused instead on the concept of insurance recoveries and the costs of repairs to support his decision.

Fullarton and Pinto also pointed to a number of relevant previous cases that were not considered by the High Court. Without supporting documentation other than the report published in the *Commonwealth Law Reports* it could not be concluded whether their Honours were aware of those cases, or whether they had been omitted from either the evidence or the reported decisions.¹³

Therefore, the authors argue that, while the ATO considers that the main decision of the High Court was focused on animals held in a business of primary production, and from this infers that all animals are held as trading stock regardless of their role in that business, the Wade Case was focused on the assessment of monies paid to a taxpayer in compensation for a loss. Wade had been compensated for the loss and replacement of his assets, and that is the primary matter

¹⁰ Alexander Fullarton and Dale Pinto 'The Foundations of the *Wade Case*' (n 3).

¹¹ Alexander Fullarton and Dale Pinto 'The Foundations of the *Wade Case*' (n 3).

¹² *Wade v Commissioner of Taxation*, Commonwealth Taxation Board of Review No. 2. (1950) No M37/1950. Note: The matter is also reported as (1950) 1 CTBR (NS) Case 77, 335; and (1950) 1TBRD Case 72, 273: and in John Angus Lancaster Gunn and Richard Esmond O'Neill (eds), *Commonwealth Taxation Board of Review Decisions (New Series)* (Butterworth and Co, 1952) 1; (1 CTBR (NS)).

¹³ Alexander Fullarton and Dale Pinto 'The Foundations of the *Wade Case*' (n 3). Cases considered by Fullarton and Pinto are contained in pages 134-7.

addressed by the court. That those assets happened to be dairy cows and not a milking shed or some other assets is not specifically relevant to the decision, but what was relevant was the assessment of the surplus funds of £130 left over from the compensation received by Wade and the cost of purchasing the replacement cows. The authors argue that the judges' comments as to the classification of the lost assets (dairy cows) are *obiter dictum* rather than central to the matter decided, and might not be regarded as legal precedent in subsequent cases.

The authors found that a 1927 case considered by the High Court concerning the classification of livestock had held that ewe weaners were not trading stock as they were held for the purposes of breeding, and that the proceeds of the sale of such ewe weaners were not assessable income.¹⁴ That decision is in direct conflict with the inference that all animals held in a business of primary production are trading stock and not capital assets. Therefore, the authors conducted an investigation into why the 1927 decision in *Robinson v Federal Commissioner of Taxation* was different to the judges' supporting statements in the Wade Case of 1951.

It was found that s 17 of the *Income Tax Assessment Act 1922*, in force until 1936, expressly excluded livestock which, in the opinion of the Commissioner, Assistant Commissioner or Deputy Commissioner, were ordinarily used as beasts of burden or as working beasts or for breeding purposes. However, s 17 had been deliberately repealed, to bring all animals into the Live Stock Trading Schedule for assessment for income tax, on the recommendation of the Royal Commission on Taxation 1932-34.¹⁵ Therefore, it is the repeal of that legislation which renders all animals held in a business of primary production trading stock, not the decision of the Wade Case. The ATO view may be correct, but it is based on the wrong reasons.

The authors point to that flaw in the ATO's published view to draw the attention of tax professionals and academics to the need to conduct diligent research in giving advice to taxpayers. In this case, it might be said that the ATO 'got lucky', but the advice clearly contains the caveat that it is not to be relied on, other than to indemnify taxpayers from penalties and interest if the advice is incorrect, and therefore the responsibility lies entirely on the giver of the advice and not the ATO. The authors further suggest that if this particular advice might be successfully challenged – the matter decided was the assessment of insurance recoveries and not the classification of animals – then, given the number of rulings, opinions and determinations issued by the ATO, there are almost certainly others that would fail under intense scrutiny and challenge. This highlights that a failure to carry out reasonable investigations may result in false beliefs and cause considerable fiscal damage to taxpayers. Failure to take note of the ATO's caveat could leave tax professionals liable to claims of negligence.

IV FINAL OBSERVATIONS

The authors make the following observations as to the conduct and findings of their research:

The definition of livestock as trading stock, and therefore as products for sale rather than capital assets used as aids to manufacture, is a matter of legislation not case law.

¹⁴ *Robinson v Federal Commissioner of Taxation* [1927] HCA 8; (1927) 39 CLR 297.

¹⁵ *Royal Commission on Taxation* (Third Report, 12 April 1934) 135.

It is the operation and repeal of s 17 which determines the classification, not the decision in the Wade Case. If a challenge to the ATO view was to be determined on the evidence of the report in the Wade Case, reasonable evidence would need to be submitted to the court (such as accurate accounting and animal breeding records) to show that trading livestock were segregated from breeding livestock, and it would be argued that the Wade Case primarily considered the assessment of insurance and compensation monies as ordinary income. Taxpayers might then successfully argue that the proceeds of the sale of their breeding stock should be taxed according to the capital gains tax provisions and not as income according to ordinary concepts.

Section 17 was repealed on the recommendation of the Ferguson Royal Commission, but the reason given by the Royal Commission was not the same as that given to Parliament for the repeal. The Royal Commission report points to the difficulty in separating a sheep (a capital asset) from its wool (a revenue asset). The explanatory memorandum accompanying the Bill recommended the repeal of s 17 as a matter of simplicity.

Parliamentarians might instead have amended the Bill to add a sub-section to ensure that sheep were sold ‘off-shears’ (that is, s 17 would apply to shorn sheep but not to those ‘in wool’). Taxpayers might then have been able to classify their animals as plant, providing they were shorn. That amendment would have addressed the Royal Commission’s concern without removing s 17 entirely. The *Income Tax Assessment Act 1997* could be amended to clarify the matter addressed by the authors, and the argument that breeding stock should be considered as plant rather than as goods for sale could be settled. The findings of this research validate the current ATO view, but do not settle the core argument that retiring pastoralists, farmers and graziers are being deprived of capital gains tax concessions, to which other business proprietors are entitled, on the disposal of their businesses.

The interest in this point of tax law shown by the accounting profession has been rather low. Despite several approaches to members of the Institute of Public Accountants generally and individual approaches to rural and urban tax agents, only 110 respondents were willing to participate in this research. The matter was generally of little or no interest to urban practices, few of which have clients who might be impacted by the ATO view. The number of taxpayers in Western Australia engaged in disposing of pastoral properties averaged just ten per year over the past 20 years. No investigation was made as to farmers’ views. The lack of volume of transactions might explain the general lack of awareness of and interest in this issue by taxation practitioners.

A key observation goes to the root of this research – had Wade’s accountant been aware of the repeal of s 17 then he might have disclosed the disposal and purchase of replacement dairy cows in Wade’s 1948 income tax return, instead of appending a note disclosing the transactions. Had the assessing clerk been aware of the repeal of s 17 then he might have advised Wade at the point of amendment and the reason. Had the Crown solicitor been aware of the repeal of s 17 then the fact might have been presented to the Commonwealth Taxation Review Board and Wade’s appeal would have been dismissed.

Had Kitto J been advised of the repeal of s 17 then he may not have had:

... some difficulty in accepting the view that the fact that dairy cattle, which are not trading stock according to ordinary concepts, are required [to be] by force of a definition to be taken into account under ss 28 and 32 of the *Income Tax Assessment Act* 1936-1947 (Cth) as trading stock.¹⁶

There are many historical reasons, not least the social and economic upheavals of The Great Depression and World War Two in the years between 1934 and 1948, which may have caused the repeal of s 17 and the impact on the application of income tax on primary producers. However, the key lesson from this research is that reliance on memory, or the opinions of others not qualified to conduct legal research and provide legal advice as to legislation, can lead to very expensive outcomes for the courts, administrators and taxpayers.

Perhaps all of those involved relied on what had been the legislation the last time they had had to address the matter – just after the Great Depression, and ‘before the war’. Times and the legislation had changed but they did not know that. The authors suggest that it is hard to judge whether they ought to have known in 1951, but in 2022, those professionals and academics engaged in providing taxation law advice for remuneration are ethically and legally bound to ensure they have a sound knowledge of the legislation, and they should not rely on the opinions or views of others. That caveat certainly applies to advice or opinions given by the ATO, which points to doubt in relying on such advice or opinions.

The authors also note the opinion of McNab, who casts doubt on the value of private rulings as in a number of cases the Courts have failed to give effect to them. He suggests that events occurring after the ruling is issued, such as changes in corporate structure or legislation, can render the ruling superfluous. He further suggests that sometimes the cost of applying for a private ruling can outweigh the benefits to the taxpayer relying on the ruling.

However, he does also point to:

The key benefit of such a ruling is found in s 357-60 [ITAA 1997] which states that “a ruling” “binds the Commissioner” in relation to “you”. If it applies to you, and you rely on it by acting (or omitting to act) in accordance with it, the Commissioner is then unable to increase your tax liability in relation to the subject-matter of the ruling, or apply penalties and interest if there is a later disagreement. This certainty can be valuable.¹⁷

¹⁶ Wade Case 114.

¹⁷ Paul McNab ‘Private Rulings: Are they worth it?’ (2022) 57(1) *Taxation in Australia* 38,39.