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Reducing tax complexity: quick reference cards for tax practitioners

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Overcoming complexity in the tax system is one of the major challenges for the profession as well as the community. This article looks at the development of quick reference guides (QRGs) that seek to improve simplicity by synthesising the volume of law and cases. This improves the application of tax law and thus reduces the operating costs for practitioners, government and the community.

What is simplicity?

Simplicity and tax seem to be two different matters. Commentators have noted that simplicity cannot be easily defined.¹ Cooper found that simplicity has elements of predictability, proportionality, consistency, compliance, administration, coordination and expression.² Tran-Nam defined simplicity in terms of the degree of difficulty of establishing the amount of tax liability, and collecting and enforcing tax.³

Simplicity can also be measured in a number of ways, for example:⁴

- the writing style of the tax legislation;
- the degree of difficulty of the content of the tax legislation;
- by the behaviour of taxpayers and tax administrators to the tax law; or
- the costs of operating the tax.

The first three methods of measurement are very difficult to quantify. For example, a tax law may be simply written, such as the definition of ordinary income in the Income Tax Assessment Act 1997 (Cth) (ITAA 1997) s 6-5(1). Yet defining ordinary income is a highly complex task as seen by the hundreds of court cases involving ordinary income. Similarly, simple content in the legislation can give a misleading impression of its simplicity in application, or a complex piece of legislation may be simpler than the myriad of judicial principles it replaces.

Additionally, behaviour is undoubtedly an important aspect to be taken into account in designing a tax law. Whether taxpayers comply with a law is an indicator of whether it is understood, but again this is difficult to measure. The same applies to measuring the responses

of tax administrators. Of course, the proliferation of tax exemptions and concessions in the income tax laws has added considerable volume and complexity to the law.

The most rigorous and generally accepted measure of simplicity seeks to identify the operating costs of a tax law. Operating costs consist of compliance costs of taxpayers and the administration costs of the government. Simplicity can, theoretically at least, be measured by estimating these operating costs and dividing this amount over the amount of tax revenue. It follows that simplicity will improve where the operating costs or this ratio falls.

The LexisNexis Quick Reference Cards

Quick reference guides that comprehensively cover the main Australian taxes do not appear to be widely used in Australia.

The voluminous Australian Taxation Office (ATO) website contains a vast rulings system and other explanatory material but does not synthesise the various laws into one or a few coherent documents. The Tax Institute provides a laminated “tax rates table” for its members — while useful, it is limited only to tax rates. Guides are also incorporated into the legislation to assist in understanding how the sections of a particular provision apply.⁵

The LexisNexis product range includes laminated quick reference cards authored by the writer, Dr Paul Kenny. The Tax Institute describes these as:

A handy, colourful laminated card you can keep on your desk or pin to your noticeboard, the Quick Reference Cards ... a concise summary of Tax Law in one easy-to-handle reference for accounting and legal practitioners.

The 2015 Lexis Nexis Quick Reference Card⁶ consists of two laminated cards, Tax I and Tax II. The cards utilise different coloured sections and three columns per page to enable easy identification of various taxing provisions. Tax I runs to six A4 pages and deals with the Income Tax Assessment Act 1936 (Cth) (ITAA 1936) and Income Tax Assessment Act 1997 (Cth). It commences with the key equation:

- assessable income - deductions = taxable income

- $[\text{taxable income} \times \text{income tax rate}] - \text{tax offsets} - \text{credits} = \text{income tax payable} / \text{refundable}$

The income tax rates 2014–15 are provided followed by key tax offsets, credits, medicare levy and medicare levy surcharge.

To overcome complexity, the assessable income and deductions side of the equation is broken down into steps. Then the key concepts for each of these steps is analysed. For example, for international tax, the critical issues of residence and source which are important to determine assessable income are set out, then for residence of individuals, the important tests, factors and cases are listed, so as to enable a quick analysis.

The QRG applies this treatment to assessable income as made up of ordinary income and statutory income, capital gains tax, deductions, the taxation of entities and highlights key anti-avoidance rules.

Conclusion

QRGs are not a substitute for a thorough understanding of taxation law, but they can be a useful tool. QRGs reduce complexity by summing up the key principles, cases and step by step processes and thus help alleviate the problems associated with interpreting the writing style of the tax legislation and dealing with the degree of difficulty of the content of the tax legislation. This also assists with complexities that arise from the interaction within and between taxing provisions. This will reduce

operating costs for practitioners, government and the community. The incorporation of such guides into the ATO website and other professional bodies' websites would greatly assist practitioners as well as the general community.



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Footnotes

1. BI Bittker "Tax reform and simplification" (1974) 29 *University of Miami Law Review* 1 at 1; B Tran-Nam "Tax reform and tax simplicity: a new and 'simpler' tax system?" (2000) 23 *University of New South Wales Law Journal* 241 at 242.
2. GS Cooper "Themes and issues in tax simplification" (1993) 10 *Australian Tax Forum* 417 at 424.
3. B Tran-Nam "Assessing the revenue and simplification impacts of the Government's tax reform" (1999) *Journal of Australian Taxation* 329 at 332.
4. B Tran-Nam, above n 1, at 244.
5. See, for example, *Income Tax Assessment Act 1997*, s 100-15 that sets out the steps involved in calculating a capital gain.
6. P Kenny *LexisNexis Quick Reference Cards: Tax I and II* Lexis Nexis 2015.