



Journal of Australian Taxation

(2025) Volume 27(1)

TABLE OF CONTENTS

PERCEPTIONS OF TAX LITERACY OF SMALL BUSINESS OWNERS IN NEW ZEALAND: VIEWS FROM TAX PRACTITIONERS

Harry Waddell 4

PREPARING FOR ‘DISEASE X’: LESSONS FROM TAX AND NON-TAX POLICY RESPONSES TO THE COVID-19 PANDEMIC IN SINGAPORE AND AUSTRALIA

Vincent Ooi 34

IMPLEMENTING TAX MEDIATION IN INDONESIA: LESSONS FROM THE AUSTRALIAN ADR MODEL FOR TRUST-BUILDING AND VOLUNTARY COMPLIANCE

Sabrina Hakim and Yulianti Abbas63

READABILITY TESTS CONDUCTED ON THE SOUTH AFRICAN VAT ACT UTILISING GENERATIVE AI AS A PRACTICAL SOLUTION

Muneer E. Hassan, Marina Bornman and Adrian Sawyer85

BEYOND TAX LIMITATIONS: POLICY AND PRACTICE

Audrey Haixin Tsik, Joseph Drew, Masato Miyazaki and Brian Dollery.....113

EDITORIAL

The 2025 Volume 27(1) issue of the *Journal of Australian Taxation* contains five very interesting and yet diverse articles relating to taxation law in Australia, New Zealand, Singapore, South Africa and Indonesia.

The first article by Harry Waddell explores the current levels of tax literacy of small business owners in New Zealand through interviews with tax practitioners. In particular the article assesses whether there are any demographics that have higher levels of tax literacy and if there are any areas of taxation law that are less understood than others. He found from his research that tax practitioners were of the view that, amongst other things, small business owners who had more experience and higher levels of general literacy and education were more likely to have higher levels of tax literacy.

The second article written by Vincent Ooi critically evaluates the lack of pre-planning before the Covid-19 outbreak and the sub-optimal policy outcomes. He contends that crucial lessons can be drawn from the experience of Singapore and Australia in the pandemic in implementing various tax and non-tax economic measures; lessons that can help in preparing for the next pandemic ('Disease X'). His article analyses and critically evaluates three main categories of economic measures: direct payments, tax measures and non-tax 'other' measures. He finds that direct payment measures such as jobs support had a very significant impact on preserving jobs and supporting the economy. However, eligibility conditions have to be carefully designed for such measures to be feasible. This article finds that insolvency and rent moratoriums can be effective in dealing with the immediate effects of a pandemic, though they must be allowed to expire in a timely manner. Finally, the article highlights the potential benefits of loans facilitated by the Government.

The third article is written by Sabrina Hakim and Yulianti Abbas and examines the potential implementation of tax mediation as an Alternative Dispute Resolution (ADR) mechanism in Indonesia, referencing Australia's In-House Facilitation model. Using a qualitative case study approach, data was collected through interviews with tax authority officials, tax court judges, consultants, and professional mediators. The findings indicate that the current dispute resolution system remains confrontational, bureaucratic, and lacks meaningful dialogue, highlighting the need for a trust-based mechanism that views taxpayers as strategic partners. Integrating the Slippery Slope Framework, Cooperative Compliance, and Dispute Systems Design, the study proposes a strategic mediation design focused on the pre-objection stage, featuring neutral facilitators, simplified procedures, and an adaptive regulatory framework. Mediation is positioned not only as a dispute resolution tool but also as an instrument for institutional reflection and trust-building. Recommendations include establishing a mediation unit within the Directorate General of Taxes (DGT), drafting a Ministerial Regulation (PMK) and Standard Operating Procedures (SOPs), and launching public education campaigns to strengthen voluntary compliance and the legitimacy of Indonesia's tax system.

The fourth article is written by Muneer E. Hassan, Marina Bornman and Adrian Sawyer. This study sets out to provide some preliminary findings on the level of readability of the VAT Act in South Africa using well established formulae from the literature. The methodology is readability formulae developed in the education literature and as applied to taxation materials, including legislation, drawing upon the approaches used in overseas studies in countries such as Australia and New Zealand. The study also applies Generative AI (Copilot) to assist with rewriting tax materials to improve their readability. The findings reflect those in prior overseas studies, revealing that the South African VAT Act provisions are very challenging to read and understand, generally requiring the reader to be a university graduate. Material from SARS is found to be more readable than the legislation. The findings suggest that like other jurisdictions, considerable effort is needed to redraft the VAT Act and other material in such a way to improve legislative simplicity so as to make the material more accessible to a wider audience to read and understand. The use of Generative AI is shown to significantly improve readability through suggestions for rewriting VAT legislation although this still requires further review to ensure technical accuracy. This is a first time that the readability of the South African VAT Act has been undertaken, providing a further comparison to the findings of the overseas literature. It provides a basis to encourage legislative drafters to rewrite the VAT Act.

The fifth article is written by Audrey Haixin Tsik, Joseph Drew, Masato Miyazaki and Brian Dollery. The article focuses on tax limitations that are often thought of as an efficacious method of preventing the abuse of monopoly powers. However, to address waning financial sustainability or to meet community demands for services, it may also be necessary for tax limitation regimes to provide a way to move beyond a tax limit. Key to the integrity of a system such as this is robust and reliable evidence. This paper provides a retrospective analysis of the reliability of key data used to make important decisions for local government in Australia to go beyond tax limitations. The authors find evidence to demonstrate a substantial discordance between projections used for decision-making and actual outcomes. They argue that these results may cast doubt on the integrity of tax limitation regimes. The authors then propose various important public policy interventions that might reasonably be used to mitigate matters.

John McLaren, John Minas and Sonali Walpola

Editors 2025

PERCEPTIONS OF TAX LITERACY OF SMALL BUSINESS OWNERS IN NEW ZEALAND: VIEWS FROM TAX PRACTITIONERS

HARRY WADDELL*

Abstract

This paper explores, through interviews with tax practitioners, the current levels of tax literacy of small business owners in New Zealand, and in particular, whether there are any demographics that have higher levels of tax literacy and if there are any areas that are less understood than others. Tax practitioners were of the view that, amongst other things, small business owners who had more experience and higher levels of general literacy (and education) were more likely to have higher levels of tax literacy. In addition, tax practitioners identified numerous areas of the tax system that were less understood than others.

I INTRODUCTION

New Zealand is a nation of small businesses, which number over 587,000 and represent 97% of all enterprises.¹ They account for 27 per cent of employment² and contribute over a quarter of New Zealand's annual GDP.³ Given the prominence of small businesses and their significance to New Zealand's economy, it is important to consider factors that may contribute towards their continued success. It is widely acknowledged that small businesses in New Zealand (and globally) are subject to a greater burden of tax compliance costs. That is, tax compliance costs are regressive which results in smaller businesses experiencing a larger cost burden in comparison with larger businesses.⁴ These can be categorised as time, monetary and psychological compliance costs.⁵

* PhD Candidate, University of Canterbury, Christchurch, New Zealand.

¹ Statistics New Zealand, *New Zealand business demography statistics: At February 2023* (February 2023). As of February 2023, there were a total of 592,704 enterprises in New Zealand, with 575,703 of these being defined as "small businesses". For the purpose of this paper, a "small business" is defined to be one that has 20 employees or less. See eg, Small Business Council *The New Zealand Small Business Strategy* (July 2019).

² Ibid.

³ Ministry of Business, Innovation and Employment, 'Small business', <<https://www.mbie.govt.nz/business-and-employment/business/support-for-business/small-business/>>.

⁴ 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.

⁵ Chris Evans and Binh Tran-Nam, 'Tax compliance costs in New Zealand: An international comparative evaluation' (2014) 20(4) *New Zealand Journal of Taxation Law and Policy* 339.

While compliance costs arise for a number of reasons, a major driver is the complexity of tax legislation,⁶ especially with a self-assessment regime such as in New Zealand.⁷ Additional drivers include the nature of the taxes themselves, the cost of learning about new taxes or changes and the processes and procedures of remitting the tax.⁸ Despite changes aimed at decreasing the complexity of New Zealand's tax legislation, a significant amount of complexity remains.⁹

In regard to tax compliance, small businesses are more likely to evade tax and are renowned for their participation in the shadow economy.¹⁰ In addition, small businesses owe disproportionate amounts of tax debt to Inland Revenue, with 15% of small businesses owing one third of total tax debt.¹¹

Previous research has established that increasing tax literacy can be an effective solution to tax complexity,¹² and that simplifying legislation and reducing complexity will not be of use if the taxpayer is not aware of fundamental taxation concepts. Additionally, increasing tax literacy also has the impact of increasing tax compliance, given that previous research has also established that taxpayers who completed their own returns were the most likely to be unintentionally non-compliant.¹³

However, there have only been two empirical studies undertaken in New Zealand on tax literacy (to the author's knowledge).¹⁴ Australian research serves as useful guidance; however, findings are arguably not generalisable to New Zealand due to key differences in the tax

⁶ See, eg, Betty Jackson and Valerie Milliron, 'Tax Compliance Research: Findings, Problems, and Prospects' (1986) 5(1) *Journal of Accounting Literature* 125; Jean Strader and Christine Fogliasso, 'An investigation of some factors affecting taxpayer non-compliance' (1989) 20 *Accounting and Business Research* 39; Maryann Richardson and Adrian Sawyer, 'A Taxonomy of the Tax Compliance Literature: Further Findings, Problems and Prospects' (2001) 16(2) *Australian Tax Forum* 137; Margaret McKerchar, *The impact of complexity upon tax compliance: a study of Australian personal taxpayers* (Australian Tax Research Foundation, 2003).

⁷ Simon James and Clinton Alley, 'Tax compliance, self-assessment and tax administration' (2002) 2(2) *Journal of Finance and Management in Public Services* 27.

⁸ Sebastian Eichfelder and Francois Vaillancourt, 'Tax compliance costs: A review of cost burdens and cost structures' (2014) 210(3) *Review of Public Economics* 111.

⁹ For example, New Zealand's core tax legislation was re-written from 1993 to 2017, with one of the goals of this process being simplification. See, eg, Ranjana Gupta and Adrian Sawyer, 'The costs of compliance and associated benefits for small and medium enterprises in New Zealand: Some recent findings' (2015) 30 *Australian Tax Forum* 135; Harry Waddell, 'New Zealand's Look-through Company Regime and Compliance Costs: Through the Eyes of the Practitioner' (2020) 22(1) *Journal of Australian Taxation* 26.

¹⁰ See, eg, OECD, *Forum on Tax Administration: SME Compliance Sub-Group – Reducing Opportunities for Tax Non-Compliance in the Underground Economy* (OECD Publishing, 2012); 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.

¹¹ Inland Revenue, *Identifying Sanction Thresholds Among SME Tax Debtors: An Overview* (2020).

¹² See, eg, Dajana Cvrilje 'Tax Literacy as an Instrument of Combating and Overcoming Tax System Complexity, Low Tax Morale and Tax Non-Compliance' (2015) 4(3) *The Macroeconomic Review* 156.

¹³ Margaret McKerchar, 'The Impact of Complexity upon Unintentional Non-Compliance for Australian Personal Income Taxpayers' (PhD Thesis, University of New South Wales, 2002). See eg, Joshua Timothy and Yulianti Abbas, 'Tax morale, perception of justice, trust in public authorities, tax knowledge, and tax compliance: a study of Indonesian SMEs' (2021) 19(1) *eJournal of Tax Research* 168.

¹⁴ Lin Mei Tan, 'Coping with Tax Obligations: A Preliminary Study of Some Small Firms in New Zealand' (1997) 13(3) *Australian Tax Forum* 337; Natrah Saad, 'Tax Knowledge, Tax Complexity and Tax Compliance: Taxpayers' View' (2014) 109 *Procedia-Social and Behavioral Sciences* 1069.

systems in each jurisdiction.¹⁵ For example, the vast majority of individuals in New Zealand are not required to file an income tax return due to automatically issued tax assessments. In addition, income tax is withheld at source on salaries/wages in most instances, and there is a very limited range of deductions available (e.g. accounting fees and income protection insurance if the proceeds from that insurance will be assessable income).

Accordingly, this paper seeks to explore, through interviews with tax practitioners, what the current levels of tax literacy are amongst small business owners in New Zealand, and in particular, whether there are any demographics that have higher levels of tax literacy and if there are any areas of tax that are less understood than others.

Section 2 of this paper briefly summarises the relevant literature on tax literacy. Details of the research method are outlined in Section 3. For this paper, tax practitioners are referred to as ‘Tax Practitioner A’ through to ‘Tax Practitioner J’. The research results are outlined in Section 4, and analysis is undertaken in Section 5. Conclusions are provided in Section 6, along with limitations and a proposal for future research.

II RELEVANT LITERATURE

A Definition of tax literacy

In simple terms, tax literacy can be described as ‘having the knowledge, skills and confidence to make responsible tax decisions’.¹⁶ The concept of tax literacy is broader than just having tax knowledge and requires that taxpayers have the confidence to actually apply that knowledge in their everyday lives.¹⁷

Notwithstanding, previous definitions of tax knowledge are useful, given that tax knowledge is one component of tax literacy. To this end, Palil and Mustapa divide tax knowledge into seven subcategories, being taxpayers’ responsibilities and rights, knowledge about employment

¹⁵ See, eg, Margaret McKerchar, ‘Understanding small business taxpayers: Their sources of information and level of knowledge of taxation’ (1995) 12(1) *Australian Tax Forum* 25; Melissa Belle Isle, Brett Freudenberg and Tapan Sarker, ‘Is the literacy of small business owners important for cash flow management: the experts’ perspective’ (2018) 13 *Journal of the Australasian Tax Teachers Association* 31; Melissa Belle Isle and Brett Freudenberg, ‘A Comprehensive Analysis of the Business Literacies of Australian Small Businesses’ (2021) 23(1) *Journal of Australian Taxation* 67; Melissa Belle Isle, Brett Freudenberg and Tapan Sarker, ‘Top of the Grade: Factors that could influence small business literacy’ (2022) 24(1) *Journal of Australian Taxation* 5; Melissa Belle Isle, Brett Freudenberg and Tapan Sarker, ‘The business tax literacy of Australian small businesses’ (2022) 37(1) *Australian Tax Forum* 65; Melissa Belle Isle, Brett Freudenberg and Tapan Sarker, ‘Does tax literacy matter? The relationship between small business literacy and business performance and cash flow’ (2023) 25(1) *Journal of Australian Taxation* 5; Melissa Belle Isle, Brett Freudenberg and Tapan Sarker, ‘Do Small Business Owners Care? Perceptions of Small Business Owners and Their Literacy’ (2023) 18(1) *Journal of the Australasian Tax Teachers Association* 16; Melissa Belle Isle and Brett Freudenberg, ‘Business Tax Knowledge of Australian Small and Medium Enterprises’ (2024) 19(1) *Journal of the Australasian Tax Teachers Association* 45.

¹⁶ Antoine Genest-Grégoire, Luc Godbout and Jean-Herman Guay, *The Knowledge Deficit about Taxes: Who It Affects and What to Do About It* (C.D. Howe Institute, Commentary No. 484, July 2017).

¹⁷ Pham et al, ‘Tax Literacy: A Canadian Perspective’ (2020) 68(4) *Canadian Tax Journal* 987.

income, dividends and interest, personal relief, child relief, rebates and awareness of offences, penalties and fines.¹⁸

Conversely, Mukhlis, Utomo and Soesetio adopt a more basic definition, with tax knowledge being defined as being knowledge ‘with regard to the public's understanding of tax and some matters relating to the taxation system’.¹⁹ Similarly, Oladipupo and Obazee define tax knowledge as being the ‘level of awareness or sensitivity of the taxpayers to tax legislation’.²⁰

Bornman and Ramutumbu conduct a literature review with a view to developing a framework for defining tax knowledge.²¹ Three elements of tax knowledge are identified, being general, procedural and legal tax knowledge. The concept of tax knowledge and its relationship to the definition of tax literacy is expanded on by Bornman and Wassermann who suggest a framework that has three main elements.²² These are tax awareness, contextual knowledge and meaning making/informed decision making.²³

Tax awareness is argued as being a pre-condition for literacy, and accordingly, is the basis of the framework.²⁴ This contention is supported by a study undertaken by Hastuti, which posits that the imposition of tax is inevitable, and therefore, tax awareness is essential to tax compliance.²⁵ Bornman and Wassermann acknowledge that measuring tax awareness is difficult, and draw an analogy between financial awareness and tax awareness.²⁶ Specifically, they refer to research which defines financial awareness as ‘the ability to understand and analyse information and act accordingly’.²⁷ Similarly, they refer to research which posits that tax awareness is ‘the ability of taxpayers to each take ownership of their tax calculations, payments and reporting’²⁸ and that taxpayers ‘want to pay taxes’.²⁹ Accordingly, Bornman and Wassermann conclude that tax awareness is a combination of recognising the factors that will

¹⁸ Mohd Rizal Palil and Ahmad Fariq Mustapha, ‘Factors affecting tax compliance behaviour in self assessment system’ (2011) 5(33) *African Journal of Business Management* 12864.

¹⁹ Imam Mukhlis, Sugeng Hadi Utomo and Yuli Soesetio, ‘The Role of Taxation Education on Taxation Knowledge and Its Effect on Tax Fairness as well as Tax Compliance on Handicraft SMEs Sectors in Indonesia’ (2015) 6(4) *International Journal of Financial Research* 161, 162.

²⁰ Adesina Olugoke Oladipupo and Uyioghosa Obazee, ‘Tax knowledge, penalties and tax compliance in small and medium scale enterprises in Nigeria’ (2016) 8(1) *iBusiness* 1.

²¹ Marina Bornman and Pusheletso Ramutumbu, ‘A conceptual framework of tax knowledge’ (2019) *Meditari Accountancy Research* 823.

²² Marina Bornman and Marianne Wassermann, ‘Tax literacy in the digital economy’ (Conference Paper, 13th International Conference on Tax Administration, 2018).

²³ *Ibid* 3.

²⁴ Richard Wilson, Anne Abraham and Carolynne Mason, ‘The Nature of Financial Literacy’ in Richard Wilson (ed), *The Routledge Companion to Accounting Education* (Routledge, 2014).

²⁵ Rini Hastuti, ‘Tax awareness and tax education: A perception of potential taxpayers’ (2014) 5 *International Journal of Business, Economics and Law* 83.

²⁶ Bornman and Wassermann (n 22) 5.

²⁷ Wilson, Abraham and Mason (n 24).

²⁸ Hastuti (n 25).

²⁹ Nuris Islamiah Kamil, ‘The Effect of Taxpayer Awareness, Knowledge, Tax Penalties and Tax Authorities Services on the Tax Compliance:(Survey on the Individual Taxpayer at Jabodetabek & Bandung)’ (2015) 6 *Research Journal of Finance and Accounting* 104.

influence a decision and understanding the consequences of the decision.³⁰ Additionally, it is concluded that tax awareness is increased by contextual knowledge gained by the taxpayer.³¹

In regard to contextual knowledge, Bornman and Wassermann identify two sub-elements, being procedural knowledge and legal knowledge.³² That is, procedural knowledge is the taxpayer's understanding of the knowledge, skills and resources required to interact with tax authorities and the requisite record-keeping obligations.³³ Conversely, legal knowledge reflects an understanding of how that taxpayer is taxed. Legal knowledge has two dimensions, first, understanding of legal terms and legislation, and second, the ability to apply legal knowledge to specific scenarios to ascertain outcomes.³⁴ Accordingly, it is argued by Bornman and Wassermann that an expansion of awareness and knowledge will lead to more confidence, which will assist with the meaning making process.³⁵

Finally, meaning making refers to the individual making sense of the interaction between tax awareness and tax knowledge.³⁶ That is, awareness alone or knowledge and skills alone are not sufficient to be considered tax literate.³⁷ Bornman and Wassermann also note that the meaning making process is influenced by other social factors such as an individual's perceptions, their social norms, tax morality (willingness to pay taxes) and attitudes.³⁸ Accordingly, tax literacy can ensure individuals make informed decisions, but not necessarily that the 'right' decisions are made. A summary of Bornman and Wassermann's framework for tax literacy is shown below:³⁹

³⁰ Bornman and Wassermann (n 22) 6.

³¹ Saira Kharuddin, Zariyawati Mohd Ashhari and Low Yoke-May, 'An exploratory study of Goods and Services Tax awareness in Malaysia' (paper presented at the Seminar on National Resilience (SNAR), Political Management and Policies in Malaysia, Langkawi, 2010).

³² Bornman and Wassermann (n 22) 6.

³³ Ibid.

³⁴ Ling Ming Lai et al, 'Quest for Tax Education in Non Accounting Curriculum: A Malaysian Study' (2013) 9 *Asian Social Science* 154.

³⁵ Kharuddin, Ashhari and Yoke-May (n 31).

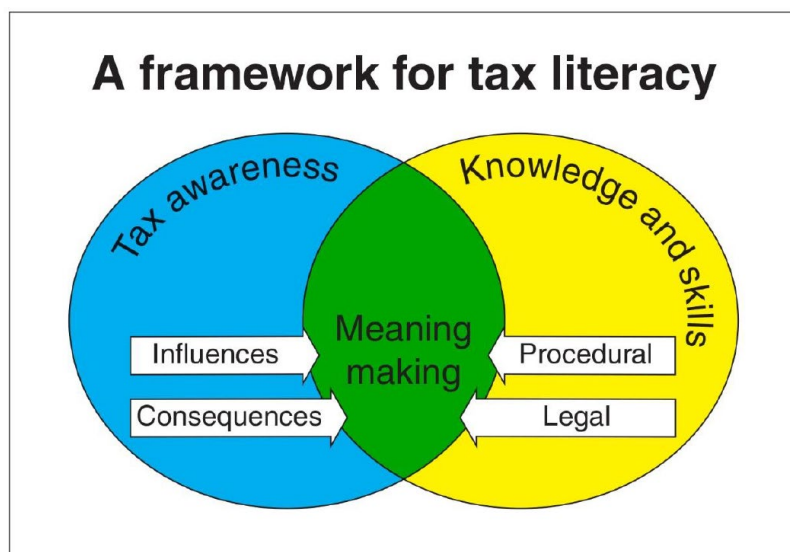
³⁶ Bornman and Wassermann (n 22) 7.

³⁷ Wilson, Abraham and Mason (n 24).

³⁸ Bornman and Wassermann (n 22) 7.

³⁹ Ibid. For further discussion on the conceptualisation of tax literacy, see, eg, Bernadene de Clerq, 'Tax literacy: what does it mean?' (2023) 31(3) *Meditari Accountancy Research* 501; Bernadene de Clerq and Carmela Aprea, 'Towards a conceptual framework for tax literacy: a scoping review' (2023) 23(1) *eJournal of Tax Research* 122.

Figure 1: Bornman and Wassermann's framework for tax literacy



B Empirical research on tax literacy

As stated above, the author is only aware of two empirical studies on tax literacy that have been undertaken in the New Zealand context. The first of these was undertaken by Tan, who explored how small businesses were coping with their tax return obligations.⁴⁰ A sample of 15 firms was randomly selected and each of these firms were asked to keep a diary for a 12-month period. This sample was later reduced to 13 firms as two were unable to commit the necessary time. While this research did not specifically focus on tax literacy, the findings indicated that the small businesses selected did not appear to have difficulty in regard to understanding and complying with tax obligations. Findings also indicated that once small business owners believed they had sufficient tax knowledge, they did not attempt to improve this understanding.

The second study was undertaken by Saad.⁴¹ Specifically, 2,267 participants were invited to take part, with only 30 participants being interviewed by telephone.⁴² The reason(s) for the low response rate are unclear. Participants consisted of 18 males and 12 females from a range of backgrounds and included salary earners, retirees, entrepreneurs, students and a welfare beneficiary. Participants were asked a set of general questions relating to tax knowledge, tax complexity and compliance behaviour. Results suggest that participants appeared to have inadequate knowledge on the technical aspects of the income tax system.⁴³ In particular, self-

⁴⁰ Tan (n 14).

⁴¹ Saad (n 14).

⁴² Ibid 1072.

⁴³ Ibid 1074.

employed participants had inadequate knowledge of the income tax system as well as Pay As You Earn ('PAYE'),⁴⁴ Goods and Services Tax ('GST')⁴⁵ and KiwiSaver.⁴⁶

The reason for these conflicting findings is unclear, although this could partly be attributed to the difference in samples; Saad examined individuals from a range of backgrounds, whereas Tan solely focused on small business owners. In addition, it could be that the small business owners examined by Tan were more likely to have higher levels of tax literacy due to the research method. That is, it is arguable that small business owners who were willing to keep a diary for 12 months were more likely to have higher levels of tax literacy. Finally, there is a significant period of time between Tan's research and the research undertaken by Saad. During this time, New Zealand's tax system has undergone significant changes, which has increased complexity.

Outside of New Zealand, there have been a number of studies on tax literacy. In Australia, McKerchar studied small businesses in a rural community and concluded that many respondents did not have a satisfactory knowledge of taxation matters relevant to their business, and accordingly, may be unintentionally non-compliant.⁴⁷ Ahmed and Braithwaite expanded on the research by McKerchar and specifically investigated the self-employed, concluding that they have low levels of competency and independence when dealing with tax matters, especially in regard to income tax returns.⁴⁸

More recently, Chardon found that levels of tax literacy in Australia were lower than levels of financial literacy, and that higher levels of tax literacy were associated with those in paid employment.⁴⁹ Chardon, Freudenberg and Brimble examined the confidence of Australian taxpayers in respect of tax literacy and concluded that lower confidence was likely to be found in females, younger people and those with lower incomes.⁵⁰ Lower confidence was more likely in those with less participation in paid employment. In a separate study, Chardon, Freudenberg and Brimble found that approximately 81% of Australians had a basic or higher Tax Literacy Score ('TLS'), and 19% had a poor or low level of TLS.⁵¹

Chardon et al surveyed Australian university students and the results reinforced that generally, there are low levels of tax literacy and that this is particularly the case for those aged under 20 years.⁵² The results also showed a correlation between gender, Australian Tertiary Admissions Rank ('ATAR') and tax knowledge outcomes.

⁴⁴ *Income Tax Act 2007* (NZ), sub-pt RD.

⁴⁵ *Goods and Services Tax Act 1985* (NZ).

⁴⁶ *KiwiSaver Act 2006* (NZ).

⁴⁷ McKerchar (n 15).

⁴⁸ Ahmed and Braithwaite (n 10).

⁴⁹ Toni Chardon, 'Weathering the storm: Tax as a component of financial capability' (2011) 5(2) *Australasian Accounting Business and Finance Journal* 53.

⁵⁰ Toni Chardon, Brett Freudenberg and Mark Brimble, 'Are Australians under or over confident when it comes to tax literacy, and why does it matter?' (2016) 14(3) *eJournal of Tax Research* 650.

⁵¹ Toni Chardon, Brett Freudenberg and Mark Brimble, 'Tax literacy in Australia: not knowing your deduction from your offset' (2016) 31 *Australian Tax Forum* 321.

⁵² Toni Chardon et al, 'University students and tax literacy: opportunities and lessons for tax teaching' (2016) 11(1) *Journal of the Australasian Tax Teachers Association* 85.

Belle Isle, Freudenberg and Sarker have undertaken a number of studies on tax literacy and small business owners. One of these studies explored whether small business owners' levels of tax and financial literacy are sufficient to manage business cash flow and concluded that the tax literacy levels of small business owners influence their ability to perform effective cash flow management.⁵³ Another study explored levels of tax literacy amongst Australian small business owners in the service sector.⁵⁴ A large-scale survey showed that over half of small business owners had a tax literacy score of 'low' or 'poor'. In comparison, just over a quarter had a 'medium' or 'high' level of tax literacy, with the remainder having a 'basic' level of tax literacy. In particular, business owners that had operated for 10 years or more, employed staff, were set up as a company or company/trust structure and were classified in the category 'M' of the ANZSIC classification were found to have higher levels of tax literacy.⁵⁵

In addition, Belle Isle, Freudenberg and Sarker have also explored small business owners' perceptions of the usefulness of business records and financial statements, and whether there was a relationship with tax literacy.⁵⁶ While the results did not suggest that there was a relationship, they did suggest that the most relevant subset of tax literacy was computerised accounting software literacy.

Belle Isle and Freudenberg considered whether medium sized businesses have higher tax literacy, compared to small businesses.⁵⁷ Results show that medium sized businesses do generally, have higher levels of tax literacy compared to small businesses. However, overall, tax literacy levels are still low. In addition, results showed that, in line with prior research, businesses that use more sophisticated structures (for example, companies and trusts) have higher levels of tax literacy.

There have also been a number of studies on tax literacy undertaken in other jurisdictions. The findings from these studies are summarised in the table in Appendix 1. These studies suggest that the tax literacy levels are, in general, low,⁵⁸ and that similar demographics associated with low levels of financial literacy are also associated with low levels of tax literacy.⁵⁹ For

⁵³ Belle Isle, Freudenberg and Sarker, 'Is the literacy of small business owners important for cash flow management: the experts' perspective' (n 15).

⁵⁴ Belle Isle, Freudenberg and Sarker, 'The business tax literacy of Australian small businesses' (n 15). See, eg, Belle Isle and Freudenberg, 'A Comprehensive Analysis of the Business Literacies of Australian Small Businesses' (n 15).

⁵⁵ The 'M' category of the ANZSIC classification is the professional, scientific and technical services division. This category includes scientific research, architecture, engineering, computer systems design, law, accountancy, advertising, market research, management and other consultancy, veterinary science and professional photography.

⁵⁶ Belle Isle, Freudenberg and Sarker, 'Do Small Business Owners Care? Perceptions of Small Business Owners and Their Literacy' (n 15).

⁵⁷ Belle Isle and Freudenberg, 'Business Tax Knowledge of Australian Small and Medium Enterprises' (n 15).

⁵⁸ See, eg, Amrizah Kamaluddin and Nero Medi, 'Tax literacy and tax awareness of salaried individuals in Sabah and Sarawak' (2005) 3(1) *Journal of Financial Reporting and Accounting* 71; Ern Chen Loo and Juan Keng Ho, 'Competency of Malaysian salaried individuals in relation to tax compliance under self assessment system' (2005) 3(1) *eJournal of Tax Research* 45.

⁵⁹ See, eg, Pham et al (n 17).

example, these studies suggest that those that are more educated, those that are older, and men, are more likely to have higher levels of tax literacy.⁶⁰

In summary, there has been very limited empirical research on tax literacy in the New Zealand context, with the author only being aware of two studies (which have had conflicting findings). Globally, this trend of limited research appears to be reflected, although recent times have seen an increase in the number of studies examining tax literacy. It should be noted that each study has used a different definition of tax literacy and that there are significant differences between the tax regimes in each jurisdiction. Notwithstanding, the definition of tax literacy proposed by Bornman and Wassermann, which has been adopted for this paper, should go some way towards reconciling these differences.⁶¹

Although there is a limited body of empirical research on tax literacy, the following observations can be drawn. First, it is clear that education has a positive impact on tax literacy. That is, more educated taxpayers (either generally or in respect of tax) have higher levels of tax literacy. In addition, men and older individuals are also likely to have higher levels of tax literacy. However, the literature indicates that overall, the tax literacy of both individuals, and individuals that are small business owners, is relatively low.

III RESEARCH METHODOLOGY

This research is qualitative and involves interviews with tax practitioners. Tax practitioners have been selected as a sample due to the role that they play in respect of tax literacy. This role can be modelled using knowledge management theory, which was adopted by Hasseldine, Holland and van der Rijt for research that sought to explore the relationships between the United Kingdom's tax agency (HM Revenues and Customs ('HMRC')), corporate taxpayers and accounting firms.⁶² Knowledge management theory centres around the idea that knowledge is an economic asset, and in the transaction of that asset, several players are active.⁶³ These players are knowledge buyers, sellers and brokers, although 'an individual can perform all three roles in a single day and sometimes play more than one role simultaneously'.⁶⁴

⁶⁰ See eg, Puneet Bhushan and Yajulu Medury, 'Determining Tax Literacy of Salaried Individuals - An Empirical Analysis' (2013) 10(6) *IOSR Journal of Business and Management* 76; Deloitte, *The Tax Education Gap: Tax knowledge and attitudes to tax in the UK* (September 2019); Elizabeth Lyon and Jesse Catlin, 'Consumer Misconceptions about Tax Laws: Results from a Survey in the United States' (2020) 43(4) *Journal of Consumer Policy* 807; Amalia Novoa-Hoyos, Lucie Depoo and Enrique Jiménez-Rodríguez, 'Role of financial literacy and awareness of tax impacts in an emerging economy facing tax reform' (2022) 15(1) *Economics and Sociology* 222.

⁶¹ Bornman and Wassermann (n 22).

⁶² John Hasseldine, Kevin Holland and Pernill van der Rijt, 'The management of tax knowledge' in Lynne Oats (ed) *Taxation: A fieldwork research handbook* (Routledge, 2012) 145.

⁶³ Thomas Davenport and Laurence Prusak *Working knowledge: How organizations manage what they know* (Harvard Business School Press, 1998).

⁶⁴ *Ibid.*

In Hasseldine, Holland and van der Rijt's research, the authors viewed HMRC as the knowledge seller, because they take a lead role in developing, and communicate new tax legislation. Corporate taxpayers 'then seek, either by compulsion (for routine compliance) or volition (for tax planning and avoidance), knowledge about new tax legislation'.⁶⁵ Accordingly, they are viewed as knowledge buyers. Finally, accounting firms are viewed as knowledge brokers because they operate as intermediaries between corporate taxpayers (knowledge buyers) and HMRC (a knowledge seller). This role can be described as 'gate keeping'⁶⁶ or 'boundary spanning'.⁶⁷

In the New Zealand context, Inland Revenue is the knowledge seller; while Parliament is ultimately responsible for enacting legislation and therefore knowledge creation, Inland Revenue has a lead role in the development and communication of new tax legislation. Small businesses, similar to corporate taxpayers, seek knowledge about tax legislation for routine compliance, and to a lesser degree, for tax planning and avoidance. Accordingly, tax practitioners operate as intermediaries between small businesses and Inland Revenue and are therefore well-placed to provide views on the tax literacy levels of small business owners.

The main research question addressed in this research is:

RQ 1: How tax literate are small business owners in New Zealand?

The subsidiary research questions addressed in this research are:

RQ 1A: Are there any demographics which have particularly low levels of tax literacy?

RQ 1B: Which specific aspects of taxation have particularly low levels of understanding?

A Semi-structured interviews

Specifically, the research utilised semi-structured interviews of tax practitioners to gather data. These interviews were conducted from November 2023 to June 2024. Interviews were considered by the author to be the most appropriate method of gathering data because they allowed tax practitioners to give their own perspectives on small business owners and tax literacy. That is, interviews as a methodology allow rich data to be collected from people in various roles and situations.⁶⁸ Alternative methods of gathering data such as a questionnaire would not have resulted in rich data being collected from tax practitioners. In addition,

⁶⁵ John Hasseldine, Kevin Holland and Pernill van der Rijt, 'The market for corporate tax knowledge' (2011) 22(1) *Critical Perspectives on Accounting* 39.

⁶⁶ Chun Wei Choo, *The knowing organization: How organizations use information to construct meaning, create knowledge, and make decisions* (Oxford University Press, 1998).

⁶⁷ OECD, *Study into the role of tax intermediaries* (Paris, 2008).

⁶⁸ Michael Myers, *Qualitative Research in Business & Management* (Sage, 2009).

interviews provide the opportunity for follow up questions and additional inquiry, meaning that further insights were gleaned.

B Interview guide development

The author circulated an interview guide to tax practitioners ahead of the interviews. The interview guide was aimed at giving interviewees a chance to reflect on the questions and give a considered response. From the author's perspective, the use of an interview guide also ensured that no topics or areas were omitted. The interview guide had four main headings, being: 'Small businesses', 'Small business owners', 'Tax literacy' and 'Tax education'. The questions under the heading 'Tax literacy' are the focus of this paper. Notwithstanding, the interview guide was not formal or rigidly structured. Rather, it was flexible, and questions were not asked in a set order. In addition, the interview guide was fluid as it was updated as interviews progressed. The interview guide was also piloted with an experienced tax practitioner and the responses from this were used to improve the interview guide and provide additional areas for exploration.

C Sample selection

For the purpose of this research, a broad definition of tax practitioners was adopted. That is, tax practitioners were deemed to be tax preparers, tax accountants, tax lawyers and tax agents, provided that they had experience working with small businesses and their owners.

Tax practitioners were recruited with the assistance of John Cuthbertson (New Zealand Tax Leader of Chartered Accountants Australia and New Zealand ('CA ANZ')), Lindsay Ng (Senior Tax Advocate at CA ANZ) and Rick Jones (Regional Head of Certified Practising Accountants ('CPA') Australia). Individual emails were sent to a potential list of interviewees, as identified by each of these people. Responses were received from five practitioners, all who agreed to participate in the research. Accordingly, the author sought to identify and recruit further participants. This was predominately done via Google searches with key words aimed at filtering tax practitioners who had experience with small businesses and their owners. This resulted in five more tax practitioners agreeing to participate in the research.

Accordingly, the sample of tax practitioners was composed of five practitioners recruited through 'snowball' sampling.⁶⁹ Snowball sampling is advantageous in that it is a low-cost solution allowing participants to be found easily and quickly, especially from a specific

⁶⁹ Alistair Geddes, Charlie Parker and Sam Scott, 'When the snowball fails to roll and the use of 'horizontal' networking in qualitative social research' (2018) 21(3) *International Journal of Social Research Methodology* 347.

population.⁷⁰ However, snowball sampling can lead to various types of sampling bias and can make generalisation difficult.⁷¹ These limitations were overcome by the use of purposive sampling to recruit the other five participants.

A total of ten tax practitioners were interviewed in their professional capacity. These tax practitioners were located in a range of locations throughout New Zealand, including Invercargill, Dunedin, Christchurch, Hamilton and Auckland, and regional New Zealand. The tax practitioners predominately worked out of mid-tier firms and small accounting firms, meaning that a number of different perspectives were provided. After ten responses, saturation of information occurred, and in the author's view, it was unlikely that additional responses would have resulted in new information being gleaned. Further detail on the ten tax practitioners is provided in the table below:

Table 2: Tax Practitioners

| Pseudonym | Location | Position | Professional Membership | Size of Firm | Experience |
|--------------------|----------------------|-----------------|--------------------------------|---------------------|-------------------|
| Tax Practitioner A | Auckland | Director | CPA | Sole practitioner | 12 years |
| Tax Practitioner B | Christchurch | Director | CA ANZ | Small | 24 years |
| Tax Practitioner C | Invercargill | Principal | CA ANZ | Medium | 28 years |
| Tax Practitioner D | Christchurch | Director | CA ANZ | Sole practitioner | 19 years |
| Tax Practitioner E | Regional New Zealand | Director | CA ANZ | Sole practitioner | 33 years |
| Tax Practitioner F | Regional New Zealand | Director | CPA | Small | 28 years |
| Tax Practitioner G | Hamilton | Director | CA ANZ | Medium | 19 years |
| Tax Practitioner H | Dunedin | Partner | CA ANZ | Medium | 30 years |
| Tax Practitioner I | Dunedin | Principal | CA ANZ | Small | 23 years |

⁷⁰ Ibid.

⁷¹ Ibid.

| | | | | | |
|-----------------------|----------|---------|--------|--------|----------|
| Tax Practitioner J | Auckland | Manager | CA ANZ | Medium | 14 years |
|-----------------------|----------|---------|--------|--------|----------|

D Data collection procedures

A consent form was issued to all participants, and a signed copy was returned to the author before each respective interview. Interviewees were given a chance to ask any questions before the interview commenced and were free to withdraw from the research at any time. Each interview was recorded using the recording function in Google Meet / Microsoft Teams and where possible, a transcript was automatically generated. This was checked by the author (and amended if necessary) and a copy was provided to the interviewee within two weeks of each particular interview. Interviewees were then provided with an opportunity to make any amendments to the transcript. Alongside recording, brief notes were taken by the author throughout the interviews.

Interviews ranged from 40 to 70 minutes in length. While virtual interviews can have disadvantages (e.g. technical challenges), the use of these negated many of the disadvantages associated with phone interviews (for example, the inability to gauge body language), and given the geographical spread of the interviewees, were more practical and cost-effective than in-person interviews.

E Data analysis

Subsequent to the transcripts being checked by the author (and approved by the interviewees), thematic analysis was undertaken with the goal of identifying themes and trends. In addition, conflicting viewpoints across tax practitioners were also noted. This analysis was conducted using NVivo, a qualitative data analysis software package. NVivo allows the researcher to 'code' transcripts and highlight common themes and trends in interview responses.

IV RESULTS

This section introduces the findings from the interviews with tax practitioners. These findings will be compared among interviewees, to reveal themes and views. This section will provide a basis for Section 5, which will set out further discussion and analysis of the findings.

A Definition of tax literacy

Perhaps unsurprisingly, tax practitioners had differing views on the definition of tax literacy and what being tax literate entailed. However, the most commonly cited definition of tax literacy centred on small business owners having awareness of tax:

I think from a business owner's perspective, being tax literate... the way I would probably explain it from their perspective, would be that they come across an issue. They know there are potential tax issues with it and are able to then go and get advice on it. They don't necessarily know how the rules work exactly in practice, but that they know enough to know there's an issue there, at the end of the day. (Tax Practitioner C)

Then if you look at tax literacy, I would say there's a baseline that you know there's something out there called tax, and that you've got to do it. And then there's the degree to which you know what you know, and you know what you don't know. And that's how I would define tax literacy. It's that you have enough nous to know the stuff that you can do, but you know of the stuff that you can't do. And they are the people, I would say, are tax literate. (Tax Practitioner H)

I think what you'd hope is that a business owner knows is that I'm doing something [and] I need to ask a question. They don't necessarily need to know all of the tax legislation. They need to know enough to say, I'm doing this. What does it mean? (Tax Practitioner F)

I think they probably need to have a level of understanding so that they can make those decisions on their own. But knowing also, what they don't know. (Tax Practitioner G)

Other tax practitioners defined tax literacy with reference to having knowledge of specific concepts:

I guess being aware of like provisional tax dates and being proactive about that kind of thing, ...having it on the radar instead of being constantly surprised and terrified. (Tax Practitioner D)

But tax literacy, maybe it's easier to define what's not tax literate. So it is astonishing how many people, and [it is] not unexpected, but astonishing how many SMEs don't understand provisional tax. (Tax Practitioner A)

B Level of tax literacy amongst small business owners

Almost all tax practitioners were of the view that small business owners had low levels of tax literacy:

I would say the vast majority of clients are not tax literate. And..., they know what income tax is, they know what GST is, but they don't actually understand what it is. (Tax Practitioner I)

They know technically what they're doing, but any other aspect of it, they don't. So that comes back to... tax literacy. I think [tax literacy], is poor for people starting out, along with health and safety knowledge in some cases, along with employment law knowledge, along with managing people knowledge, along with basically every other aspect of running a small business, these people don't have a clue. (Tax Practitioner E)

I'd say no, they're not [tax literate], as a general rule. There are obviously some of them that would be better at [tax] than others but on a whole, no. (Tax Practitioner F)

However, one tax practitioner, Tax Practitioner J, was of the view that most small business owners had good levels of tax literacy:

I'd say small business owners, 80% of them are pretty good [at tax]. (Tax Practitioner J)

The reason for this response is unclear; however, it could be explained by Tax Practitioner J's definition of tax literacy. That is, Tax Practitioner J was of the view that a small business owner was tax literate if they were aware that they might have to pay tax:

I'd say [being] tax literate is [when] people are aware that there's tax to pay and that it's not a bad thing. (Tax Practitioner J)

C Importance of tax literacy for small business owners

All tax practitioners viewed tax literacy as being important for small business owners:

Tax literacy, it's really crucial for small business owners, along with every other aspect for small businesses, but they literally start out not even knowing what GST is, how to calculate GST, how to do anything along those lines. (Tax Practitioner E)

[Tax literacy is] a very, very, important part because the IRD want their dollar whether or not you want to give it to them. You know whereas a lot of other creditors are more discretionary as in you can pick and choose who you're going to pay this month and who you're not. The IRD and the [tax] implications of a transaction is a must. (Tax Practitioner F)

[B]ecause at the end of the day they can make one assumption and get it wrong, and the tax impact could be significant. Whether they make an assumption around is there GST on this and decide no, there's not and then we discover it six months later. Potentially the tax liability that they are owing is significant and some of those small businesses probably just won't have the cash flow to be able to fund it. So if they get it really wrong really quick it's probably quite hard to come back from at times. (Tax Practitioner C)

When the tax practitioners were asked if tax literacy was important for small business owners, some also mentioned that, more generally, financial literacy was important for small business owners:

Yes, I think [tax literacy] is very important because in fact, not necessarily even just tax literate, actually just financially literate. And the small business client who will be like, I don't understand why I've got tax to pay, I've got no money. So there's kind of a disconnect between what they're doing day to day, flat out on the treadmill trying to earn a dollar and not understanding that the fact that you've got twice as much stock as you probably should have, that's why you've got no money, and you can't pay your tax bill. (Tax Practitioner I)

Just coming from an accounting background, I always feel like clients should have just a base understanding of their numbers... I think it gives them a sense of confidence. I go back to that peace of mind. Sometimes it's the stress of not knowing what my tax bill is going to be. (Tax Practitioner B)

D Demographics with lower levels of tax literacy

Tax practitioners were generally of the view that small business owners with more business experience typically had higher levels of tax literacy:

I think tax literacy comes with experience, so typically I'd say the clients that are tax literate are those that have been in business before. They've dealt with the tax system, they understand what the different taxes are, they understand basic rules, but I've not found a single person who's started out in business and said, I read this book on the basics of the New Zealand tax system and I'm pretty sure I understand everything. (Tax Practitioner B)

And I think the longer they've been in the game, the probably more [tax] literate they are. (Tax Practitioner D)

So I think it's the length of time they've been dealing with these issues. So if they've had a good accountant or good tax advisor through the process, they probably [have] had these concepts explained to them over a number of years. (Tax Practitioner G)

I think I mentioned before, the longer people have been in business, generally the more they know about [tax] because they've been doing it for a while. They've been dealing with [tax] for a while. So I'd say people who have been around at least three to five years, yes, they'll generally more fit into that [tax literate] category. (Tax Practitioner J)

While small business owners with more business experience were likely to be older, this is not always necessarily so:

Yeah, at the moment it's an age thing, but I think it's just an experience thing, so for our guys, older equals more experienced, but that's not necessarily the case, broadly. (Tax Practitioner D)

Tax Practitioner C was of the view that the size of the business had an impact on tax literacy:

I saw that question and I've sort of been thinking about it. I think probably the smaller the business, I suspect they are possibly more tax literate, because essentially the smaller the business is, the business owner, they're going to be wearing all the different hats - finance, admin, marketing, you name it. (Tax Practitioner C)

Tax practitioners did not generally view gender as impacting tax literacy levels; however, Tax Practitioner A indicated that females had higher levels of tax literacy:

Well, one thing I would say without fear of contradiction, I think, is that women by and large are far more tax literate than men. (Tax Practitioner A)

Tax Practitioner E indicated differences in tax literacy level due to gender could be because of how they viewed tasks as being allocated in smaller businesses:

But if you look at a typical tradie-type business, the dad might be running the business or farming, the mum might be running the bookwork. (Tax Practitioner E).

Most tax practitioners did not view small business owners operating in particular industries (e.g. those that are more regulated) as having higher levels of tax literacy:

Not that I can think of. In fact, some of the least tax literate people I have on my books are lawyers. (Tax Practitioner A)

No, I wouldn't say there's any industries at all [that have higher levels of tax literacy]. There's not like a particular, quite a clear demographic around that, unfortunately. (Tax Practitioner B)

However, some tax practitioners did think that small business owners operating in certain industries (e.g. farming) did have higher levels of tax literacy, and that those operating in more creative industries had lower levels of tax literacy:

I'd probably say that my farming clients have a slightly better grasp [of tax] than most. And so some of them will understand that there are different rules for livestock valuation, for example. But certainly not the finer detail. I'd say they probably have a slightly better understanding [of tax] than your average small business owner. (Tax Practitioner I)

I see it within professional services firms and sometimes tradies... where they're constantly doing, pricing work or they've been managing costs in such a way that they're much more in tune with the financial position of their business... those people do tend to do better in regards to financial literacy because they already have a basic understanding of how numbers and it's not out of the realms of their understanding. Creative types are much more challenging. (Tax Practitioner J)

A number of tax practitioners considered that there was a strong link between general literacy and tax literacy, and that small business owners with learning difficulties typically had lower levels of tax literacy:

There's a whole bunch of people, for instance, who are dyslexic. So numbers are not their thing...and nor is reading their thing. So they've got to have someone explain it to them. (Tax Practitioner A)

If there's general illiteracy, [then] there would be general financial illiteracy as well. So, I've definitely dealt with some clients that are probably in the lower socioeconomic end of town that have started up a business, maybe a year or two later, they've got in touch because they're like, oh, I've got outstanding tax returns, I don't know what I need to do. (Tax Practitioner B)

On a similar note, tax practitioners considered that small business owners who were more educated (either generally, or in respect of tax) were more likely to have higher levels of tax literacy:

I'm thinking some startups that might have been through a bit of a business accelerator program [might be more tax literate]. They've had some exposure or someone, as part of their program they've been told, this is how the tax system works, you've got to pay tax. (Tax Practitioner B)

Definitely, potentially the more educated or professional the person is, the more they understand the basic [tax] concepts once they're explained. (Tax Practitioner F)

Interestingly, Tax Practitioner E was of the view that small business owners were more likely to have learning difficulties compared to other demographics:

I read that there's a high proportion of dyslexic business owners or entrepreneurs, and there's a higher proportion of people with ADHD. And so, when I think about my client base, that's pretty much, yeah, there's a lot of my clients that would have ADHD or dyslexia. What it also has meant is that when I then picked up on that, there was quite often times when we would go through the annual accounts, which we never even looked at the accounts. They were just a waste of time. (Tax Practitioner E)

Some tax practitioners also noted that immigrants tended to have lower levels of tax literacy due to having lower levels of general literacy, and because of differences in compliance culture:

Also, a number of people, to become New Zealand resident and get residency, they have to have invested so much money in a business. They've got language barriers as well. (Tax Practitioner F)

I do have a couple of immigrant families on the books, and that's been really tricky because they have cultural differences. One in particular has come from a country where they don't pay tax at all. (Tax Practitioner D)

E Aspects of the tax system with lower understanding

Tax practitioners identified a number of areas of the tax system that were more misunderstood by small business owners, with this extending to the entire tax system at times:

Every area. It always surprises you at times, when people come up with something. You go where did that possibly come from, everybody knows that. (Tax Practitioner H)

[T]hey don't understand a whole raft of areas, they are just newbies. (Tax Practitioner E)

In terms of specific aspects of the tax system with low levels of understanding, one of the most commonly mentioned was provisional tax:

The other area, I should have mentioned earlier, where there's a real misunderstanding is the provisional tax rules and use of money interest. [It is] really, really difficult for people to understand how that works... provisional tax is another area where there's a real lack of understanding and I think because it continuously changed, has changed so much in the last little while, that hasn't helped either. (Tax Practitioner G)

But on the whole, I'd say provisional tax is the number one thing that they don't understand. (Tax Practitioner F)

I think provisional tax and how that works. I think it is very confusing for these business owners in terms of they get these lump sums, and it doesn't align with cash flow or whatever and they're going why have I got to pay this. (Tax Practitioner C)

I think when you start talking about provisional tax, sometimes that becomes a bit difficult for clients to understand, going, I've gone through a whole year, I don't have to pay any tax. And you're saying in my second year, I have to pay two years' worth of tax. (Tax Practitioner B)

Fringe benefit tax was also mentioned by most tax practitioners as being misunderstood:

FBT because there's some nuances to it and how things are structured before they're captured... (Tax Practitioner J)

Your larger businesses will be more familiar with FBT and those other tax types that they would come across, but small business, generally are not dealing with FBT. (Tax Practitioner I)

FBT is another massive gap. People, they think, I've got a vehicle that's owned by the company, happy days, without actually understanding there's a lot of implications that come from FBT and it might not actually be the best answer depending on the use. (Tax Practitioner G)

FBT, less understood or less complied with. FBT is certainly a big one that there are a lot of myths out there in terms of when it's subject FBT or not, but I think part of it is they don't want to know the real answer because they know the cost is quite significant. (Tax Practitioner C)

Other aspects of the tax system that tax practitioners considered to be commonly misunderstood included GST, the entertainment regime, progressive tax rates for individuals, secondary tax codes, company taxation, deductibility of expenses, and the taxation of land transactions.

I think that not enough business owners actually understand how GST works, that it's a consumption tax. They miss that point. GST has become more complicated. (Tax Practitioner G)

[T]hey don't understand entertainment tax. (Tax Practitioner E)

Understanding how the progressive tax rates work. Because sometimes you talk to clients, you work them through it, say right over \$70,000 is 33%, and every dollar over that. They're like, oh, I thought it applied for everything over that, I want to keep my profit down, because I don't want everything to be taxed at 33%. (Tax Practitioner B)

But it does amaze me how frequently the conversation of secondary tax comes up still. (Tax Practitioner D)

[D]ividends definitely confuse people, and the concept of an overdrawn current account and interest that needs to be applied to that, that can be quite confusing and RWT [resident withholding tax] if they're paying interest and things like that. (Tax Practitioner J)

I think there's still a real lack of understanding of what business expenditure is and how that ties to the general permission.⁷² General permission is a very tax technical term. (Tax Practitioner G)

In regard to common fallacies or myths, land is a big one. They think land is not taxable. Most of them know about [the] bright-line [test] or [have] heard of it, but they don't understand all these other areas where they can get caught. (Tax Practitioner E)

F Tax literacy and tax positions taken

Tax practitioners were asked if there was any correlation between the tax literacy level of a small business owner and the tax positions taken. This question was aimed at ascertaining whether, for example, small business owners with higher levels of tax literacy were more likely to take more aggressive tax positions. Tax practitioners did not generally consider there to be any correlation between the tax literacy level of a small business owner and the tax positions taken:

No, I don't think in my experience that's the case. What I would say is those people who have a higher tolerance for risk are likely to take a more aggressive position. (Tax Practitioner A)

Not necessarily. I think your view on tax itself determines the aggressiveness. I think probably with literacy comes an understanding of where the line sits. (Tax Practitioner G)

I think as much as anything, it's a personality thing. Some people just have a higher risk, appetite than others and some are more risk averse than others. I think that some people are driven to pushing the boundaries. And irrespective of their level of literacy, they'll push the boundaries. (Tax Practitioner H)

I don't know that their tax literacy necessarily drives whether they'll be more aggressive. I think how entrepreneurial they are and how much of a risk taker they are will drive whether they're prepared to take tax risks around interpretation. (Tax Practitioner I)

However, Tax Practitioner B and Tax Practitioner F did consider that this proposition might hold true:

Yeah, those that have gone out of their way to probably find out a bit more. Therefore, they're a little bit more literate, but maybe a little information is dangerous. Because they might not understand the full implications, or they've just seen the upsides and not the downsides. (Tax Practitioner B)

⁷² *Income Tax Act 2007* (NZ), s DA 1. The 'general permission' provides that expenditure is deductible to the extent that it is incurred in deriving assessable income or excluded income (or a combination of the two), or, to the extent that is incurred in carrying on a business for the purpose of deriving assessable income or excluded income (or a combination of the two).

Definitely. A little knowledge is a little bit dangerous. So yes. (Tax Practitioner F)

V ANALYSIS

A Definition of tax literacy

The definitions of tax literacy provided by tax practitioners varied; however, most definitions referred to having awareness of tax (which, accordingly, prioritises the awareness element of Bornman and Wassermann's framework).⁷³ Other definitions of tax literacy favoured the contextual knowledge element of Bornman and Wassermann's framework, given that these tax practitioners equated tax literacy to having knowledge of specific concepts such as net profit and provisional tax. Additionally, some definitions referred to the meaning making/informed decision-making element of Bornman and Wassermann's framework because being tax literate was viewed as leading to better and more informed decisions being made by small business owners. Accordingly, the definitions of tax literacy provided by tax practitioners are only partly aligned with Bornman and Wassermann's framework, which posits that tax literacy requires awareness of tax, contextual knowledge and meaning making/informed decision making.

B Level of tax literacy amongst small business owners

Consistent with studies in other jurisdictions, and with research undertaken in New Zealand by Saad,⁷⁴ all tax practitioners (except for Tax Practitioner J) viewed small business owners as having low levels of tax literacy. However, this finding is inconsistent with the findings from Tan, who concluded that small businesses did not appear to have difficulty in regard to understanding and complying with tax obligations.⁷⁵ The reasons for this difference are unclear; however, Tan's research had a small sample size, and required small businesses to keep a diary for 12 months (which means that responses could have been biased or untruthful). In addition, there has been a significant number of changes to New Zealand's tax system since Tan's research, which was undertaken 25 years ago.

C Importance of tax literacy for small business owners

⁷³ Bornman and Wassermann (n 22).

⁷⁴ Saad (n 14).

⁷⁵ Tan (n 14).

All tax practitioners viewed tax literacy as being important for small business owners. Specifically, tax practitioners viewed tax literacy as being important because it could lead to more proactive and informed decisions being made by small business owners as they were more aware of the potential consequences of that decision. In addition, tax practitioners viewed tax literacy as being important because it reduced the risk of taking an incorrect tax position, which could negatively impact cashflow. This finding is consistent with research by Belle Isle, Freudenberg and Sarker, which found that small business owners with higher levels of tax literacy were more likely to have small businesses with better cashflow.⁷⁶ Finally, tax practitioners noted that, unlike other creditors, paying tax to Inland Revenue is not optional, and that if tax is not paid on time (or an incorrect tax position is taken), then that small business owner (and/or the small business) could be subject to shortfall penalties, late payment penalties, and use-of-money interest.

Some tax practitioners also mentioned financial literacy more generally as being important for small business owners. Chardon argues that tax literacy is a subset of financial literacy,⁷⁷ so this finding is consistent with this proposition. These tax practitioners were of the view that financial literacy was likely to lead to increased business performance.

D Demographics with lower levels of tax literacy

Tax practitioners were of the view that small business owners with more business experience typically had higher levels of tax literacy. However, tax practitioners were also of the view that age did not necessarily have a correlation with higher levels of tax literacy, which is inconsistent with the findings from studies in other jurisdictions.⁷⁸

Tax Practitioner C was of the view that the size of a business dictated how tax literate its owners were, with owners of small businesses being more tax literate. This tax practitioner considered that this outcome arose because owners of larger businesses were more disconnected with their business, whereas owners of smaller businesses had a larger degree of involvement, especially in regard to finances. To the author's knowledge, this finding has not been reflected in any other studies and is inconsistent with research undertaken by Belle Isle and Freudenberg that suggests that medium sized businesses generally have higher levels of tax literacy compared to small businesses.⁷⁹

Most tax practitioners did not think that gender had an impact on the level of tax literacy, which is inconsistent with some research in other jurisdictions.⁸⁰ However, some practitioners did think that females were more likely to have higher levels of tax literacy than males, which is

⁷⁶ Belle Isle, Freudenberg and Sarker 'Is the literacy of small business owners important for cash flow management: the experts' perspective' (n 15).

⁷⁷ Chardon (n 49).

⁷⁸ See eg. Bhusan and Medury (n 60); Deloitte (n 60); Genest-Grégoire, Godbout, and Guay (n 16); Lyon and Catlin (n 60); Pham et al (n 17).

⁷⁹ Belle Isle and Freudenberg, 'Business Tax Knowledge of Australian Small and Medium Enterprises' (n 15).

⁸⁰ See, eg, Lyon and Catlin (n 60); Novoa-Hoyos, Depoo and Jiménez-Rodríguez (n 60); Pham et al (n 17).

also inconsistent with research in other jurisdictions. Tax Practitioner E indicated differences in tax literacy level due to gender could be because of how tasks are allocated in smaller businesses, given that, based on their experience, the female was often responsible for the bookkeeping or finance function in a small business.

The majority of tax practitioners did not think that small business owners operating in particular industries such as industries that are more regulated) had higher levels of tax literacy. However, some tax practitioners did think that small business owners operating in certain industries (e.g. farming) did have higher levels of tax literacy, and that those operating in more creative industries had lower levels of tax literacy. This result is broadly consistent with the research by Belle Isle, Freudenberg and Sarker, who found that owners of small businesses with the ANZSIC classification code 'M', which relates to professional, scientific and technical services, had higher levels of tax literacy.⁸¹

Consistent with research in other jurisdictions,⁸² a number of tax practitioners considered that there was a strong link between general literacy and tax literacy, with small business owners that had higher levels of general literacy being more tax literate (and vice-versa). On a similar note, tax practitioners considered that small business owners that were more educated had higher levels of tax literacy. A number of tax practitioners mentioned that small business owners with learning difficulties such as dyslexia were more likely to have lower levels of tax literacy, and Tax Practitioner E considered that small business owners were more likely to have learning difficulties.

E Aspects of the tax system with lower understanding

Tax practitioners mentioned a number of aspects of the tax system that had lower understanding, and some tax practitioners believed that all aspects of the tax system were poorly understood. However, the most commonly mentioned aspect of the tax system with lower understanding was provisional tax. While provisional tax is not a new concept (having been introduced in 1957),⁸³ there have been a number of recent changes⁸⁴ to the provisional tax system which some tax practitioners viewed as giving rise to lower levels of understanding.

The next most commonly mentioned aspect of the tax system with lower understanding was fringe benefit tax. Again, fringe benefit tax is not a new concept (having been introduced in 1985).⁸⁵ More recently, Policy and Regulatory Stewardship completed a review of fringe

⁸¹ Belle Isle, Freudenberg and Sarker, 'The business tax literacy of Australian small businesses' (n 15).

⁸² See, eg, Michaela Moučková and Leoš Vitek, 'Tax literacy' (2018) 66(2) *Acta Universitatis Agriculturae et Silviculturae Mendelianae Brunensis* 553; Bhushan and Medury (n 60); Genest-Grégoire, Godbout, and Guay (n 16); Lyon and Catlin (n 60); Pham et al (n 17); Novoa-Hoyos, Depoo and Jiménez-Rodríguez (n 60).

⁸³ Annie Cho, 'The Five Phases of Company Taxation in New Zealand: 1840-2008' (2008) 14 *Auckland University Law Review* 150.

⁸⁴ For example, the enactment of section 120KBB of the *Tax Administration Act 1994* (NZ) (which applies from beginning of the 2017-18 income year), which modifies the calculation of use-of-money interest under the standard uplift method.

⁸⁵ Inland Revenue, *Fringe benefit tax: regulatory stewardship review* (2022) 64.

benefit tax and state, amongst other things, that ‘[f]inding information on FBT can be daunting for taxpayers. Due to its complexity, taxpayers who do not take professional advice are particularly likely to struggle with FBT’. This sentiment appeared to be shared by tax practitioners. In addition, some tax practitioners were of the view that small business owners did not want to understand (and comply) with fringe benefit tax, because they did not agree with fringe benefit tax as a matter of principle. This finding is also alluded to by Policy and Regulatory Stewardship, who comment that ‘there is belief that FBT is not complied with—in particular, that the work-related vehicle exemption is misused or avoided’.⁸⁶ It is also noted that some small businesses might not be required to comply with the fringe benefit tax rules if they do not provide non-cash benefits to employees.

Other aspects of the tax system with lower understanding mentioned by tax practitioners included GST, the entertainment regime,⁸⁷ progressive tax rates for individuals, secondary tax codes, company taxation, deductibility of expenses, and the taxation of land transactions. None of these aspects of the tax system are new or have been subject to recent changes (with the exception of the introduction of the bright-line test in respect of land transactions, which has been subject to a number of amendments).⁸⁸ Accordingly, it is unclear why these aspects of the tax system have particularly low levels of understanding.

F Tax literacy and tax positions taken

There was not a consensus amongst tax practitioners as to whether more tax literate small business owners were more likely to take more aggressive tax positions (or vice-versa). Rather, tax practitioners viewed the risk tolerance of that specific small business owner as being the driver behind the tax position taken, and if the small business owner was more tolerant of risk generally, then they would be more likely to take an aggressive tax position. Interestingly, a number of tax practitioners viewed both the fairness of the tax system (or a particular regime) as giving rise to more aggressive tax positions, in addition to attitudes towards compliance more generally. Finally, some tax practitioners noted that small business owners who took more aggressive tax positions were likely to gravitate towards tax practitioners who took more aggressive tax positions on behalf of their clients. This finding is consistent with previous research by Tan, who found that aggressive taxpayers preferred aggressive tax practitioners.⁸⁹ However, it is unclear as to whether aggressive tax positions are taken at the behest of a client, or whether aggressive tax positions are instigated by tax practitioners themselves.

⁸⁶ Ibid 61.

⁸⁷ *Income Tax Act 2007* (NZ), sub-pt DD.

⁸⁸ Ibid, s CB 6A. The bright-line test taxes gains made on the disposal of ‘residential land’ if the disposal occurs within the ‘bright-line period’. The ‘bright-line period’ was originally two years, with this subsequently being increased to five years (and then ten years). Recently, the ‘bright-line period’ has been reverted to two years. Numerous changes have also been made to the ‘main home exclusion’.

⁸⁹ See eg, Lin Mei Tan, ‘Towards an understanding of the tax practitioner-client role relationship: A role analysis’ (PhD Thesis, The Australian National University, 2009).

VI CONCLUSION

Tax practitioners adopted different definitions of tax literacy; however, most definitions favoured the awareness element of Bornman and Wasserman's framework. Accordingly, the definitions of tax literacy provided by tax practitioners are only partly aligned with Bornman and Wassermann's framework, which posits that tax literacy requires awareness of tax, contextual knowledge and meaning making/informed decision making despite some tax practitioners referring to the contextual knowledge or the meaning making/informed decision-making elements of this framework.

Consistent with prior research, all tax practitioners, except for one, considered that small business owners had low levels of tax literacy. All tax practitioners viewed tax literacy as being important for small business owners. In regard to demographics with higher or lower levels of tax literacy, tax practitioners were of the view that small business owners that had more experience and higher levels of general literacy and education were more likely to have higher levels of tax literacy. However, there was no consensus as to whether the size of the business, the industry the business operated in, and the gender of the small business owner impacted tax literacy.

Tax practitioners considered that, for small business owners, provisional tax and fringe benefit tax were the most misunderstood aspects of the tax system, which is surprising given that these regimes have been enacted for a number of years. In addition, tax practitioners also viewed GST, the entertainment regime, progressive tax rates for individuals, secondary tax codes, company taxation, deductibility of expenses, and the taxation of land transactions as being misunderstood by small business owners. Finally, tax practitioners did not generally consider that more tax literate small business owners were more likely to take more aggressive tax positions or vice-versa.

A limitation of this paper is the lack of input from other stakeholders, and in particular, small business owners themselves. Another limitation of this paper arises from the research method, being semi-structured interviews. Semi-structured interviews have some disadvantages, including a lack of validity and potential for observer bias. However, given the exploratory nature of this research, alternative methods of gathering data would not have been appropriate. Furthermore, the relatively small sample size is another limitation of this paper. In the author's view, saturation of information occurred after ten interviews, and it is unlikely that additional interviews would have resulted in additional insights.

There are number of areas in which future research would be beneficial. Firstly, future research could involve a wide scale survey of small business owners, which would allow triangulation of the findings in this paper and assist in overcoming the limitations discussed above. Second, there is scope to undertake further research that involves the revenue authority, Inland Revenue as the knowledge seller and assess the role that it plays in regard to the tax literacy of small business owners in New Zealand.

Further research could also look to replicate studies undertaken in other jurisdictions (e.g. Australia). For example, future research could consider whether, in the context of small business owners in New Zealand, there a relationship between tax literacy and business cashflow, tax literacy and the perceptions of usefulness of financial records, and tax literacy and confidence. In addition, future research could also consider how the tax literacy levels of small business owners might be improved, and to that end, what initiatives should be encouraged or implemented.

APPENDIX 1

Table 1: Tax Literacy Research in Other Jurisdictions

| Author(s) | Jurisdiction | Sample | Findings |
|--|---------------------|--------------------|---|
| Genest-Grégoire, Godbout, and Guay ⁹⁰ | Canada | 1,000 participants | The researchers conclude that age, family income and education level impact positively on tax literacy. In addition, frequent consultation of tax-related information in the media was also associated with stronger knowledge. Surprisingly, having children was found to be associated with lower levels of tax literacy. |
| Pham et al ⁹¹ | Canada | 2,739 participants | The authors conclude that as per previous research, tax literacy follows patterns that are also observed for general financial literacy. That is, age, education, and family income are all associated with higher |

⁹⁰ Genest-Grégoire, Godbout and Guay (n 16).

⁹¹ Pham et al (n 17).

| Author(s) | Jurisdiction | Sample | Findings |
|--|----------------|--------------------|--|
| | | | scores, as is being male. |
| Novoa-Hoyos, Depoo and Jiménez-Rodríguez ⁹² | Colombia | 6,713 participants | Results showed that there were significant differences in the tax literacy levels of different aged people and those that were more educated. Those that were most likely to have high levels of tax literacy were middle-aged men, and those most likely to have low levels of tax literacy were low-educated single women. |
| Moučková and Vitek ⁹³ | Czech Republic | 150 participants | Students who have taken tax courses, including those who had not taken advanced tax courses, were well to excellently versed in tax matters. Accordingly, the authors conclude that education has a positive impact on tax literacy. |
| Blechová and Sobotovičová ⁹⁴ | Czech Republic | 189 participants | The results show that more than 50 percent of respondents have minimum or deficient knowledge in the area of taxation, and that extramural students had better tax knowledge than full-time students. |

⁹² Novoa-Hoyos, Depoo and Jiménez-Rodríguez (n 60).

⁹³ Moučková and Vitek (n 82).

⁹⁴ Beáta Blechová and Šárka Sobotovičová, 'Tax Education as a Part of Financial Literacy' (2013) 7(14) *Trends Economics and Management* 17.

| Author(s) | Jurisdiction | Sample | Findings |
|--|--------------|------------------|---|
| Bhushan and Medury ⁹⁵ | India | 516 participants | The authors concluded that, overall, tax literacy levels were poor. In addition, the authors concluded that males were more likely to have higher levels of tax literacy, and that tax literacy increases with age, education and income. |
| Resmi, Pahlevi and Sayekti ⁹⁶ | Indonesia | 56 participants | The authors found that there was a significant relationship between high levels of tax literacy, business performance and business growth. |
| Latiff et al ⁹⁷ | Malaysia | 143 participants | Approximately 30 to 35 percent of the participants did not master tax concepts, and professionals, army officers, and business owners were more tax literate than farmers. |
| Loo and Ho ⁹⁸ | Malaysia | 250 participants | The findings revealed that the majority of respondents were unable to identify the correct year to return income in and were unaware of various relief available to them. Despite a large majority of the |

⁹⁵ Bhushan and Medury (n 60).

⁹⁶ Siti Resmi, Reza Widhar Pahlevi and Fran Sayekti, 'Is There a Pattern of Relationships between Financial Literacy, Tax Literacy, Business Growth, and Competitive Advantage on Creative MSMEs in Yogyakarta' (2019) 7(4) *Journal of Advanced Management Science* 136.

⁹⁷ Ahmed Razman Abdul Latiff et al, 'Tax literacy rate among taxpayers: Evidence from Malaysia' (2005) 9(1) *Jurnal Akuntansi dan Auditing Indonesia* 1.

⁹⁸ Loo and Ho (n 58).

| Author(s) | Jurisdiction | Sample | Findings |
|-----------------------------------|----------------|--------------------|--|
| | | | respondents having tertiary education, their tax knowledge in respect of personal taxation was low. |
| Kamaluddin and Medi ⁹⁹ | Malaysia | 900 participants | The majority of participants, salaried taxpayers from the eastern part of Malaysia, can be classified as “just literate”. |
| Hamid et al ¹⁰⁰ | Malaysia | 140 participants | This study found that taxpayers lacked tax awareness and had a lack of tax knowledge. |
| Nichita et al ¹⁰¹ | Romania | 358 participants | Higher levels of tax literacy resulted in a positive impact upon voluntary tax compliance. |
| Deloitte ¹⁰² | United Kingdom | 2,000 participants | Deloitte found that levels of tax knowledge in the United Kingdom are generally low, particularly in respect of tax codes and the top rate of income tax. Age, income and educational attainment are found to be key drivers behind the level of tax knowledge. Interestingly, tax knowledge was also found to be robustly |

⁹⁹ Kamaluddin and Medi (n 58).

¹⁰⁰ Nadiah Abd Hamid et al, ‘Taxpayer Perceptions of Tax Awareness, Tax Education, and Tax Complexity among Small and Medium Enterprises in Malaysia: A Quadrant Analysis Approach’ (2022) 10(1) *Universal Journal of Accounting and Finance* 231.

¹⁰¹ Anca Nichita et al, ‘We Learn Not for School but For Life: Empirical Evidence of the Impact of Tax Literacy on Tax Compliance’ (2019) 57(5) *Eastern European Economics* 397.

¹⁰² Deloitte (n 60).

| Author(s) | Jurisdiction | Sample | Findings |
|--------------------------------|--------------------------|--------------------|---|
| | | | and positively associated with perceptions of fairness in the tax system, and willingness to pay more tax. |
| Lyon and Catlin ¹⁰³ | United States of America | 1,131 participants | The authors identified substantial gaps in tax literacy regarding concepts such as withholding and tax liability, tax brackets, tax deductions versus credits, charitable contributions, income and exclusions (gifts), and payroll/self-employment tax. As with other studies, tax literacy was found to be higher for males, older taxpayers, those who were more educated and those who had higher household income. |

¹⁰³ Lyon and Catlin (n 60).

PREPARING FOR ‘DISEASE X’: LESSONS FROM TAX AND NON-TAX POLICY RESPONSES TO THE COVID-19 PANDEMIC IN SINGAPORE AND AUSTRALIA

VINCENT OOI*

Abstract

During the Covid-19 pandemic, a lack of pre-pandemic planning resulted in sub-optimal policy outcomes. Crucial lessons can be drawn from the experience of Singapore and Australia in the pandemic in implementing various tax and non-tax economic measures; lessons that can help in preparing for the next pandemic (“Disease X”). This article analyses and critically evaluates three main categories of economic measures: direct payments, tax measures and non-tax “other” measures. It finds that direct payment measures such as jobs support had a very significant impact on preserving jobs and supporting the economy. However, eligibility conditions have to be carefully designed for such measures to be feasible. This article finds that insolvency and rent moratoriums can be effective in dealing with the immediate effects of a pandemic, though they must be allowed to expire in a timely manner. Finally, this article highlights the potential benefits of loans facilitated by the Government.

I INTRODUCTION

The Covid-19 pandemic had a massive impact on the world in terms of the loss of millions of lives, negative effects on the health of hundreds of millions,¹ and severe disruption to commerce and the global economy.² While the immediate focus of governments when Covid-19 was declared by the World Health Organisation (“WHO”) to be a global pandemic on 11 March 2020 was undoubtedly on public health, as the pandemic progressed, economic responses quickly became necessary. The considerable disruption to commerce caused by the shutdown of supply chains, implementation of lockdowns, massive reduction in production and consumption, and general poor economic outlook meant that countries faced the threat of

* Assistant Professor, Yong Pung How School of Law, Singapore Management University. This research is supported by the Singapore Tax Academy Research Initiative. The author would like to thank the editors and anonymous referee(s) for their helpful feedback.

¹ World Health Organisation, “Covid-19 Circulation, World”, <<https://data.who.int/dashboards/covid19/>> (accessed 1 August 2025).

² World Bank Group, *World Development Report 2022: Finance for an Equitable Recovery* (2022) <<https://www.worldbank.org/en/publication/wdr2022>> (accessed 1 August 2025) (“World Bank”), 49-73; and Statista, “Impact of the Coronavirus Pandemic on the Global Economy - Statistics & Facts”, <<https://www.statista.com/topics/6139/covid-19-impact-on-the-global-economy>> (accessed 1 August 2025).

economic collapse and the loss of millions of jobs.³ Many individuals became unable to meet their day-to-day expenses and were at risk of becoming destitute and/or evicted from their homes. Global real Gross Domestic Product fell by 3.3% in 2020, in contrast to 2019, when it grew by 2.8%.⁴

Governments around the world responded to the economic fallout of the pandemic with a range of fiscal, monetary and other measures. The breadth of economic policy measures deployed by governments over a relatively short period of time and the data collected on their effects provides a rich source of information for the study of how tax and non-tax measures can be effectively used to achieve economic goals during pandemic situations. This article studies the measures implemented in Singapore and Australia during the pandemic, mapping out and critically evaluating the different ways in which businesses and individuals can be supported during a major health and economic crisis. In both jurisdictions, the majority of the economic measures were in place from 2020 to 2021, with most of them tapering off or expired by early-2022.

In the wake of the pandemic, governments and other researchers started to look into the effects of the economic policy measures, examining whether the measures were effective or even counterproductive in some situations. Several important papers have been released by the Singapore⁵ and Australian⁶ governments, seeking to learn lessons from the pandemic and assess the effectiveness of the economic policy measures used. These papers tend to focus on the overall economic outlook and assess the main economic measures such as jobs support, rent support, direct tax measures, loans and moratoriums. As such, gaps exist in the literature when it comes to assessing some of the more secondary measures and these may be good areas for future research as more data becomes available.

The Australian Government's Covid-19 Response Inquiry Summary is titled "Lessons for the Next Crisis".⁷ This article is drafted in the same spirit, seeking to draw on the experience of Singapore and Australia in dealing with the economic fallout of the Covid-19 pandemic to

³ For a summary of how the Covid-19 pandemic reduced the productive capacity of the economy and affected aggregate demand, see Economic Policy Group, Monetary Authority of Singapore, "Background Note on Macroeconomic Policy Responses to Covid-19: The Singapore Experience", in BIS Papers No 122 <https://www.bis.org/publ/bppdf/bispap122_u.pdf> (accessed 1 August 2025) ("MAS Note"), 268.

⁴ International Monetary Fund, *World Economic Outlook, April 2021* (2021) <<https://www.imf.org/en/Publications/WEO/Issues/2021/03/23/world-economic-outlook-april-2021>> (accessed 1 August 2025), 9.

⁵ Ministry of Finance, *An Interim Assessment of the Impact of Key COVID-19 Budget Measures* (2021) <[https://www.mof.gov.sg/docs/default-source/default-document-library/news-and-publications/featured-reports/interim-assessment---covid-19-budget-measures-\(19-feb-2021\).pdf](https://www.mof.gov.sg/docs/default-source/default-document-library/news-and-publications/featured-reports/interim-assessment---covid-19-budget-measures-(19-feb-2021).pdf)> (accessed 1 August 2025) ("MOF Interim Assessment"); and Ministry of Finance, *Assessment of the Impact of Key COVID-19 Budget Measures* (2022), <<https://www.mof.gov.sg/docs/default-source/default-document-library/news-and-publications/featured-reports/17-feb-2022-6-30pm-assessment-of-the-impact-of-key-covid-19-budget-measures.pdf>> (accessed 1 August 2025) ("MOF Assessment").

⁶ Department of the Prime Minister and Cabinet, *COVID-19 Response Inquiry Summary: Lessons for the Next Crisis* (2024) <<https://www.pmc.gov.au/sites/default/files/resource/download/covid-response-inquiry-summary.pdf>> (accessed 1 August 2025) ("Aus Covid Inquiry"); and Australian Government, *Independent Evaluation of the JobKeeper Payment Final Report* (2023), <<https://treasury.gov.au/sites/default/files/2023-10/p2023-455038.pdf>> (accessed 1 August 2025) ("Aus Gov Evaluation").

⁷ Aus Covid Inquiry (n 6).

better prepare governments to respond to the next pandemic. Scientists and the WHO use a placeholder concept called “Disease X” to aid in public health planning, so that when (and not if) a new infectious pathogen arises, there can be a swifter and more effective public health response that could save millions of lives.⁸ While “Disease X” has been on the WHO’s updated Blueprint list of priority diseases since February 2018,⁹ the call for better preparation to deal with the next “Disease X” has been growing since the Covid-19 pandemic (including by the Director-General of the WHO).¹⁰ By mapping out and critically evaluating the economic measures used during the Covid-19 pandemic, this article aims to assist in the planning of future economic responses to “Disease X”, so that governments can have a ready toolkit of economic measures to deploy at short notice to mitigate the harshest economic impacts of the next pandemic.

One way of classifying the wide range of economic tools available to governments is to divide them into three general categories: fiscal, monetary and financial sector measures. Examples of fiscal measures include tax breaks for firms and individuals, direct cash transfers to individuals and income support for businesses. Examples of monetary measures include asset purchases, central bank liquidity and changes in interest rates. Examples of financial sector measures include debt moratoriums for households and firms and regulatory forbearance.¹¹ In response to the pandemic, the Singapore and Australian governments employed a range of measures that could be described as “fiscal”, “monetary” and “other” measures, going beyond those measures commonly used by governments around the world listed in the examples above.

This article focuses on those measures which most directly impact individuals and businesses, the most significant of which are direct payments such as those relating to jobs support, rent support, and general payments to individuals. A range of tax measures such as reduced tax liability and tax deferrals are also discussed. These measures can broadly be described as “fiscal” in nature. Tax measures such as the extension of administrative timelines and the provision of safe harbours can be viewed as examples of regulatory forbearance, though the label “financial sector measures” may perhaps be inapt. In addition to the abovementioned categories of “direct payments” and “tax measures”, this article also discusses a range of non-tax “other” measures such as loans facilitated by the Government, moratoriums on insolvency proceedings and evictions, and superannuation withdrawals. Monetary measures were employed by both the Singapore and Australian governments but are beyond the scope of this article.

⁸ Morgan Coulson, “Defining Disease X” (John Hopkins Bloomberg School of Public Health) <<https://publichealth.jhu.edu/2024/what-is-disease-x/>> (accessed 1 August 2025).

⁹ As defined by the WHO, “Disease X represents the knowledge that a serious international epidemic could be caused by a pathogen currently unknown to cause human disease.” (See WHO, Prioritizing Diseases for Research and Development in Emergency Contexts” <<https://www.who.int/activities/prioritizing-diseases-for-research-and-development-in-emergency-contexts/>> (accessed 1 August 2025).

¹⁰ Maria Kerkhove, Michael Ryan and Tedros Adhanom Ghebreyesus, “Preparing for “Disease X”” (2021) 374(6566) *Science* 377; and Muhammad Tahir, *et al.*, “Disease X: A Hidden but Inevitable Creeping Danger” (2021) 43(11) *Infection Control & Hospital Epidemiology* 1758.

¹¹ World Bank (n 2), 8.

II DIRECT PAYMENTS

A Overview

Of all of the economic measures available to governments to aid businesses and individuals, direct payments are likely to have the most immediate and significant impact. Direct cash injections aid the cashflow of businesses, allow them to continue operations and potentially keep staff that might have to otherwise be retrenched. Similarly, individuals are able to use the cash payments to meet their immediate expenses and forestall potential evictions for non-payment of rent. Three main types of direct payments were made in Singapore and Australia during the pandemic, namely, jobs support, rent support, and general payments to individuals. While one might intuitively assume that the former would be targeted at businesses and the latter two would be targeted at individuals, it should be recognised that, if the policy measures are properly crafted to incentivise the preservation of jobs, support for businesses would indirectly support individuals as well. The Singapore Ministry of Finance acknowledged that it was a potential policy option to channel an equivalent amount of funds directly to workers instead of through jobs support measures. However, it opted to focus on the latter due to the monetary and psychological benefits of continued employment and the benefits of helping the corporate sector retain its capabilities and bounce back more quickly when the economy recovered.¹² In a similar vein, rent support measures in Singapore were largely targeted at businesses rather than individuals.

The main concern with direct payments is that they are extremely expensive measures, making it unfeasible for large sums to be disbursed without at least some conditions attached. It is common for some form of means-testing to be applied for direct payments, to ensure that such relief is only provided to those businesses and individuals who most need the support. However, the need for some basic level of relief to be rolled out quickly in a pandemic situation also means that at least some modest amount of direct payments may have to be provided regardless of the means of the recipients.

Ultimately, if larger sums are to be disbursed, this will have to be done in a more targeted manner, depending on the policy goals to be achieved. For example, it is common for there to be direct payments conditional upon the retention of jobs, where businesses are given cash payouts tied to their payroll numbers. Other forms of payments are directed at specific expenses, such as rent relief. This does raise the question of policy design and how measures involving direct payments can be crafted so that they can properly achieve their policy aims. Potential concerns include payments to businesses for job retention, where the businesses nevertheless retrench their employees, and landlords raising rents after their tenants receive rent assistance payments. Proper safeguards in direct payment measures thus have to be built in to ensure that the payments can actually achieve policy goals.

¹² MOF Assessment (n 5), 21. Also see, MAS Note (n 3), 270.

One major debate that has arisen in the context of the provision of financial support in a pandemic is the question of whether the prior behaviour of the recipient in contributing towards the tax base should matter. In particular, whether companies engaging in tax dodging behaviour should be excluded from financial support. This idea, based on concept of the implied social contract between governments and taxpayers, has gained significant traction in Europe in particular,¹³ and may provide some strong conceptual justification for designing exclusionary criteria in the making of direct payments.

Direct payments do not necessarily need to be made through or with the assistance of the tax authorities. Depending on the policy aims, the disbursement can be done directly by the Treasury or Department/Ministry of Finance, or by specialist agencies such as those dealing with labour, trade and industry, or housing. However, given the crucial taxpayer information (especially for means-testing) which is often held by the tax authorities, and their experience in collecting and disbursing funds, it is not uncommon for the tax authorities to be tasked with the making of direct payments to businesses and individuals, or at least, to work together with other agencies for this purpose.

B Jobs Support

In both Singapore and Australia, the retention of jobs was one of the most important priorities and a considerable amount of resources was devoted to this aim, with broad support offered by the governments of both countries. The main jobs support measures in both countries started at approximately the same time, from around March-April 2020, though Singapore's Jobs Support Scheme ("JSS") covered wages paid from October 2019,¹⁴ while Australia's JobKeeper Scheme applied prospectively from 30 March 2020. The initial conditions for qualifying for jobs support in both countries were broadly similar. In Singapore, all active employers were eligible, except for Government organisations and those on a specific exclusion list. Employers could claim the JSS payout for each employee for which they were making the mandatory CPF¹⁵ (superannuation) contributions (thus, only Singapore Citizens and Permanent Residents would qualify). In Australia, qualifying employees had to be Australian residents under the Social Security Act 1991 and not just Australian tax residents,

¹³ Yvette Lind, "How to Award Financial Aid Amidst a Pandemic Through the Lens of a Tax Scholar" in Dominic de Cogan, Alexis Brassey and Peter Harris (Eds.), *Tax Law in Times of Crisis and Recovery* (Hart) (2023), 307. Also see Laura Panadès-Estruch, "Counting Doubloons. A Critical Assessment of How Caribbean British Overseas Territories Are Funding the COVID-19 Response" in Dominic de Cogan, Alexis Brassey and Peter Harris (Eds.), *Tax Law in Times of Crisis and Recovery* (Hart) (2023), 95.

¹⁴ See Ministry of Finance, "More than 140,000 Employers Will Receive Over \$7 Billion Payouts to Cover Wages of Over 1.9 Million Local Employees" <<https://www.mof.gov.sg/news-publications/press-releases/more-than-140-000-employers-will-receive-over-7-billion-payouts-to-cover-wages-of-over-1.9-million-local-employees>> (accessed 1 August 2025).

¹⁵ The "Central Provident Fund ("CPF")" is a national superannuation scheme in Singapore, where both employees and employers make compulsory monthly contributions based on a percentage of the employees' salaries (adjusted based on the age of the employee) (see CPF, "What is Central Provident Fund (CPF)?" <<https://www.cpf.gov.sg/service/article/what-is-central-provident-fund-cpf>> (accessed 1 August 2025)).

and each employee was required to provide a declaration that they had not been nominated by any other employer.¹⁶ However, the conditions for qualifying for JobKeeper were eventually tightened to include a decline in turnover test.¹⁷ There was no equivalent of this decline in turnover test in Singapore.

The governments of Singapore and Australia took different approaches in determining the quantum of support under their respective jobs support schemes. Under the JSS in Singapore, the Government co-funded a proportion of the first SGD \$4,600 of gross monthly wages (including employee CPF contributions) up until March 2021.¹⁸ Depending on the sector the employer was in, the proportion of the funding could be 25%, 50% or 75%, with the most affected sectors such as aviation and tourism receiving the highest tier of funding. In contrast to the Singapore approach, JobKeeper in Australia provided a fixed wage subsidy of AUD \$1,500 per fortnight to eligible businesses for each employee.¹⁹ JobKeeper was eventually refined when it was extended for another six months until March 2021. The payment rates were reduced and scaled based on the number of hours an employee worked. A decline in turnover test was also introduced.²⁰ By 4 January 2021, the payment rates for an employee working 20 hours or more per week had been cut to \$1,000 per fortnight.²¹

Both governments were faced with difficulties in balancing the need to quickly implement measures to support businesses and ensuring that businesses do not unduly profit from the support. The JSS sought to address this by adopting an approach which co-funded a proportion of employees' wages, ensuring that businesses would not be paid more than they were actually incurring in payroll costs per employee. Further, the JSS applied different tiers of funding based on an estimation of how badly a particular sector would be affected by the pandemic. Businesses would inevitably be less certain about the amount of support they would receive under such an approach than if a flat rate were to be applied across the whole economy, making it necessary to create mechanisms that would enable them to check on their eligibility for higher tiers of support and also an appeals mechanism should they be dissatisfied with their classification.²²

¹⁶ Heydon Wardell-Burrus, "Tax and Fiscal Policy Measures in Response to the COVID-19 Crisis - Overview of Tax and Fiscal Response by the Australian Government" (2020) *Bulletin for International Taxation* 452, 452. As the JSS was based on a proportion of gross monthly wages, there was no need for employees in Singapore to declare that they had not been nominated by any other employer.

¹⁷ Wardell-Burrus (n 16), 452.

¹⁸ Inland Revenue Authority of Singapore ("IRAS"), "Annex: Jobs Support Scheme FAQs" <https://www.iras.gov.sg/media/docs/default-source/uploadedfiles/pdf/annex.pdf?sfvrsn=755a67e4_13> (accessed 1 August 2025) ("IRAS JSS").

¹⁹ Treasury, "Economic Response to the Coronavirus: JobKeeper Payment" <https://treasury.gov.au/sites/default/files/2020-10/Fact_sheet-JobKeeper_Payment_0.pdf> (accessed 1 August 2025).

²⁰ Helen Hodgson, "Economic Support for Individuals During the First Wave of COVID-19: The Australian Experience" (2021) 27 *New Zealand Journal of Taxation Law and Policy* 353, 362.

²¹ Treasury, "Economic Response to the Coronavirus: Extension of the JobKeeper Payment" <https://treasury.gov.au/sites/default/files/2020-08/Fact_sheet-JobKeeper_Payment_extension.pdf> (accessed 1 August 2025) ("Treasury JobKeeper Extension").

²² IRAS JSS (n 18).

The approach of the JobKeeper Scheme in applying the payment of a flat amount across the board certainly produced benefits in ease of administration.²³ However, there were considerable concerns about potential overpayments to employers,²⁴ since such a flat amount would inevitably have resulted in some level of overpayment to employers in respect of some employees, with employers paid far more than the actual economic cost of preserving these jobs. Eventually, a “decline in turnover test” had to be implemented in an attempt to limit support to employers who most needed it.²⁵

In addition to measures focused on job retention,²⁶ the Singapore Government also subsequently implemented other measures intended to promote job creation. These included the SGUnited Jobs and Skills Package of SGD \$2 billion, aiming to create 40,000 jobs, and 25,000 places in traineeship programmes and 30,000 places in skills training programmes. A hiring incentive was also provided to employers who hired local employees who went through eligible SGUnited traineeship and training programmes.²⁷ Additionally, the Jobs Growth Incentive (“JGI”) provided wage support of 25% to 50% for each new local hire that increased the firm’s total headcount.²⁸

Numerous studies have since been conducted to determine the effectiveness of jobs support measures in both Singapore and Australia. The Singapore Government estimates that total fiscal support (including the JSS) prevented the resident unemployment rate from rising by a further 1.7 percentage points in 2020, saving an estimated 155,000 jobs over 2020-2021.²⁹ Of these fiscal measures, the JSS was estimated to contribute 0.9 of a percentage point, with other fiscal measures contributing a further 0.8 of a percentage point.³⁰ Monetary policy was estimated to have prevented a further 0.3 percentage point rise in the unemployment rate.³¹ The Singapore Government estimates that without fiscal and monetary policy support, the resident unemployment rate would have reached 6.1% in 2020 and 7.5% in 2021, 2 percentage points and 4 percentage points higher than the actual respective rates.³² It has been acknowledged that a large part of the overall shock to employment from the pandemic was absorbed by the foreign workforce, which shrank by 214,000 between 2019 and 2021.³³

²³ See Hodgson (n 20), 362.

²⁴ See Treasury, *Insights from the First Six Months of JobKeeper* (October 2021) <https://treasury.gov.au/sites/default/files/2021-10/p2021-211978_0.pdf> (accessed 1 August 2025).

²⁵ Treasury JobKeeper Extension (n 21).

²⁶ The JSS was subsequently extended for another six months for a specific list of sectors such as the F&B, Retail, Leisure & Hospitality sectors. Modest amounts were also disbursed under the Small Business Recovery Grant (see IRAS, “40,000 Businesses Receive Support Through Small Business Recovery Grant” <<https://www.iras.gov.sg/news-events/newsroom/40-000-businesses-receive-support-through-small-business-recovery-grant>> (accessed 1 August 2025) (“IRAS Small Businesses”).

²⁷ Ministry of Manpower, “Support for Local Jobseekers Through SGUnited Jobs and Skills Package” (26 May 2020) <<https://www.mom.gov.sg/newsroom/press-releases/2020/0526-sgunited-jobs-and-skills-package>> (accessed 1 August 2025).

²⁸ IRAS, “Jobs Growth Incentive (JGI)” <<https://www.iras.gov.sg/schemes/disbursement-schemes/jobs-growth-incentive>> (accessed 1 August 2025).

²⁹ MOF Interim Assessment (n 5), 11.

³⁰ MOF Interim Assessment (n 5), 11.

³¹ MOF Interim Assessment (n 5), 11.

³² MOF Interim Assessment (n 5), 2 and 12.

³³ MOF Interim Assessment (n 5), 27.

Staff of the Reserve Bank of Australia estimate that in the first half of 2020, one in five JobKeeper recipients would not have stayed employed but for the scheme, preventing the loss of at least 700,000 jobs (an estimated 5 percentage point reduction in the unemployment rate).³⁴ With the actual decrease of 650,000 employees in the Australian workforce during that period, overall losses are estimated to be twice as large without JobKeeper.³⁵ Other studies suggest that JobKeeper preserved around 812,000 jobs over its entire lifespan³⁶ and that 44 per cent of businesses said that they would not have survived without it.³⁷ The Australian Government has concluded that JobKeeper had maximum impact in the early months of the pandemic where macroeconomic risks were the greatest, preventing large-scale destructions of otherwise productive firms and saving jobs.³⁸ However, the positive effects of JobKeeper became smaller once the uncertainty and most acute macroeconomic risks receded.³⁹

In reflecting on the responses to the pandemic, the Australian Government acknowledged that JobKeeper had to be developed while the Government was focusing on the health crisis due to a lack of prior planning. This meant that there were delays and compromises with its policy design.⁴⁰ Despite subsequent efforts to tighten eligibility criteria for JobSeeker, difficulties with targeting businesses which required the most support meant that the scheme could be inefficient in the later waves of the pandemic.⁴¹ Also, the policy decision to exclude casual workers, temporary migrants and foreign companies has been criticised,⁴² with the Australian Government acknowledging that this may have exacerbated skills shortages and inflationary pressures during the economic recovery.⁴³

C Rent Support

As the cashflow of businesses and individuals were severely affected by the pandemic, there were serious concerns about the ability of tenants to cover their rental expenses and the risk of widespread evictions. Singapore and Australia dealt with this problem rather differently, with

³⁴ James Bishop and Iris Day, *How Many Jobs Did JobKeeper Keep?* (2020) (Reserve Bank of Australia Research Discussion Paper, RDP 2020-07) <<https://www.rba.gov.au/publications/rdp/2020/pdf/rdp2020-07.pdf>> (accessed 1 August 2025), 28.

³⁵ Bishop and Day (n 34), 28.

³⁶ Timothy Watson, Juha Tervala and Tristram Sainsbury, *The JobKeeper Payment: How Good are Wage Subsidies?* (2022) (CAMA Working Papers, 2022-36) <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4103865> (accessed 1 August 2025), 66.

³⁷ Will Clarke, “Despite Lockdown Victorian Businesses More Positive About State’s Economy, Says Sensis Survey” (2020) <<https://www.sensis.com.au/despite-lockdown-victorian-businesses-more-positive-about-states-economy-says-sensis-survey>> (accessed 1 August 2025), cited by Aus Gov Evaluation (n 6), 31.

³⁸ Aus Gov Evaluation (n 6), 73.

³⁹ Aus Gov Evaluation (n 6), 74.

⁴⁰ Aus Covid Inquiry (n 6), 17.

⁴¹ Aus Gov Evaluation (n 6), 74.

⁴² Australian Council of Trade Unions, *JobKeeper: Flawed But Necessary* (2023) <<https://www.actu.org.au/wp-content/uploads/2023/09/D30-Independent-Evaluation-of-JobKeeper-ACTU-Submission-1.pdf>> (accessed 1 August 2025), 4-7.

⁴³ Aus Covid Inquiry (n 6), 17.

Singapore focusing on rent support measures in the form of (targeted) direct payments and Australia focusing on a rent moratorium (but with some direct payments). Given Singapore extremely high home ownership rate (around 90 per cent from 2014 to 2023),⁴⁴ the focus was very much on commercial property and supporting businesses rather than residential property.

Under the Rental Relief Framework, the Singapore Government required qualifying property owners to provide their eligible Small and Medium Enterprise (“SME”) tenants with one to two months of rental relief (“Rental Relief”) (paid for by the Government)⁴⁵ and an additional equivalent period of rental (“Additional Rental Relief”) (borne by the owners), though landlords facing financial hardship could apply for further assistance from the Government.⁴⁶ To prevent the rent support from being withheld by the landlords, the Government provided for the appointment of “rental relief assessors” to adjudicate disputes between landlords and tenants with respect to the rental relief arrangements and provided that their decisions would be binding and not appealable.⁴⁷

In addition, the Singapore Government provided for a property tax rebate for non-residential property, of up to 100% of the annual property tax payable for such properties from 1 January 2020 to 31 December 2020.⁴⁸ Landlords were required to pass on the rebate to their tenants, with fines applicable for those who failed to do so.⁴⁹ The experience of Singapore in providing rent support suggests that given the typically strong position of landlords vis-à-vis their tenants, it may be necessary to have accompanying provisions in such measures to compel landlords to pass on the benefits of such direct payments to their tenants.

D General Payments to Individuals

While the bulk of economic support in both Singapore and Australia went towards attempting to preserve jobs, significant retrenchments nevertheless occurred despite such support, making it necessary to provide individuals with other forms of support not necessarily tied to their continued employment. Different approaches were taken by the two governments, with more limited and targeted payments made in Singapore as compared with the regular payments under the JobSeeker Scheme in Australia. In Singapore, assistance was provided to those who lost their jobs or a substantial portion of their income due to the pandemic. There was also some support specially available to self-employed individuals, who could not access the main job

⁴⁴ Statista, “Rate of Home Ownership in Singapore from 2014 to 2023” <<https://www.statista.com/statistics/664518/home-ownership-rate-singapore/>> (accessed 1 August 2025).

⁴⁵ Ministry of Law, “Commencement of Rental Relief Framework” <<https://www.mlaw.gov.sg/news/press-releases/2020-07-30-commencement-of-rental-relief-framework/>> (accessed 1 August 2025) (“MinLaw Rental Relief”)

⁴⁶ Ministry of Law, “Annex A: Eligibility Criteria for Rental Relief and Additional Rental Relief” <<https://www.mlaw.gov.sg/files/news/press-releases/2020/8/AnnexA.pdf>> (accessed 1 August 2025).

⁴⁷ MinLaw Rental Relief (n 45).

⁴⁸ Ministry of Finance, “Resilience Budget 2020, Supplementary Budget Statement” <<https://www.mof.gov.sg/singapore-budget/budget-2020>> (accessed 1 August 2025), Annex B-5.

⁴⁹ COVID-19 (Temporary Measures) Act 2020, s 29.

support schemes. The main schemes included the Temporary Relief Fund, which was a one-off cash assistance of SGD \$500 for eligible Singaporeans disbursed in April 2020, the COVID-19 Support Grant, which provided a monthly cash grant of up to SGD \$800 for three months, and disbursements from the Courage Fund, which provided a one-time lump sum of SGD \$1,000 per household.⁵⁰ As for individuals who were self-employed, the Self-Employed Person Income Relief Scheme was introduced. Three cash payouts of SGD \$3,000 were disbursed in May, July and October 2020 under this programme. The Small Business Recovery Grant was introduced in 2021, and provided a one-time cash payout to small businesses, with sole proprietorships receiving a flat payout of SGD \$1,000.⁵¹

On the whole, the Singapore Ministry of Finance estimates that individuals and households enjoyed SGD \$10 billion in social support schemes targeted at providing monetary relief in 2020. On average, households were provided with SGD \$4,000 of which 87% were comprised of direct cash payments.⁵² Some of these payments were means-tested and focused on lower income households. For example, lower income workers in the bottom 20 percent of earners in Singapore, benefited from an SGD \$3,000 cash payout under the Workfare Special Payment.⁵³ On the whole, lower income households, received an additional SGD \$5,100 on average.⁵⁴

In Australia, a key form of general support not tied to continued employment came in the form of the JobSeeker Scheme. To be clear, JobSeeker Payment, previously known as “Newstart Allowance” has been the main unemployment benefit in Australia for decades. However, several key changes were made to the JobSeeker scheme to assist individuals during the Covid pandemic. Crucially, on top of the base rate of AUD \$565.70 per fortnight, a “Coronavirus supplement” was provided, initially at AUD \$550 per fortnight, and then eventually reduced to AUD \$250 and then AUD \$150 by 31 March 2021.⁵⁵ Access to the scheme was expanded to include permanent employees who were stood down or lose their employment, sole traders, the self-employed, casual workers and certain contract workers. There was also reduced means-testing, removing the need for applicants to run down their savings first.⁵⁶ Separately, the Australian Government also made two stimulus payments of AUD \$750 and two further

⁵⁰ Singapore Government, “Financial Support to Help Singaporeans Affected by COVID-19” <<https://www.gov.sg/article/financial-support-to-help-singaporeans-affected-by-covid-19>> (accessed 1 August 2025).

⁵¹ IRAS Small Businesses (n 26).

⁵² MOF Interim Assessment (n 5), 23.

⁵³ Ministry of Finance, “Resilience Budget 2020 – Care and Support Package: 400,000 Lower-Income Singaporeans will receive \$1.2 billion in Workfare Special Payment in July and October 2020” <<https://www.mof.gov.sg/news-publications/press-releases/resilience-budget-2020-care-and-support-package-400-000-lower-income-singaporeans-will-receive-1.2-billion-in-workfare-special-payment-in-july-and-october-2020>> (accessed 1 August 2025).

⁵⁴ MOF Interim Assessment (n 5), 23.

⁵⁵ Treasury, “Extension of Additional Income Support for Individuals” <https://treasury.gov.au/sites/default/files/2020-11/Fact_sheet-Income_Support_for_Individuals.pdf> (accessed 1 August 2025).

⁵⁶ Hodgson (n 20), 362. Also see Treasury, “Income Support for Individuals” <https://treasury.gov.au/sites/default/files/2020-04/Fact_sheet-Income_Support_for_Individuals.pdf> (accessed 1 August 2025).

payments of AUD \$250 to selected eligible recipients (which included those benefiting from JobSeeker Payments for the first two payments).⁵⁷

Unlike the Australian approach, which provided assistance regularly, the Singapore approach appears to have made payments more intermittently, with a heavier focus on creating more jobs for individuals and encouraging them to take up employment. Non-means-tested direct payments by the Singapore Government were infrequent and tended not to involve very large sums. With general direct payments to individuals being an extremely expensive measure, the Australian Government eventually tightened means-testing requirements.

III TAX MEASURES

A Overview

A wide variety of tax measures may be applied in a pandemic situation to help ease the burden of businesses and individuals. These include fiscal measures such as reducing tax liability and tax deferrals, but also other more regulatory measures such as the extension of administrative timelines and the provision of safe harbours. While tax measures are unlikely to have the same level of impact on businesses and individuals as direct payments, fiscal measures can potentially provide some level of support. Tax liability can be reduced, for example, by applying more generous tests in allowing certain expenditures to be deducted, or by allowing profits to be “carried-back” and offset against the income of previous years.

Tax deferral measures can also help with the cashflow of taxpayers. Measures such as allowing for accelerated depreciation and express tax deferral schemes fall into this category and effectively provide the taxpayer with an interest-free loan in the interim until the tax is actually due.⁵⁸ Other measures such as the extension of administrative timelines (such as for tax filing) and the provision of safe harbours (such as providing clarity on tax residence and whether a permanent establishment is present due to movement controls in a pandemic situation) can ease the mental and administrative burden on taxpayers, but may not necessarily have a significant impact on their cashflow and financial situation. The significant changes to working and business arrangements during the pandemic pushed the Singapore and Australian governments to take a more generous position on the deductibility of expenses incurred from working from home and provide safe harbours on residence rules during the period whilst traditional arrangements were disrupted.

B Reduced Tax Liability

⁵⁷ Treasury, “Payments to Support Households” <https://treasury.gov.au/sites/default/files/2020-10/Fact_sheet-Payments_to_support_households_0.pdf> (accessed 1 August 2025).

⁵⁸ Andrew Harper, “Finance Act Notes: Annual Investment Allowance, etc- Sections 74-76 and Schedule 24” [2008] 5 *British Tax Review* 480, 483; and Andrew Harper, “Finance Act Notes: Section 24 – First-Year Capital Allowances for Expenditure in 2009-2010” [2009] 5 *British Tax Review* 505, 507.

One significant concession that was implemented in both Singapore and Australia involved the more generous treatment of the deductibility of expenses incurred from working from home, though the measures were implemented in different ways. In light of the pandemic, many employees found themselves working from home and having to increase their spending there accordingly. However, the traditional requirements for the deductibility of such expenses have typically been extremely stringent in Singapore due to the requirement that such expenses be “wholly and exclusively” incurred in the production of income.⁵⁹ As a matter of practice, it was extremely difficult to successfully deduct expenses incurred through working from home before the Covid pandemic.

The Singapore Government granted a concession on this front by allowing certain work-related expenses such as the additional electricity and telecommunications costs to be deducted, subject to the taxpayer showing that there was indeed an increase during the Covid period.⁶⁰ Further, employers were allowed to claim capital allowances on some work-related equipment purchased by employees for use in their homes.⁶¹ In Australia, a distinction had long been drawn between “home occupancy” and “running expenses”.⁶² Though there were stringent conditions for claiming the former, it was well-established that the latter could be claimed, meaning that the “concessionary” position in Singapore was more similar to the orthodox Australian position on “running expenses”. From 1 March 2020 to 30 June 2022, a “shortcut method”, intended to relieve the administrative burden on taxpayers, was made available to allow for the deduction of additional expenses incurred as a direct result of working from home at a rate of AUD \$0.80 per work hour. Under this method, all working from home expenses would be covered and no such further expenses could be claimed, though the taxpayer did not have to manually keep track of all the individual expenses incurred.⁶³

Another scheme operated by the Singapore Government that actually reduced taxpayer liability was the enhanced carry-back relief scheme, though it had very limited applicability. For Year of Assessment (“YA”) 2020, tax losses and unutilised capital allowances incurred in that period could be carried back to the last three YAs, subject to a cap of SGD \$100,000. This allowed for businesses to potentially benefit from a tax refund, though at the headline corporate income tax

⁵⁹ Income Tax Act 1947, s 14(1).

⁶⁰ Tay Peck Gek, “Expenses Incurred from Working at Home Qualify for Tax Deductions”, *The Business Times* (1 June 2020) <<https://www.businesstimes.com.sg/international/expenses-incurred-working-home-qualify-tax-deductions>> (accessed 1 August 2025).

⁶¹ IRAS, “Tax Treatment of Expenses Incurred on Work-Related Assets to Facilitate Working from Home” <<https://www.iras.gov.sg/news-events/singapore-budget/covid-19-support-measures-and-tax-guidance/tax-guidance/for-companies-self-employed-partnerships/tax-treatment-of-expenses-incurred-on-work-related-assets-to-facilitate-working-from-home>> (accessed 1 August 2025).

⁶² Elizabeth Morton, Michael Curran and Sarah Hinchliffe, “COVID-19 Responses and the Contemplative Worker’s Home Occupancy Expense Claim” (2021) 50 (2) *Australian Tax Review* 81.

⁶³ Australian Taxation Office (“ATO”), “Working from Home Expenses” <<https://www.ato.gov.au/individuals-and-families/income-deductions-offsets-and-records/deductions-you-can-claim/working-from-home-expenses>> (accessed 1 August 2025).

rate, this would work out to a maximum of SGD \$17,000.⁶⁴ As such, it can be seen that measures providing for reduced tax liability generally involved tax savings of relatively small sums for the taxpayer.

One potential exception to this might be the position taken by the Singapore Government on the taxability of debts forgiven under the Ministry of Law's Simplified Debt Restructuring Programme ("SDRP"), that might actually have a significant tax impact. Under Singapore tax law, a debtor who has its loan forgiven might potentially need to pay tax on the amount forgiven. The SDRP, launched during the Covid pandemic was intended to help viable businesses restructure their debts and potentially rehabilitate. In light of this the Singapore Government clarified that debts forgiven under the SDRP will be regarded as capital in nature and hence not subject to income tax (Singapore does not tax capital gains).⁶⁵

C Tax Deferrals

Both Singapore and Australia also implemented measures allowing for accelerated depreciation. These are measures which effectively provide for tax deferrals without technically affecting the total amount of tax deductions allowed. The taxpayer's current income is reduced while increasing future income, due to the bringing forward of deductions. This operates like an interest-free loan from the Government and provides the business with more liquid cashflow.⁶⁶ In Singapore, for YA 2021, taxpayers were allowed to make an irrevocable election to accelerate their capital allowance claims for the purchase of plant and machinery. While the norm is to allow the purchase price to be apportioned over three years evenly,⁶⁷ under this temporary measure, taxpayers were allowed to deduct 75% of the cost in YA 2021 and the remaining 25% in YA 2022.⁶⁸

In Australia, the instant asset write-off threshold was increased from AUD \$30,000 to AUD \$150,000 and expanded to include all businesses with aggregated annual turnover of less than AUD \$500 million (up from AUD \$50 million). The idea was to allow more businesses to take advantage of this scheme, which allows for an immediate deduction of the full cost of the

⁶⁴ IRAS e-Tax Guide, *Income Tax: Enhanced Carry-back Relief System* (2nd Ed.) (8 May 2020) <https://www.iras.gov.sg/media/docs/default-source/e-tax/etaxguide_enhanced-carry-back-relief-system.pdf> (accessed 1 August 2025), paras [2.1]- [2.3].

⁶⁵ IRAS, "Tax Treatment of Debts Forgiven under MinLaw's Simplified Debt Restructuring Programme" <<https://www.iras.gov.sg/news-events/singapore-budget/covid-19-support-measures-and-tax-guidance/tax-guidance/for-companies-self-employed-partnerships/tax-treatment-of-debts-forgiven-under-minlaw's-simplified-debt-restructuring-programme>> (accessed 1 August 2025) ("IRAS SDRP")

⁶⁶ John Ralph, *Review of Business Taxation, Australia, A Platform for Consultation: Discussion Paper 2, Building on a Strong Foundation* (1999) vol 1, 117.

⁶⁷ Income Tax Act 1947, s 19A.

⁶⁸ IRAS, "Capital Allowances" <<https://www.iras.gov.sg/taxes/corporate-income-tax/income-deductions-for-companies/claiming-allowances/capital-allowances>> (accessed 1 August 2025).

capital asset purchased (up to the threshold) without having to wait for depreciation.⁶⁹ These measures not only had the effect of helping businesses with their cashflow but also encouraging investment in a time when businesses were likely to be strapped for cash.

The Singapore Government also allowed for an automatic deferment of corporate income tax payments for three months. Payments to be made in April, May and June 2020 were deferred to July, August and September 2020 respectively.⁷⁰ This was intended to assist businesses at a time where the economic outlook was very uncertain, but the period of deferral was relatively short.

D Extension of Administrative Timelines

The disruptions caused by the Covid pandemic extended to the practice of tax agents and other tax professionals, making it difficult for various administrative timelines to be complied with. As might be reasonably expected, tax authorities in Singapore and Australia accordingly allowed for some extensions of filing deadlines, with undoubtedly provided some temporary (non-financial) relief to taxpayers and their agents. Such extensions included both “across the board” (general) extensions and bespoke arrangements (which generally required negotiating with a tax officer). Just to give a few examples, in Singapore, the IRAS extended filing deadlines for no fewer than 11 different forms, spanning income tax (individual and corporate), goods and services tax, withholding tax, and various exchange of information mechanisms.⁷¹ In Australia, the ATO provided for various extensions, expressly providing guidance on its website on how to apply for lodgement and payment deferrals.⁷²

E Safe Harbours

The Covid pandemic considerably disrupted the working and living patterns of millions of people. Movement controls prevented people from crossing borders, turning plans to stay for the short-term into prolonged stays. Meanwhile, other people previously exercising overseas employment elected to return home to work remotely. These developments had potentially far-reaching tax consequences, for they could affect individual tax residency, corporate tax residency, and even result in a finding of a permanent establishment in a jurisdiction that was

⁶⁹ Treasury, “Delivering Support for Business Investment” <https://treasury.gov.au/sites/default/files/2020-03/Fact_sheet-Support_for_business_investment.pdf> (accessed 1 August 2025). Also see, Wardell-Burrus (n 16), 453.

⁷⁰ IRAS, “Resilience Budget, Solidarity Budget and Fortitude Budget” <<https://www.iras.gov.sg/news-events/singapore-budget/covid-19-support-measures-and-tax-guidance/support-measures/resilience-budget-solidarity-budget-and-fortitude-budget>> (accessed 1 August 2025). This applied to individuals as well.

⁷¹ IRAS, “COVID-19 - Advisory to Taxpayers” <<https://www.iras.gov.sg/news-events/announcements/covid-19---advisory-to-taxpayers>> (accessed 1 August 2025).

⁷² ATO, “Support for Tax Professionals” <<https://www.ato.gov.au/individuals-and-families/financial-difficulties-and-disasters/covid-19/support-for-tax-professionals>> (accessed 1 August 2025).

otherwise unplanned. Businesses and individuals were naturally extremely concerned about the uncertainties caused by these developments. The provision of guidance from the tax authorities (and in some cases, safe harbours) potentially greatly assisted taxpayers in easing their mental burdens and allowed them to concentrate on dealing with the commercial and personal challenges of the pandemic.

For individuals, a key question was whether they would be considered to be exercising employment and/or resident in a jurisdiction. In this respect, both the IRAS in Singapore⁷³ and the ATO in Australia⁷⁴ provided some guidance, which largely focused on the temporary nature of the employment and/or residence in the jurisdiction and lack of intention to reside there permanently. However, the IRAS went further and provided a safe harbour, stating that it was prepared to consider Singapore who returned and were working remotely as not exercising employment in Singapore if certain conditions were met (for example, if there was no change in the contractual terms governing their employment overseas before and after their return to Singapore, and that they were engaged in a temporary work arrangement due to Covid-19). As such, any employment income earned during their stay would not be taxable in Singapore.⁷⁵

Further, the IRAS also provided that non-resident foreigners in Singapore on short-term business who are unable to leave in 2020 would also be treated as not exercising an employment in Singapore if the period of their extended stay did not exceed 60 days and that the work done during their stay was not connected to their business assignment in Singapore and would have been performed overseas if not for Covid-19.⁷⁶

For companies, a key question would be whether, under the central management and control test applicable in both Singapore and Australia, the residency of a company might change due to the directors being forced to remain and attend board meetings in the jurisdiction. Both the IRAS and the ATO provided guidance on this important point. Under the safe harbour provided by the IRAS, a Singapore resident company would not lose its residency for YAs 2021 and 2022 just because it was not able to hold its Board of Directors meeting in Singapore due to the travel restrictions relating to Covid-19.⁷⁷ Conversely, a non-Singapore-resident company would also not become Singapore resident just because its Board of Directors was forced to hold meetings in Singapore.⁷⁸ The ATO's guidance stated that they would not apply compliance resources to determine if the central management and control of a company was in Australia if

⁷³ IRAS, "Working Remotely from Singapore due to COVID-19" <<https://www.iras.gov.sg/news-events/singapore-budget/covid-19-support-measures-and-tax-guidance/tax-guidance/for-individuals/working-remotely-from-singapore-due-to-covid-19>> (accessed 1 August 2025) ("IRAS Remote").

⁷⁴ ATO, "Residency and Source of Income" <<https://www.ato.gov.au/individuals-and-families/financial-difficulties-and-disasters/covid-19/support-for-individuals-and-employees/residency-and-source-of-income>> (accessed 1 August 2025) ("ATO Residency").

⁷⁵ ATO Residency (n 74).

⁷⁶ IRAS Remote (n 73).

⁷⁷ IRAS, "Tax Residence Status of a Company and Permanent Establishment" <<https://www.iras.gov.sg/news-events/singapore-budget/covid-19-support-measures-and-tax-guidance/tax-guidance/for-companies-self-employed-partnerships/tax-residence-status-of-a-company-and-permanent-establishment>> (accessed 1 August 2025) ("IRAS Residence")

⁷⁸ IRAS Residence (n 77).

the only reason for holding board meetings in Australia was because of the effects of the Covid-19 pandemic.⁷⁹

An additional concern would be whether a permanent establishment might be created in a jurisdiction where the employees of a company are stranded there due to travel restrictions. Both the IRAS and the ATO provided safe harbours on this point, though Singapore kept this safe harbour until YA 2023, unlike Australia, which terminated it on 31 December 2021. Broadly, the safe harbours would apply if a company did not have a permanent establishment in the jurisdiction before the pandemic and their employees remained in the jurisdiction because of pandemic-related travel restrictions.⁸⁰

In a situation where there is a sudden change and many taxpayers are potentially facing the same uncertain situation, it would be of great assistance to them if the tax authority could decisively make its position clear (possibly through the use of safe harbours) to help dispel taxpayer doubts. In the event that not all of the conditions of the safe harbours are met, taxpayers can still be assessed by the general tax law, though tax authorities can consider offering an advance ruling procedure for taxpayers to seek clarity.

IV NON-TAX MEASURES

A Overview

Apart from the largely fiscal measures discussed above, a broad range of non-tax (and non-fiscal) measures can be employed to support businesses and individuals in a pandemic. This article will focus on the more prominent ones used in Singapore and Australia, namely, moratoriums on insolvency proceedings and evictions, loans facilitated by the Government and superannuation withdrawals. All four types of non-tax measures discussed here have the effect of helping businesses and individuals deal with short-term liquidity issues temporarily caused by the pandemic.⁸¹ None of them is suitable as a long-term measure and must be removed once the pandemic is over. Allowing such measures to persist in the long-term may result in concealing true credit risks and increasing the probability of a future financial crisis.⁸² For the measures targeted at businesses, conceptually, the idea is for them to support viable businesses which are simply having temporary economic difficulties due to the pandemic. If not used with care, they can have the effect of allowing non-viable businesses to survive and hamper the economic recovery of the jurisdiction. However, providing support to businesses in this form prevents viable businesses from closing, putting the jurisdiction in a far stronger position once the pandemic is over.

⁷⁹ ATO “COVID-19 Effects on Foreign-incorporated Companies” <<https://www.ato.gov.au/individuals-and-families/financial-difficulties-and-disasters/covid-19/covid-19-effects-on-foreign-incorporated-companies>> (accessed 1 August 2025) (“ATO Foreign Companies”).

⁸⁰ IRAS Residence (n 77); and ATO Foreign Companies (n 79).

⁸¹ World Bank (n 2), 7.

⁸² World Bank (n 2), 7.

B Loans

A crucial non-tax measure extensively used by both the Singapore and Australian governments is the facilitation of loans by the Government, which can effectively be done through a risk-sharing (or insuring of credit risks) arrangement. In such arrangements, the Government can agree to bear some proportion of the risk of the loan, thus encouraging commercial lenders to extend credit facilities. While not considered to be conventional monetary policy, this measure does have the effect of stimulating lending and restoring aggregate demand.⁸³ As such, it can be a very powerful tool for ensuring the cashflow of businesses, even though, unlike direct payments, the loans will eventually need to be repaid. In Singapore, the Government worked closely with a list of participating financial institutions to retain SME's access to capital, with measures such as the Temporary Bridging Loan Programme ("TBLP"), administered by Enterprise Singapore – the statutory board tasked with enterprise development. Under the TBLP, the Singapore Government would take up a proportion of risk with the participating financial institutions, up to a loan quantum of SGD \$1 million at an interest rate capped at 5%.⁸⁴ The TBLP was extended a total of three times, with varying proportions of risk borne by the Government and varying caps on loan quantum. The Enterprise Financing Scheme ("EFS") was administered by Enterprise Singapore and allowed businesses to take out loans for a variety of purposes including the funding of daily operational cashflow needs, trade financing, the fulfilment of secured overseas projects, and most recently, green financing.⁸⁵ It operated in a broadly similar manner to the TBLP.

Likewise, the Australian Government SME Guarantee Scheme created a risk sharing arrangement to encourage lending, whereby the Government would bear approximately 50% of the loss from bad debts under the scheme.⁸⁶ It is noted that the legislation creating the scheme placed a condition that the Minister can only guarantee loans if satisfied that the guarantee will assist in dealing with the economic impacts of Covid-19,⁸⁷ something that was never expressly stated as a condition in any of the Singapore counterpart measures. The maximum loan quantum per borrower was also generally lower under the Australian scheme, being capped at AUD \$250,000.⁸⁸

⁸³ MAS Note (n 3), 270.

⁸⁴ Enterprise Singapore, "Temporary Bridging Loan Programme (TBLP)" <<https://www.enterprisesg.gov.sg/financial-assistance/loans-and-insurance/loans-and-insurance/temporary-bridging-loan-programme/-/media/esg/files/financial-assistance/loans-insurance/sme-related-loan/tblp-faq.pdf>> (accessed 1 August 2025).

⁸⁵ Enterprise Singapore, "FAQ: Enterprise Financing Scheme" <<https://www.enterprisesg.gov.sg/resources/all-faqs/enterprise-financing-scheme>> (accessed 1 August 2025).

⁸⁶ Wardell-Burrus (n 16), 454.

⁸⁷ Guarantee of Lending to Small and Medium Enterprises (Coronavirus Economic Response Package) Act 2020 (Cth), s 5(2).

⁸⁸ Wardell-Burrus (n 16), 454, citing Treasury, Australian Government SME Guarantee Scheme: Scheme Rules (8 April 2020), r 3.2.

The Singapore Government estimates that its various financing schemes significantly reduced the probability of firm financial distress and supported employment, particularly among SMEs, with the TBLP lowering the risk of missed payments and contributing to a 0.26% increase in total employment on average.⁸⁹ By ensuring that viable firms could access credit, these programs helped prevent a cascade of bankruptcies and non-performing loans that could have destabilized the financial system.⁹⁰ The facilitation of loans by the Government through insuring credit risk is a recognised policy tool by the World Bank in ensuring continued access to finance.⁹¹

C Insolvency-Related Measures

Both Singapore and Australia introduced simplified debt restructuring programmes aimed at helping viable businesses continue their operations. Unlike a general insolvency procedure where an insolvency professional steps in to take over (or wind-up) the business, a debt restructuring programme allows the company to stay in control of the business and negotiate with creditors, while being assisted by a restructuring professional. In Singapore, companies could apply to join the Simplified Debt Restructuring Programme (“SDRP”) if they met certain conditions (with caps on their liabilities, turnover, and number of employees and creditors).⁹² The Government subsidised the Scheme, keeping fees relatively low. Further, the IRAS granted a concession such that debts forgiven under the SDRP would be regarded as capital in nature and hence not subject to income tax.⁹³ Businesses which were not viable and would not benefit from restructuring could access the Simplified Winding Up Programme, again at lower costs and with a Government subsidy.⁹⁴

In Australia, the Simplified Debt Restructuring Process was similarly designed, but it is noted that the total liabilities threshold for qualifying for the programme was lower at AUD \$1 million, though there were no annual sales turnover requirements or caps on the number of employees and creditors.⁹⁵ Interestingly, under the Australian process, only a simple majority

⁸⁹ Ministry of Trade and Industry, “Impact of Enterprise Singapore’s Financing Schemes During the COVID-19 Pandemic” in *Economic Survey of Singapore 2021* (2021), <https://www.mti.gov.sg/-/media/MTI/Resources/Economic-Survey-of-Singapore/2021/Economic-Survey-of-Singapore-2021/FA2_AES2021.pdf> (accessed 1 August 2025) (“MTI”), 97.

⁹⁰ MTI (n 89), 96. Also see MOF Interim Assessment (n 5), 45.

⁹¹ World Bank (n 2), 13-15.

⁹² Ministry of Law, “Simplified Insolvency Programme FAQ” <<https://io.mlaw.gov.sg/corporate-insolvency/sip-faq/>> (accessed 1 August 2025) (“MinLaw Simplified”)

⁹³ IRAS SDRP (n 65).

⁹⁴ MinLaw Simplified (n 92). Also see, the Insolvency, Restructuring and Dissolution (Amendment) Act 2020.

⁹⁵ Treasury “Simplified Debt Restructuring: A Factsheet for Small Business” <https://treasury.gov.au/sites/default/files/2021-04/simplified_debt_restructuring_v2.pdf> (accessed 1 August 2025).

of creditors by value must vote to accept the debt restructuring plan, whereas the Singapore programme required at least two-thirds of the creditors by value to agree.

The simplified debt restructuring programmes in both Singapore and Australia included general moratorium provisions preventing creditors' enforcement against businesses under the programmes. That said, following the end of insolvency-related support, insolvencies have started to rise in Australia. The Australian Securities and Investments Commission (ASIC) tracked 7,742 companies entering external administration from 1 July 2023 to 31 March 2024, which was a 36.2% increase from the previous nine-month assessment period.⁹⁶ Also, the ATO initially put many tax debts on hold during the Covid pandemic but has since started to step up its debt recovery actions.⁹⁷

D Moratoriums

Due to the effects of the pandemic on the cashflow of businesses and individuals, there were concerns about whether tenants would be able to cover their rental expenses and the risk of widespread evictions. Singapore and Australia took rather different approaches on this issue, with the former focusing on direct payments for rent support and very limited moratoriums, while the latter largely focused on rent moratoriums. One potential reason for this divergence in approaches is that Singapore has an extremely high home ownership rate (around 90 per cent from 2014 to 2023),⁹⁸ and thus, the focus was largely on commercial property. However, the Singapore Government did provide for a limited moratorium in the context of the rental relief framework discussed above. Eligible tenants would benefit from one to two months of rental relief (paid for by the Government).⁹⁹ The legislation provided for a moratorium on enforcement actions against tenant-occupiers for non-payment of rent until the notice of cash grant was issued to the property owner (or until 31 December 2020).¹⁰⁰ Thus, tenants could not be evicted for a limited period of time, generally, until the rental relief from the Government came into effect.

The position in Australia was very different, with all jurisdictions other than the Northern Territory imposing a six-month eviction ban of private tenants who were unable to meet their rent obligations due to loss of income due to the Covid pandemic. All jurisdictions other than New South Wales and the Northern Territory also imposed a six-month rent increase ban. Apart from Queensland, the other jurisdictions further extended the eviction and rent increase bans

⁹⁶ John Park, "Insolvencies Are Well-Above Pre-COVID Levels and Rising: What Precautions Should You Take?" (24 June 2024), <<https://www.fticonsulting.com/insights/articles/insolvencies-well-above-pre-covid-levels-rising>> (accessed 1 August 2025).

⁹⁷ Nassim Khadem, "ATO Chases Small Businesses for \$34b in Debt, Insolvencies Tipped to Hit Post-Global Financial Crisis Levels" (18 March 2024) (ABC News) <<https://www.abc.net.au/news/2024-03-18/ato-chases-small-business-debts-insolvencies-to-hit-gfc-levels/103583512>> (accessed 1 August 2025).

⁹⁸ Statista (n 44).

⁹⁹ MinLaw Rental Relief (n 45).

¹⁰⁰ COVID-19 (Temporary Measures) Act 2020, s 19G.

by six months.¹⁰¹ Several jurisdictions also introduced rental assistance payments for eligible tenants that included one-off payments of up to AUD \$2,000, while New South Wales covered a percentage of rental costs for up to six months for eligible households.¹⁰² The direct payments were arguably made after the initial moratoriums because many tenants were asked to pay higher rents or face eviction, making it necessary for the state Governments to intervene.¹⁰³

The combined impact of the various rental measures (including the moratoriums) and other direct payments was that the pandemic triggered no immediate increase in homelessness.¹⁰⁴ The moratoriums were generally easily understood and well-received by the public,¹⁰⁵ though it was acknowledged that rent moratoriums without rent revisions might lead to mounting deferred debts.¹⁰⁶

E Superannuation withdrawals

For individuals facing severe difficulties meeting their living expenses due to job losses and/or income reduction due to the Covid pandemic, their first thoughts might be to turn to their savings. Both Singapore and Australia operate superannuation programmes designed to help individuals ensure long-term retirement adequacy by requiring compulsory contributions on the part of both employees and employers. During the pandemic, there was naturally pressure on the Governments of both jurisdictions to allow individuals to draw on their superannuation funds to help meet immediate living expenses. In Singapore, the Government outrightly rejected any such suggestions, insisting that it was necessary to ensure long-term retirement adequacy and that there were adequate alternative support measures.¹⁰⁷

In contrast, the Australian Government allowed eligible individuals financially impacted by the Covid pandemic to access up to AUD \$10,000 of their superannuation funds during the 2019-2020 financial year and up to AUD \$10,000 between 1 July and 31 December 2020. Eventually, AUD \$37.8 billion of superannuation funds were approved for early release to 3.05 million

¹⁰¹ Emma Baker, *et al.*, *The Impact of the Pandemic on the Australian Rental Sector* (AHURI Final Report No. 389, Australian Housing and Urban Research Institute Limited) (2022), <<https://www.ahuri.edu.au/sites/default/files/documents/2022-10/AHURI-Final-Report-389-The-impact-of-the-pandemic-on-the-Australian-rental-sector.pdf>> (accessed 1 August 2025), 8.

¹⁰² Baker, *et al.* (n 101), 8.

¹⁰³ Hodgson (n 20), 372.

¹⁰⁴ Australian Council of Social Service, *COVID-19: Rental Housing and Homelessness Policy Impacts* (February 2021), <https://povertyandinequality.acoss.org.au/wp-content/uploads/2021/02/COVID19_Rental-housing-and-homelessness-impacts_report-1.pdf> (accessed 1 August 2025) (“ACSS”), 107-113.

¹⁰⁵ ACSS (n 105), 87-90.

¹⁰⁶ ACSS (n 105), 77 and 83

¹⁰⁷ Ministry of Manpower, “CPF is for Singaporeans' Long-Term Retirement Needs” <<https://www.mom.gov.sg/newsroom/press-replies/2020/0611-cpf-is-for-singaporeans-long-term-retirement-needs>> (accessed 1 August 2025).

people.¹⁰⁸ After the pandemic, the Australian Government allowed those who had withdrawn their superannuation funds early under this scheme to “re-contribute” funds up to the withdrawn amount without paying extra tax.¹⁰⁹ This encouraged individuals in a position to do so to put their retirement plans back on track.

The early superannuation withdrawals in Australia are projected to have long-term implications on retirement savings. It has been estimated that a person who withdrew AUD \$10,000 at age 30 would have an estimated AUD \$21,516 less in retirement – more than double that of the sum withdrawn.¹¹⁰ On an industry level, funds faced significant liquidity challenges due to the early withdrawals.¹¹¹

V CONCLUSION

Covid-19 was declared to be a global pandemic on 11 March 2020 and a whole range of tax and non-tax economic measures were implemented to help businesses and individuals through the severe financial consequences of the pandemic. The bulk of the measures applied from 2020 to 2021, with the schemes that still continued after that largely tapering off by 2022. This article has sought to categorise the economic measures used in Singapore and Australia into three categories: direct payments, tax measures and non-tax “other” measures. It finds that direct payments to businesses and individuals are the most effective measures for alleviating immediate cashflow issues. Most analysts looking at the post-pandemic data concluded that direct payment measures such as jobs support had a very significant impact on preserving jobs and supporting the economy. However, the considerable cost of direct payments makes it unfeasible for governments to make them generally available without carefully crafting eligibility conditions. This has to be balanced with the need to implement measures quickly in a pandemic situation, where delays in policy design and execution may have dire effects on the economy. The Australian Government acknowledged that a lack of pre-pandemic planning meant that there were delays and compromises with the policy design of measures such as JobKeeper.¹¹² This reinforces the need for studies such as this one to analyse the experience of the Covid-19 pandemic and aid in the planning of future economic responses to “Disease X”.

This article submits that direct payments should be made with clear policy goals in mind, for example supporting jobs retention and preventing large scale evictions, though modest sums

¹⁰⁸ ATO, “COVID-19 Early Release of Super” <<https://www.ato.gov.au/about-ato/research-and-statistics/in-detail/super-statistics/early-release/covid-19-early-release-of-super>> (accessed 1 August 2025).

¹⁰⁹ ATO, “Re-contributing COVID-19 Early Release Super Withdrawals” <<https://www.ato.gov.au/individuals-and-families/super-for-individuals-and-families/super/growing-and-keeping-track-of-your-super/how-to-save-more-in-your-super/re-contributing-covid-19-early-release-super-withdrawals>> (accessed 1 August 2025).

¹¹⁰ Association of Superannuation Funds of Australia (ASFA), *The COVID Related Early Release of Superannuation – A Retrospective Look* (2022) <https://www.superannuation.asn.au/wp-content/uploads/2023/09/220725_Early_Release_Paper_v10.pdf> (accessed 1 August 2025), 18.

¹¹¹ ASFA (n 110), 22.

¹¹² Aus Covid Inquiry (n 6), 17.

may be disbursed without means-testing in order to ensure that the basic needs of individuals can quickly be met. The payments must come with eligibility conditions to ensure that only those who need support most will receive it. The “decline in turnover test” eventually used for JobKeeper was a good way of ensuring that only businesses actually adversely affected by the pandemic could qualify for the direct payments, but it might be too late to disburse the relief only when it can be shown that the businesses were affected. As such, governments might consider implementing such a test only a few months after the direct payments measures are initially rolled out. The experience with the JSS in Singapore suggests that offering support as a proportion of salaries actually paid to workers (with a cap) may prevent cases of “overpayments” to employers.

Fiscal tax measures such as the reduction of tax liability and tax deferral were used by both Singapore and Australia. While useful in the medium to long term, the natural delay in affecting the cashflow of businesses and individuals meant that they were inevitably less effective than direct payments. Other ancillary measures such as the extension of administrative timelines and safe harbour provisions can be helpful in alleviating the mental and administrative burden of businesses and individuals and can be used as support measures, even if their overall impact on taxpayer finances may ultimately be limited.

This article finds that non-tax measures such as insolvency and rent moratoriums can be effective in helping businesses and individuals deal with the sudden severe economic pressure caused by the pandemic, preventing the closure of businesses and eviction of tenants until economic conditions have improved. These measures must be allowed to expire once the economy is on the road to recovery, otherwise there will be serious risks and distortions to the market. Viable businesses must be given the tools to rehabilitate themselves and return to profitability in the longer run. However, there should also be processes which facilitate the winding up of non-viable businesses in an as efficient manner as possible, particularly in the case where debts have accumulated due to the moratoriums.

One measure which has produced considerable benefits, especially when compared to the actual costs incurred by governments, is the facilitation of loans by the Government through a risk-sharing (or insuring of credit risks) arrangements. Even though loans, unlikely direct payments, will eventually need to be repaid, cashflow is more important for businesses in the short term. Both Singapore and Australia employed this measure extensively, choosing to work with established lenders rather than disburse the loans directly to businesses. The risk-sharing framework ensured that governments were able to draw on the expertise of established lenders in assessing credit risks, while building confidence in the lending markets.

This article has shown that there were many broad similarities between the approaches taken by the Singapore and Australian Governments. For numerous measures discussed, both jurisdictions had their respective counterpart measures, through there were differences in the precise ways that the policies were crafted. More significant differences between the approaches taken by the two jurisdictions included the greater willingness of the Australian Government to provide unemployment support (building on the existing JobSeeker scheme) as opposed to the greater focus of the Singapore Government on job creation, and the

predominance of rent moratoria in Australia when compared to their relatively limited role in Singapore (possibly explained by high home ownership rates in Singapore). These differences highlight the need to take into consideration the unique characteristics of each jurisdiction when deciding how to craft economic responses in a pandemic context. It is clear that given the urgent need to roll out economic support measures, no policy was perfect upon implementation and the study of the strengths and weaknesses of these measures in both jurisdictions will benefit future governments in their handling of the next pandemic.

REFERENCES

A Articles/Books/Reports

Association of Superannuation Funds of Australia (ASFA), *The COVID Related Early Release of Superannuation – A Retrospective Look* (2022)

Australian Council of Social Service, *COVID-19: Rental Housing and Homelessness Policy Impacts* (February 2021)

Australian Council of Trade Unions, *JobKeeper: Flawed But Necessary* (2023)

Australian Government, *Independent Evaluation of the JobKeeper Payment Final Report* (2023)

Baker, Emma, et al., *The Impact of the Pandemic on the Australian Rental Sector* (AHURI Final Report No. 389, Australian Housing and Urban Research Institute Limited) (2022)

Bishop, James and Day, Iris, *How Many Jobs Did JobKeeper Keep?* (2020) (Reserve Bank of Australia Research Discussion Paper, RDP 2020-07)

Department of the Prime Minister and Cabinet, *COVID-19 Response Inquiry Summary: Lessons for the Next Crisis* (2024)

Economic Policy Group, Monetary Authority of Singapore, “Background Note on Macroeconomic Policy Responses to Covid-19: The Singapore Experience”, in BIS Papers No 122

Harper, Andrew, “Finance Act Notes: Annual Investment Allowance, etc- Sections 74-76 and Schedule 24” [2008] 5 British Tax Review 480

Harper, Andrew, “Finance Act Notes: Section 24 – First-Year Capital Allowances for Expenditure in 2009-2010” [2009] 5 British Tax Review 505

Hodgson, Helen, “Economic Support for Individuals During the First Wave of COVID-19: The Australian Experience” (2021) 27 New Zealand Journal of Taxation Law and Policy 353

International Monetary Fund, *World Economic Outlook, April 2021* (2021)

Kerkhove, Maria, Ryan, Michael and Ghebreyesus, Tedros Adhanom, “Preparing for “Disease X”” (2021) 374(6566) Science 377

Laura Panadès-Estruch, “Counting Doubloons. A Critical Assessment of How Caribbean British Overseas Territories Are Funding the COVID-19 Response” in de Cogan, Dominic, Brassey, Alexis and Harris, Peter (Eds.), *Tax Law in Times of Crisis and Recovery* (Hart) (2023), 95

Lind, Yvette, “How to Award Financial Aid Amidst a Pandemic Through the Lens of a Tax Scholar” in de Cogan, Dominic, Brassey, Alexis and Harris, Peter (Eds.), *Tax Law in Times of Crisis and Recovery* (Hart) (2023), 307

Ministry of Finance, *An Interim Assessment of the Impact of Key COVID-19 Budget Measures* (2021)

Ministry of Finance, *Assessment of the Impact of Key COVID-19 Budget Measures* (2022)

Ministry of Trade and Industry, “Impact of Enterprise Singapore’s Financing Schemes During the COVID-19 Pandemic” in *Economic Survey of Singapore 2021* (2021)

Morton, Elizabeth, Curran, Michael and Hinchliffe, Sarah, “COVID-19 Responses and the Contemplative Worker’s Home Occupancy Expense Claim” (2021) 50 (2) *Australian Tax Review* 81

Ralph, John, *Review of Business Taxation, Australia, A Platform for Consultation: Discussion Paper 2, Building on a Strong Foundation* (1999) vol 1

Tahir, Muhammad, et al., “Disease X: A Hidden but Inevitable Creeping Danger” (2021) 43(11) *Infection Control & Hospital Epidemiology* 1758

Treasury, *Insights from the First Six Months of JobKeeper* (October 2021)

Wardell-Burrus, Heydon, “Tax and Fiscal Policy Measures in Response to the COVID-19 Crisis - Overview of Tax and Fiscal Response by the Australian Government” (2020) *Bulletin for International Taxation* 452

Watson, Timothy, Tervalá, Juha and Sainsbury, Tristram, *The JobKeeper Payment: How Good are Wage Subsidies?* (2022) (CAMA Working Papers, 2022-36)

World Bank Group, *World Development Report 2022: Finance for an Equitable Recovery* (2022)

B Legislation

Singapore Statutes

COVID-19 (Temporary Measures) Act 2020

Income Tax Act 1947

Insolvency, Restructuring and Dissolution (Amendment) Act 2020

Australian Statutes and Rules

Australian Government SME Guarantee Scheme: Scheme Rules (8 April 2020)

Guarantee of Lending to Small and Medium Enterprises (Coronavirus Economic Response Package) Act 2020 (Cth)

C Other

ATO “COVID-19 Effects on Foreign-incorporated Companies”
<<https://www.ato.gov.au/individuals-and-families/financial-difficulties-and-disasters/covid-19/covid-19-effects-on-foreign-incorporated-companies>>

ATO, “COVID-19 Early Release of Super” <<https://www.ato.gov.au/about-ato/research-and-statistics/in-detail/super-statistics/early-release/covid-19-early-release-of-super>>

ATO, “Re-contributing COVID-19 Early Release Super Withdrawals”
<<https://www.ato.gov.au/individuals-and-families/super-for-individuals-and-families/super/growing-and-keeping-track-of-your-super/how-to-save-more-in-your-super/re-contributing-covid-19-early-release-super-withdrawals>>

ATO, “Residency and Source of Income” <<https://www.ato.gov.au/individuals-and-families/financial-difficulties-and-disasters/covid-19/support-for-individuals-and-employees/residency-and-source-of-income>>

ATO, “Support for Tax Professionals” <<https://www.ato.gov.au/individuals-and-families/financial-difficulties-and-disasters/covid-19/support-for-tax-professionals>>

ATO, “Working from Home Expenses” <<https://www.ato.gov.au/individuals-and-families/income-deductions-offsets-and-records/deductions-you-can-claim/working-from-home-expenses>>

Clarke, Will, “Despite Lockdown Victorian Businesses More Positive About State’s Economy, Says Sensis Survey” (2020) <<https://www.sensis.com.au/despite-lockdown-victorian-businesses-more-positive-about-states-economy-says-sensis-survey>>

Coulson, Morgan, “Defining Disease X” (John Hopkins Bloomberg School of Public Health)
<<https://publichealth.jhu.edu/2024/what-is-disease-x>>

CPF, “What is Central Provident Fund (CPF)?” <<https://www.cpf.gov.sg/service/article/what-is-central-provident-fund-cpf>>

Enterprise Singapore, “FAQ: Enterprise Financing Scheme”
<<https://www.enterprisesg.gov.sg/resources/all-faqs/enterprise-financing-scheme>>

Enterprise Singapore, “Temporary Bridging Loan Programme (TBLP)”
<<https://www.enterprisesg.gov.sg/financial-assistance/loans-and-insurance/loans-and-insurance/temporary-bridging-loan-programme/-/media/esg/files/financial-assistance/loans-and-insurance/sme-related-loan/tblp-faq.pdf>>

IRAS e-Tax Guide, Income Tax: Enhanced Carry-back Relief System (2nd Ed.) (8 May 2020)
<https://www.iras.gov.sg/media/docs/default-source/e-tax/etaxguide_enhanced-carry-back-relief-system.pdf>

IRAS, “40,000 Businesses Receive Support Through Small Business Recovery Grant”
<<https://www.iras.gov.sg/news-events/newsroom/40-000-businesses-receive-support-through-small-business-recovery-grant>>

IRAS, “Annex: Jobs Support Scheme FAQs” <https://www.iras.gov.sg/media/docs/default-source/uploadedfiles/pdf/annex.pdf?sfvrsn=755a67e4_13>

IRAS, “Capital Allowances” <<https://www.iras.gov.sg/taxes/corporate-income-tax/income-deductions-for-companies/claiming-allowances/capital-allowances>>

IRAS, “COVID-19 - Advisory to Taxpayers” <<https://www.iras.gov.sg/news-events/announcements/covid-19---advisory-to-taxpayers>>

IRAS, “Jobs Growth Incentive (JGI)” <<https://www.iras.gov.sg/schemes/disbursement-schemes/jobs-growth-incentive>>

IRAS, “Resilience Budget, Solidarity Budget and Fortitude Budget” <<https://www.iras.gov.sg/news-events/singapore-budget/covid-19-support-measures-and-tax-guidance/support-measures/resilience-budget-solidarity-budget-and-fortitude-budget>>

IRAS, “Tax Residence Status of a Company and Permanent Establishment” <<https://www.iras.gov.sg/news-events/singapore-budget/covid-19-support-measures-and-tax-guidance/tax-guidance/for-companies-self-employed-partnerships/tax-residence-status-of-a-company-and-permanent-establishment>>

IRAS, “Tax Treatment of Debts Forgiven under MinLaw's Simplified Debt Restructuring Programme” <<https://www.iras.gov.sg/news-events/singapore-budget/covid-19-support-measures-and-tax-guidance/tax-guidance/for-companies-self-employed-partnerships/tax-treatment-of-debts-forgiven-under-minlaw's-simplified-debt-restructuring-programme>>

IRAS, “Tax Treatment of Expenses Incurred on Work-Related Assets to Facilitate Working from Home” <<https://www.iras.gov.sg/news-events/singapore-budget/covid-19-support-measures-and-tax-guidance/tax-guidance/for-companies-self-employed-partnerships/tax-treatment-of-expenses-incurred-on-work-related-assets-to-facilitate-working-from-home>>

IRAS, “Working Remotely from Singapore due to COVID-19” <<https://www.iras.gov.sg/news-events/singapore-budget/covid-19-support-measures-and-tax-guidance/tax-guidance/for-individuals/working-remotely-from-singapore-due-to-covid-19>>

Khadem, Nassim, "ATO Chases Small Businesses for \$34b in Debt, Insolvencies Tipped to Hit Post-Global Financial Crisis Levels" (18 March 2024) (ABC News)) <<https://www.abc.net.au/news/2024-03-18/ato-chases-small-business-debts-insolvencies-to-hit-gfc-levels/103583512>>

Ministry of Finance, “More than 140,000 Employers Will Receive Over \$7 Billion Payouts to Cover Wages of Over 1.9 Million Local Employees” <<https://www.mof.gov.sg/news-publications/press-releases/more-than-140-000-employers-will-receive-over-7-billion-payouts-to-cover-wages-of-over-1.9-million-local-employees>>

Ministry of Finance, “Resilience Budget 2020 – Care and Support Package: 400,000 Lower-Income Singaporeans will receive \$1.2 billion in Workfare Special Payment in July and October 2020” <<https://www.mof.gov.sg/news-publications/press-releases/resilience-budget->

2020-care-and-support-package-400-000-lower-income-singaporeans-will-receive-1.2-billion-in-workfare-special-payment-in-july-and-october-2020>

Ministry of Finance, “Resilience Budget 2020, Supplementary Budget Statement” <<https://www.mof.gov.sg/singapore-budget/budget-2020>>

Ministry of Law, “Annex A: Eligibility Criteria for Rental Relief and Additional Rental Relief” <<https://www.mlaw.gov.sg/files/news/press-releases/2020/8/AnnexA.pdf>>

Ministry of Law, “Commencement of Rental Relief Framework” <<https://www.mlaw.gov.sg/news/press-releases/2020-07-30-commencement-of-rental-relief-framework/>>

Ministry of Law, “Simplified Insolvency Programme FAQ” <<https://io.mlaw.gov.sg/corporate-insolvency/sip-faq/>>

Ministry of Manpower, “CPF is for Singaporeans' Long-Term Retirement Needs” <<https://www.mom.gov.sg/newsroom/press-replies/2020/0611-cpf-is-for-singaporeans-long-term-retirement-needs>>

Ministry of Manpower, “Support for Local Jobseekers Through SGUnited Jobs and Skills Package” (26 May 2020) <<https://www.mom.gov.sg/newsroom/press-releases/2020/0526-sgunited-jobs-and-skills-package>>

Park, John, “Insolvencies Are Well-Above Pre-COVID Levels and Rising: What Precautions Should You Take?” (24 June 2024), <<https://www.fticonsulting.com/insights/articles/insolvencies-well-above-pre-covid-levels-rising>>

Peck Gek, Tay, “Expenses Incurred from Working at Home Qualify for Tax Deductions”, The Business Times (1 June 2020) <<https://www.businesstimes.com.sg/international/expenses-incurred-working-home-qualify-tax-deductions>>

Singapore Government, “Financial Support to Help Singaporeans Affected by COVID-19” <<https://www.gov.sg/article/financial-support-to-help-singaporeans-affected-by-covid-19>>

Statista, “Impact of the Coronavirus Pandemic on the Global Economy - Statistics & Facts”, <<https://www.statista.com/topics/6139/covid-19-impact-on-the-global-economy>>

Statista, “Rate of Home Ownership in Singapore from 2014 to 2023” <<https://www.statista.com/statistics/664518/home-ownership-rate-singapore/>>

Treasury “Simplified Debt Restructuring: A Factsheet for Small Business” <https://treasury.gov.au/sites/default/files/2021-04/simplified_debt_restructuring_v2.pdf>

Treasury, “Delivering Support for Business Investment” <https://treasury.gov.au/sites/default/files/2020-03/Fact_sheet-Support_for_business_investment.pdf>

Treasury, “Economic Response to the Coronavirus: Extension of the JobKeeper Payment”
<https://treasury.gov.au/sites/default/files/2020-08/Fact_sheet-JobKeeper_Payment_extension.pdf>

Treasury, “Economic Response to the Coronavirus: JobKeeper Payment”
<https://treasury.gov.au/sites/default/files/2020-10/Fact_sheet-JobKeeper_Payment_0.pdf>

Treasury, “Extension of Additional Income Support for Individuals”
<https://treasury.gov.au/sites/default/files/2020-11/Fact_sheet-Income_Support_for_Individuals.pdf>

Treasury, “Income Support for Individuals” <https://treasury.gov.au/sites/default/files/2020-04/Fact_sheet-Income_Support_for_Individuals.pdf>

Treasury, “Payments to Support Households” <https://treasury.gov.au/sites/default/files/2020-10/Fact_sheet-Payments_to_support_households_0.pdf>

WHO, “Prioritizing Diseases for Research and Development in Emergency Contexts”
<<https://www.who.int/activities/prioritizing-diseases-for-research-and-development-in-emergency-contexts>>

World Health Organisation, “Covid-19 Circulation, World”,
<<https://data.who.int/dashboards/covid19/>>

IMPLEMENTING TAX MEDIATION IN INDONESIA: LESSONS FROM THE AUSTRALIAN ADR MODEL FOR TRUST-BUILDING AND VOLUNTARY COMPLIANCE

SABRINA HAKIM *AND YULIANTI ABBAS #

Abstract

This study examines the potential implementation of tax mediation as an Alternative Dispute Resolution (ADR) mechanism in Indonesia, referencing Australia's In-House Facilitation model. Using a qualitative case study approach, data was collected through interviews with tax authority officials, tax court judges, consultants, and professional mediators. The findings indicate that the current dispute resolution system remains confrontational, bureaucratic, and lacks meaningful dialogue, highlighting the need for a trust-based mechanism that views taxpayers as strategic partners. Integrating the Slippery Slope Framework, Cooperative Compliance, and Dispute Systems Design, this study proposes a strategic mediation design focused on the pre-objection stage, featuring neutral facilitators, simplified procedures, and an adaptive regulatory framework. Mediation is positioned not only as a dispute resolution tool but also as an instrument for institutional reflection and trust-building. Recommendations include establishing a mediation unit within the Directorate General of Taxes (DGT), drafting a Ministerial Regulation (PMK) and Standard Operating Procedures (SOPs), and launching public education campaigns to strengthen voluntary compliance and the legitimacy of Indonesia's tax system.

I INTRODUCTION

Tax dispute resolution is a central issue in modern tax administration, which demands efficiency, fairness, and accountability.¹ In Indonesia, despite the availability of formal mechanisms such as objections, appeals, and lawsuits, the resolution process is often perceived as inefficient and administratively burdensome for both the tax authority and taxpayers.²

* Graduate Student, Master of Accounting Program, Faculty of Economics and Business, University of Indonesia, Salemba, Jakarta, Indonesia.

Director of Finance, University of Indonesia, Depok, West Java, Indonesia.

¹ OECD, *Tax Administration 2019: Comparative Information on OECD and Other Advanced and Emerging Economies* (OECD Publishing 2019) <https://www.oecd.org/en/publications/tax-administration-2019_74d162b6-en.html>.

² TW Damayanti and S Supramono, 'Trust Reciprocity and Power: An Integration to Create Tax Compliance' (2019) 15 Montenegrin Journal of Economics 131.

Lengthy and bureaucratic procedures, coupled with tensions between taxpayers and the tax authority, often result in adversarial and distrustful relationships. In practice, tax disputes frequently become arenas of formal legal debate rather than efforts to seek substantive solutions.³ This poses a serious obstacle to building a responsive and trusted tax system.

Data from the Tax Court Secretariat⁴ show that although the number of cases declined from 14,672 in 2020 to 9,794 in 2024, the proportion of decisions favouring taxpayers remains significant—over 50% annually. This suggests that many disputes could be prevented or resolved earlier through more collaborative approaches. It presents an opportunity to introduce alternative methods such as mediation, which not only focuses on legal certainty but also emphasizes timely, fair resolutions and long-term relationship building between parties.⁵

Conversely, several countries have already moved toward non-litigious approaches to tax disputes. In Australia, the In-House Facilitation (IHF) model managed by the Australian Taxation Office (ATO)⁶ enables dispute resolution through neutral internal facilitators. This process is voluntary, cost-free, and can be conducted swiftly. Other countries like the Netherlands and Brazil have also successfully implemented tax mediation, reducing court-bound disputes while enhancing voluntary compliance.⁷ This aligns with global tax reform movements emphasizing trust, transparency, and responsive service.

However, adopting a mediation system in the Indonesian context faces structural and cultural challenges. Legally, there is currently no explicit framework governing mediation in tax disputes. Culturally, fear-based compliance and low trust in tax institutions are significant barriers.⁸ Thus, tax mediation is not merely a legal instrument but also part of institutional transformation toward a trust-based tax system.

Beyond these structural and cultural challenges, successful mediation requires changes in the governance of tax dispute administration. Mediation should not stand alone as a technical process but be integrated into a policy framework that recognizes taxpayers as strategic partners in tax law enforcement. This represents a shift from a 'command and control' paradigm to 'responsive regulation' that tailors enforcement based on taxpayer behaviour.⁹

In this context, the Slippery Slope Framework (SSF) is highly relevant. SSF explains that tax compliance is influenced by two key factors: the authority's power and the taxpayer's trust in

³ A Gerungan and others, 'Mediation Ecosystem in Indonesia' (2023) 5 *Revista Brasileira de Alternative Dispute Resolution* 73.

⁴ Sekretariat Pengadilan Pajak, 'Jumlah Berkas Dan Putusan Sengketa Pajak' (2025).

⁵ PTPD Oliveira, 'Improving the Relationship Between Tax Authorities and Taxpayers in Brazil' (2022) 50 *Intertax* 218.

⁶ Australian Taxation Office, 'In-House Facilitation' (Retrieved April 25, 2025, from <https://www.ato.gov.au/individuals-and-families/your-tax-return/if-you-disagree-with-an-ato-decision/dispute-a-decision/in-house-facilitation>, 2024).

⁷ OECD, 'Co-Operative Compliance: A Framework: From Enhanced Relationship to Co-Operative Compliance' (2013).

⁸ Damayanti and Supramono (n 4); Gerungan and others (n 5).

⁹ Valerie Braithwaite, 'Dancing with Tax Authorities: Motivational Postures and Noncompliant Actions' (2003) <<https://www.researchgate.net/publication/251786547>>; Lars P Feld and Bruno S Frey, 'Tax Compliance as the Result of a Psychological Tax Contract: The Role of Incentives and Responsive Regulation' (2007) 29 *Law and Policy* 102.

that authority. Relying solely on power results in coerced compliance. In contrast, when trust is the foundation, compliance becomes voluntary and sustainable.¹⁰

Initial interviews with tax judges, mediators, and tax consultants also reveal an urgent need to improve communication between the Directorate General of Taxes (DGT) and taxpayers. One respondent likened the relationship to that of “a cat and mouse,” highlighting the high levels of conflict and distrust. These findings further support mediation as a neutral platform to foster open dialogue and joint solutions, especially in administrative and interpretive disputes.¹¹

This study aims to comprehensively explore the potential implementation of mediation in resolving tax disputes in Indonesia by examining best practices from Australia’s IHF model. It not only reviews the technical and strategic aspects of mediation but also emphasizes the need for a paradigm shift in tax dispute resolution. Using a qualitative case study approach and in-depth interviews with various stakeholders, this research presents empirical findings relevant to policymakers. Drawing on the Cooperative Compliance, Slippery Slope Framework, and Dispute Systems Design,¹² this article proposes an adaptive mediation design suited to Indonesia’s institutional and legal culture.

In other words, mediation is viewed not only as a dispute resolution tool but also as a medium for trust-building, enhancing communication, and reinforcing the overall legitimacy of the tax system. This research is expected to contribute to academic discourse and policy development aimed at fostering a more inclusive, efficient, and dialogue-based tax administration reform in Indonesia.

II EXPLANATION OF TERMS

A Alternative Dispute Resolution (ADR) in the Context of Taxation.

Alternative Dispute Resolution (ADR) refers to mechanisms for resolving disputes outside formal litigation, emphasizing principles such as collaboration, efficiency, voluntary participation, and neutrality.¹³ In the context of tax administration, ADR offers a more efficient and dialogical alternative for both taxpayers and tax authorities, without compromising the principles of legality and legal certainty that underpin public law.

¹⁰ Erich Kirchler, Erik Hoelzl and Ingrid Wahl, ‘Enforced versus Voluntary Tax Compliance: The “Slippery Slope” Framework’ (2008) 29 *Journal of Economic Psychology* 210; Katharina Gangl, Eva Hofmann and Erich Kirchler, ‘Tax Authorities’ Interaction with Taxpayers: A Conception of Compliance in Social Dilemmas by Power and Trust’ (2015) 37 *New Ideas in Psychology* 13.

¹¹ Melinda Jone, ‘Evaluating Australia’s Tax Dispute Resolution System: A Dispute Systems Design Perspective’, vol 13 (2015).

¹² OECD, ‘Co-Operative Compliance: A Framework: From Enhanced Relationship to Co-Operative Compliance’ (n 9); J Poitras, ‘What Makes Parties Trust Mediators?’ (2009) 25 *Negotiation Journal* 307.

¹³ M Fröhlich, *The Nexus of the Rule of Law and Alternative Dispute Resolution: Who Boosts or Sets Back Whom?*, vol 20 (2025).

Australia serves as the primary focus of this study due to its successful systemic implementation of ADR in tax disputes, particularly through the In-House Facilitation (IHF) program administered by the Australian Taxation Office (ATO). Australia is selected as a comparative model not only because it shares core principles of public governance with Indonesia, but also due to its advanced innovation in cooperative administrative dispute resolution. Furthermore, the trust-based approach developed by the ATO aligns with the Slippery Slope Framework, which forms part of the theoretical foundation of this study.

Beyond the national context, ADR has also gained traction internationally. According to the OECD,¹⁴ instruments such as the Mutual Agreement Procedure (MAP) have been employed in international tax matters to prevent escalation and preserve legal certainty. However, in the context of domestic taxation, Australia demonstrates how mediation can function effectively prior to formal stages such as objections or appeals.

The core principles of ADR in tax systems reflect Menkel-Meadow's theoretical framework:¹⁵ (1) Neutrality—the facilitator must remain impartial; (2) Voluntary Participation—both parties engage without coercion; (3) Procedural Flexibility—the process is not bound by judicial rules; and (4) Efficiency—in terms of time and cost. These principles are embedded within the IHF program, adapted to the demands of tax administrative law, which requires public accountability.

In-House Facilitation is an internal mediation program in which neutral facilitators from the ATO assist taxpayers and the tax authority in engaging in dialogue to resolve administrative conflicts. Facilitators do not render decisions but instead create a safe space for open communication, fact clarification, and alignment of perceptions between parties. The process is informal, free of charge, and conducted voluntarily. The aim is not to negotiate the amount of tax liability but to prevent dispute escalation and foster mutual understanding.¹⁶

Australia's experience demonstrates that the success of ADR in taxation hinges on institutional commitment to collaborative values, process neutrality, and responsiveness to taxpayer needs. This suggests that ADR is not merely an administrative efficiency tool but also a strategy for building trust and promoting voluntary compliance. Accordingly, lessons from the Australian model are both relevant and contextually applicable for developing tax mediation in Indonesia.

¹⁴ OECD, *Manual on Effective Mutual Agreement Procedures (MEMAP)* (OECD Publishing 2007) <https://www.oecd.org/en/publications/manual-on-effective-mutual-agreement-procedures-memap_2bb3ab55-en.html>.

¹⁵ Carrie Menkel-Meadow, 'Mediation, Arbitration, and Alternative Dispute Resolution (ADR)' (2015) <<https://ssrn.com/abstract=2608140>> accessed 25 April 2025.

¹⁶ Australian Taxation Office (n 8).

B Tax Mediation in Indonesia

Mediation is one of the primary forms of Alternative Dispute Resolution (ADR), involving a neutral third party who facilitates dialogue and negotiation between two disputing parties.¹⁷ In Indonesia, mediation is generally recognized within the legal system through Law No. 30 of 1999 on Arbitration and Alternative Dispute Resolution. However, there remains no explicit regulatory framework governing the application of mediation in tax disputes. As a result, there is currently no formal legal basis for implementing tax mediation at the pre-objection, objection, or appeal stages.¹⁸

Institutionally, the Directorate General of Taxes (DGT) has yet to establish a dedicated unit or internal facilitator structurally responsible for dispute resolution through collaborative approaches. Most conflicts between taxpayers and the DGT continue to be resolved through formal, legalistic means—particularly objections, which are perceived as confrontational. This is reinforced by interviews with tax court judges and consultants, who stated that objection procedures remain one-sided and lack mechanisms for equal, two-way communication.¹⁹

The unique characteristics of tax mediation, as opposed to mediation in civil or commercial cases, lie in its adherence to the principle of legality inherent in public law systems. According to the OECD,²⁰ tax mediation processes must uphold neutrality, voluntariness, confidentiality, and a focus on factual clarification rather than negotiation of legal obligations. Poitras²¹ emphasizes that the perceived neutrality of the mediator and the openness of the process significantly affect mediation effectiveness, especially in disputes involving state institutions.

Although formal implementation has not yet occurred, the potential for mediation within Indonesia's tax system has been widely discussed in academic literature and international practice.²² Lessons from Australia illustrate how dialogue-based models like In-House Facilitation (IHF) can serve as concrete solutions for improving relationships between taxpayers and the tax authority. This approach not only expedites dispute resolution but also enhances transparency and builds the trust that is fundamental to voluntary compliance.

Thus, tax mediation should not be seen as a platform for negotiating tax obligations, but rather as an administrative mechanism aimed at strengthening trust, resolving conflicts efficiently, and creating more constructive two-way communication.²³

¹⁷ Poitras (n 14).

¹⁸ OECD, 'Co-Operative Compliance: A Framework: From Enhanced Relationship to Co-Operative Compliance' (n 9).

¹⁹ Gerungan and others (n 5).

²⁰ OECD, 'Tax Administration 3.0: The Digital Transformation of Tax Administration' (2020) <www.oecd.org/termsandconditions>.

²¹ Poitras (n 14).

²² Oliveira (n 7); P Langbroek, M Remac and P Willemsen, *The Dutch System of Dispute Resolution in Administrative Law* (2014).

²³ OECD, 'Co-Operative Compliance: A Framework: From Enhanced Relationship to Co-Operative Compliance' (n 9); Poitras (n 14).

C The Mediation Model in Australia (In-House Facilitation)

In the context of building a tax dispute resolution system that is fairer, more efficient, and trust-based, Australia's In-House Facilitation (IHF) model stands out as a leading example of effective tax mediation, particularly relevant to Indonesia. IHF is a form of internal mediation developed by the Australian Taxation Office (ATO) to resolve tax disputes informally, voluntarily, and through dialogue. This program is central to the present study as it offers an institutional framework aligned with the principles of public administration and effective dispute resolution.²⁴

In practice, IHF facilitators are internal ATO personnel professionally trained to maintain neutrality and foster two-way communication between taxpayers and the tax authority. The primary goal of facilitation is not to determine who is right or wrong, but to assist both parties in reaching mutual understanding and resolving disputes before they escalate to objections or litigation. The IHF process is non-adjudicative, cost-free, and carried out without coercion, thereby enhancing taxpayer trust in the authority.²⁵

The program's success is attributable to several key factors: (1) ATO's institutional commitment to cooperative dispute resolution; (2) the clarity of implementation guidelines, such as the Code of Settlement; and (3) an organizational culture that values dialogue and professional accountability. IHF has been shown to improve taxpayer satisfaction with dispute resolution processes and to expedite case outcomes with greater consistency.²⁶ Moreover, the approach demonstrates that when tax authorities act as dialogical partners rather than mere law enforcers, levels of trust and voluntary compliance rise significantly.²⁷

Additionally, IHF aligns closely with the OECD's Cooperative Compliance Framework, which encourages tax authorities to function not only as enforcers but as partners in dialogue. This approach resonates with findings from the current study, which reveal that the root causes of tax disputes in Indonesia are often related to miscommunication, administrative interpretation, and information asymmetry between taxpayers and the tax authority.

As emphasized by Xynas & Xynas,²⁸ strengthening ethical values, transparency, and responsiveness through mediation is a way to extend the purpose of taxation—not solely from a revenue perspective but also in terms of procedural justice and legitimacy.

Lessons from IHF offer concrete inspiration for tax mediation reform in Indonesia, including:

²⁴ Jone (n 13).

²⁵ *ibid.*

²⁶ B Tran-Nam and M Walpole, 'Tax Disputes, Litigation Costs and Access to Tax Justice' (2016) 14 *eJournal of Tax Research* 319.

²⁷ Australian Taxation Office (n 8).

²⁸ Lidia Xynas and Alexander Xynas, 'Supporting Taxation's Extended "Purpose" to encompass the Objective of Socially Human Behaviours' [2021] *Journal of Australian Taxation*.

- a. The need to establish an internal mediation unit within the DGT;
- b. The necessity of facilitator training based on neutrality and effective communication standards;
- c. The development of technical guidelines and specific regulations that clearly define the scope and limitations of tax mediation;
- d. The importance of promoting restorative and participatory approaches in interactions with taxpayers.

By adapting Australia's practices contextually, tax mediation in Indonesia holds substantial potential as a strategic mechanism for trust-building, transparency enhancement, and the promotion of sustained voluntary compliance.

D Trust and Voluntary Compliance.

Tax compliance is a foundational pillar for achieving a fair and sustainable tax system. Within this context, voluntary compliance—where taxpayers fulfil their tax obligations out of awareness and trust rather than coercion—represents the ideal outcome sought by tax authorities in many countries, including Indonesia. Voluntary compliance reflects a condition in which taxpayers willingly comply with tax laws based on their understanding, trust, and positive perceptions of both the tax system and the tax authority.²⁹

The OECD³⁰ outlines two main compliance strategies: enforcement-based approaches (focused on legal sanctioning) and education-based approaches (emphasizing guidance and support). Among these, the trust-building educational approach has proven more effective in fostering sustainable compliance. As part of this shift, the concept of cooperative compliance has been introduced—positioning taxpayers as trusted partners, while tax authorities act as transparent and responsive facilitators.

Within the cooperative compliance framework, mediation serves a strategic function—not only as an efficient dispute resolution mechanism but also as a tool for enabling equitable two-way communication. Neutral, informal, and participatory mediation processes provide a safe space for taxpayers to voice concerns, seek clarification, and present arguments without fear of punitive actions. This is especially critical in Indonesia, where compliance is still largely driven by fear of sanctions—commonly referred to as fear-based compliance.³¹

²⁹ OECD, 'Co-Operative Compliance: A Framework: From Enhanced Relationship to Co-Operative Compliance' (n 9); OECD, 'Cooperative Tax Compliance: Building Better Tax Control Frameworks' <<http://dx.doi.org/10.1787/9789264253384-en>>.

³⁰ OECD, *Measures of Tax Compliance Outcomes: A Practical Guide* (OECD 2014).

³¹ Damayanti and Supramono (n 4); Yana Indawati, Teddy Prima Anggriawan and Pusaka Bintang Sakti, 'Pengaruh Reformasi Perpajakan Terhadap Kepatuhan Wajib Pajak Di Indonesia' (2024) 6 <<https://review-unes.com/https://creativecommons.org/licenses/by/4.0/>>.

Feld and Frey's Psychological Tax Contract theory³² conceptualizes the relationship between taxpayers and tax authorities as a social contract grounded in perceptions of fairness and mutual trust. When taxpayers feel they are treated fairly, transparently, and are heard, they reciprocate with compliant behavior. Thus, building trust through reflective and educational mediation is essential.

The Slippery Slope Framework³³ further reinforces this argument. According to this framework, tax compliance is influenced by the balance between trust and power (i.e., enforcement capacity) of the tax authority. As trust increases, the likelihood of voluntary compliance also rises. Conversely, when power dominates, compliance becomes forced and less sustainable.

Mediation strengthens trust by creating positive experiences for taxpayers when engaging with the tax authority. Through transparent processes focused on administrative clarification, mediation helps avoid unnecessary conflicts, prevents dispute escalation, and accelerates resolution. Over time, these experiences shape taxpayers' perceptions of the system and foster higher levels of voluntary compliance.³⁴

In this regard, the Australian experience with In-House Facilitation (IHF) serves as a compelling example. The ATO does not merely present mediation as a litigation alternative but frames it as a trust-building strategy and a means of reinforcing partnerships between the authority and taxpayers.³⁵ This concept is highly relevant to the reform needs of Indonesia.

Consequently, this section emphasizes that achieving sustainable tax compliance in Indonesia requires a paradigm shift from an enforcement-dominated system to one that balances trust and power. When properly designed, tax mediation can serve as a transformative mechanism for fostering more cooperative, egalitarian relationships based on consciousness rather than fear.

III RESEARCH METHOD

This study employs a qualitative approach using an exploratory case study strategy to investigate the potential implementation of tax mediation in Indonesia, drawing on the Alternative Dispute Resolution (ADR) model of the Australian Taxation Office (ATO) as a comparative reference.³⁶ This approach is selected for its capacity to capture the complex realities surrounding institutional, social, legal, and stakeholder perspectives in depth.³⁷

The design of this case study is interpretive in nature, allowing the researcher to explore meanings, processes, and dynamics associated with the implementation of alternative policies

³² Feld and Frey (n 11).

³³ Kirchler, Hoelzl and Wahl (n 12).

³⁴ Gangl, Hofmann and Kirchler (n 12).

³⁵ Jone (n 13); Australian Taxation Office (n 8).

³⁶ JW Creswell, *Research Design: Qualitative, Quantitative, and Mixed Methods Approaches* (4th Editio, SAGE Publications 2014); Jone (n 13).

³⁷ Creswell (n 38); Jone (n 13).

such as tax mediation. Primary data were collected through semi-structured interviews with seven key informants, including officials from the Directorate General of Taxes (DGT), Tax Court judges, tax consultants, and certified mediators. A purposive sampling technique was employed to select participants with direct experience and knowledge of tax dispute resolution and the prospects of mediation.³⁸

Interviews were conducted both online and offline between February and March 2025, with each session lasting between 60 and 90 minutes. Supplementary data were gathered from policy documents, national tax regulations, Tax Court annual reports, and international sources such as the OECD³⁹ and the Australian Taxation Office. These sources were selected to provide systemic comparisons and global practices relevant to the research context.

The transcribed data was analysed using the thematic analysis approach outlined by Braun and Clarke.⁴⁰ This process involved identifying major themes based on theoretical frameworks and interview questions, categorizing narratives into codes such as “ideal mediation stage,” “mediator neutrality,” and “trust-building strategies,” and synthesizing these into final themes that represent recurring patterns across the empirical data. The analytical framework of this study is guided by three core theories:

1. Slippery Slope Framework,⁴¹ used to evaluate the interplay between trust and power in the context of tax compliance;
2. Cooperative Compliance Model,⁴² to assess how collaboration and transparency foster voluntary compliance;
3. Dispute Systems Design,⁴³ to evaluate the feasibility and adaptability of a tax mediation system within Indonesia’s institutional context.

Data validity was ensured through source triangulation (interviews, documents, and literature) and member checking with selected informants to verify that the researcher’s interpretations aligned with the participants’ intended meanings.⁴⁴ Through this combination of techniques, the study aims to deliver findings that are not only empirically grounded but also normatively relevant to the development of mediation-based tax dispute resolution policies.

³⁸ Creswell (n 38); Jone (n 13).

³⁹ OECD, ‘Co-Operative Compliance: A Framework: From Enhanced Relationship to Co-Operative Compliance’ (n 9); OECD, ‘Cooperative Tax Compliance: Building Better Tax Control Frameworks’ (n 31).

⁴⁰ Virginia Braun and Victoria Clarke, ‘Using Thematic Analysis in Psychology’ (2006) 3 *Qualitative Research in Psychology* 77.

⁴¹ Kirchler, Hoelzl and Wahl (n 12).

⁴² OECD, ‘Co-Operative Compliance: A Framework: From Enhanced Relationship to Co-Operative Compliance’ (n 9).

⁴³ Poitras (n 14).

⁴⁴ YS Lincoln and EG Guba, *Naturalistic Inquiry* (Sage Publications 1985).

IV RESULTS AND DISCUSSION

A Challenges in Indonesia's Tax Dispute Resolution System

Indonesia's tax dispute resolution system remains dominated by formal litigation mechanisms such as objections and appeals, which are often perceived as slow, bureaucratic, and burdensome for both taxpayers and the tax authority⁴⁵. The procedural complexity leads many disputes that could be resolved administratively to escalate unnecessarily into litigation. As one tax court judge interviewed in this study emphasized:

'... The court should be the ultimum remedium, not the premium remedium. Resolve it administratively first.'⁴⁶

This statement reflects an urgent need for faster and more efficient alternative resolution mechanisms.

In addition to procedural delays, the adversarial relationship between taxpayers and the tax authority presents a major barrier. The relationship tends to be characterized by suspicion and confrontation, which undermines effective communication and trust. One tax consultant remarked:

'The relationship between the taxpayer and the authority... is like that of police and criminals, like cat and mouse. That's how it's been. Trust is not something people give; it comes from transparency. The tax office thinks taxpayers are hiding things, while taxpayers think the tax office is just chasing targets.'⁴⁷

This testimony illustrates that communication is often clouded by mutual distrust, indicating a lack of space for open, equal dialogue. This situation is worsened by the prevalence of fear-based compliance, in which taxpayers comply not out of awareness, but fear of sanctions.⁴⁸ In such an environment, the tax system becomes closed to dialogue and more likely to escalate into open conflict rather than collaborative resolution.

Some informants also highlighted the limited capacity of tax auditors to explain audit findings clearly to taxpayers. One stated:

'The Director of Objection finds it very difficult to approve objections. Many say, with all due respect, that even the field teams and their supervisors often understand that the case shouldn't continue. But because of state revenue targets, that judgment can be overridden...'⁴⁹

⁴⁵ Damayanti and Supramono (n 4).

⁴⁶ Interview with Tax Court Judge 2 (Jakarta, 25 February 2025).

⁴⁷ Interview with Tax Consultant 1 (Jakarta, 13 February 2025).

⁴⁸ Gerungan and others (n 5).

⁴⁹ Interview with Tax Consultant 1 (n 50).

‘Especially when taxpayers pay during the audit—it’s unlikely that the objection will be approved...’⁵⁰

‘...it creates a chain reaction. Because our rules require payment before filing an objection... it perpetuates the disputes. There’s an incentive to pay first even when you disagree...’⁵¹

The lack of transparency further reinforces perceptions of injustice, which often become a major trigger for dispute escalation. From a theoretical perspective, these challenges can be explained through:

- Cooperative Compliance Framework,⁵² which emphasizes the importance of open dialogue, transparency, and collaboration between the tax authority and taxpayers.
- Slippery Slope Framework,⁵³ which shows that low trust results in overreliance on formal power, ultimately leading to coerced rather than voluntary compliance.

Given these issues, the need for alternative mechanisms such as mediation becomes increasingly evident. Mediation offers the potential to improve communication quality, prevent conflict escalation, and rebuild trust between taxpayers and the DGT. Thus, the challenges in Indonesia’s tax dispute system are not only technical but also cultural and structural, demanding a shift toward a more dialogical, humanistic, and cooperative resolution model.

B Stakeholder Perceptions of Mediation.

The majority of informants expressed a positive reception toward the concept of tax mediation as an alternative dispute resolution mechanism. A tax consultant even described the relationship between taxpayers and the authority as ‘like cat and mouse, police and criminal,’⁵⁴ underscoring the adversarial atmosphere that has long dominated the system. This tension is further aggravated by the absence of equitable communication, where taxpayers feel deprived of the opportunity to express their objections openly. One consultant emphasized:

‘...because objections are handled within the same institution... the main concern for taxpayers is that the process not be prolonged, and that a third party be involved as soon as possible in resolving the dispute.’⁵⁵

In this context, mediation is perceived as a platform that can repair damaged relationships through more equitable processes that listen to both parties. A professional mediator remarked:

⁵⁰ Ibid.

⁵¹ Ibid.

⁵² OECD, ‘Cooperative Tax Compliance: Building Better Tax Control Frameworks’ (n 31).

⁵³ Kirchler, Hoelzl and Wahl (n 12).

⁵⁴ Interview with Tax Consultant 1 (n 50).

⁵⁵ Interview with Tax Consultant 1 (n 50).

‘...a mediator is not a messenger, but a neutral party. They must be in the middle... the parties must sit together in the same room... to present arguments and seek a win-win solution.’⁵⁶

This view reflects the need for a neutral space that allows for clarification and open communication, which is currently lacking in formal objection mechanisms. The same mediator also noted:

‘...from the taxpayer’s side, they want the matter handled neutrally through a mediator... so they feel fairly treated and legally certain.’⁵⁷

Moreover, mediation is seen not only as a dispute resolution mechanism but also as a reflective space for the tax authority. As one mediator explained:

‘The output is multifaceted... helping taxpayers understand the procedures, helping the DGT understand taxpayers’ limitations... from there, joint solutions can be formulated—not only for a single case but also for evaluating the system going forward.’⁵⁸

This statement illustrates how mediation can foster two-way communication, improve perceptions, and sustainably build trust. Trust is indeed central to the success of mediation. One informant stated:

‘...if taxpayers feel a sense of justice—if they believe that there’s legal certainty—they will likely comply... But trust doesn’t come out of nowhere. If the problem lies in overly complex procedures... then the DGT must reflect internally that the tax system is actually burdening taxpayers... and that’s why taxpayers don’t trust it.’⁵⁹

Thus, the authority’s ability to learn from experience and improve processes is considered crucial. The informant added:

‘If taxpayers see that the authority is learning from cases, trust can grow.’⁶⁰

Several informants also emphasized the educational value of mediation. The process provides an opportunity for taxpayers to understand the substance of taxation while allowing the DGT to directly hear the obstacles taxpayers face. A mediator observed:

‘...mediation shouldn’t focus only on resolving monetary disputes but should also uncover root issues, including taxpayers’ misperceptions of tax regulations.’⁶¹

In this sense, education through dialogue becomes a key component of trust-building. A tax consultant concluded:

‘...trust is not given, trust is earned... in the OECD, this is called cooperative compliance, where certainty is exchanged for transparency.’⁶²

⁵⁶ Interview with Certified Mediator (Jakarta, 24 February 2025).

⁵⁷ Interview with Certified Mediator (n 59)

⁵⁸ Ibid.

⁵⁹ Ibid.

⁶⁰ Ibid.

⁶¹ Interview with Certified Mediator (n 59).

⁶² Interview with Tax Consultant 1 (n 50).

Thus, mediation plays a vital role as an educational forum that bridges the perspectives of taxpayers and the authority in a constructive manner, fostering mutual understanding that underpins voluntary compliance.

With these diverse insights revealing a clear need for dialogical space, mediation emerges as a meeting point between the interests of taxpayers and the tax authority—serving as a foundation for a fairer and more adaptive dispute resolution reform.

C Strategic and Technical Design of Tax Mediation.

Based on interview findings and policy analysis, tax mediation in Indonesia is proposed to be implemented during the pre-objection stage. A senior official at the Directorate General of Taxes (DGT) stated:

‘If you want quick implementation, that’s the way—draft a Ministerial Regulation (PMK)... it’s the easiest legal instrument to create. If you’re aiming for something stronger, then yes, a law is needed. But if you want it fast and actionable, a PMK is sufficient.’⁶³

This reflects the legal flexibility available to adopt such a system. Drafting a PMK is seen as the most pragmatic starting point to lay the foundation for mediation, while waiting for more comprehensive legislative changes. This approach aligns with the principle of adaptive governance, where reform is conducted gradually yet in a measured and accountable way.

A Tax Court judge also emphasized the importance of giving legal force to mediation outcomes, ensuring they are binding in the objection process:

‘The mediation agreement... must be written in the PMK stating that the result must be included in the objection decision. It should not differ... from the DGT side. If the correction has already been dropped, it must not reappear in the objection ruling.’⁶⁴

This model is inspired by Australia’s In-House Facilitation (IHF), where mediation is conducted by neutral facilitators from the ATO who do not make legal rulings.⁶⁵ Ideally, mediators in Indonesia should be certified professionals who understand the context of taxation and adhere to ethical standards of neutrality. The procedure must be simple yet accountable, supported by technical guidelines and specialized training.

The proposed strategic design includes several critical elements:

- a. Clear criteria for selecting the types of disputes suitable for mediation—primarily administrative disputes that do not involve criminal elements or complex legal interpretation.

⁶³ Interview with Officer 1, Directorate General of Taxes (Jakarta, 11 February 2025).

⁶⁴ Interview with Tax Court Judge 1 (Jakarta, 24 February 2025).

⁶⁵ Australian Taxation Office (n 8).

- b. Establishing an independent unit within the DGT—such as a mediation division or facilitation desk—to maintain objectivity, prevent conflicts of interest, and enhance the legitimacy of the process.
- c. Clarity of procedures, communicated through Standard Operating Procedures (SOPs), practical guidelines, and media literacy materials.

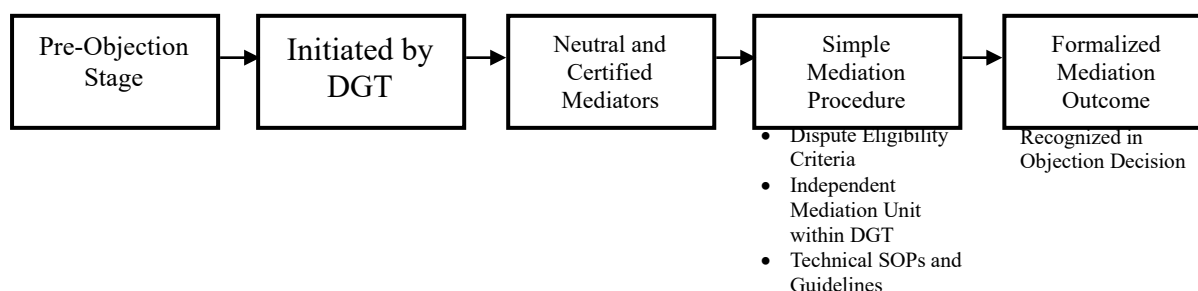
A professional mediator underscored the importance of procedural clarity:

‘...If the issue lies in procedures and mechanisms being too convoluted... there must be internal reflection within the DGT that the current system confuses taxpayers.’⁶⁶

Lack of clarity not only reduces effectiveness but also risks diminishing taxpayer trust in the tax system. Without clear procedures, mediation could degenerate into an informal forum that weakens the legitimacy of the tax authority. Hence, a gradual, measured, and dialogue-based approach is key to ensuring mediation functions optimally within the administrative law framework of Indonesia's tax system.

The following diagram (Figure 1) visually illustrates the strategic design of tax mediation in Indonesia, adapted from Australia’s In-House Facilitation practice:

Figure 1. Strategic Design of Tax Mediation in Indonesia (Adaptive Proposal)



Source: Adapted from Australian Taxation Office (2024a), Tran-Nam & Walpole (2016), and field interview data (2025)

This visual representation clarifies how mediation can be structurally and procedurally designed to ensure effective implementation while maintaining legal legitimacy and taxpayer comfort during the dispute resolution process.

⁶⁶ Interview with Certified Mediator (n 59)

D Lessons from Australia's Experience

The In-House Facilitation (IHF) practice implemented by the Australian Taxation Office (ATO) has become a key reference in international literature on trust-based and dialogical tax dispute resolution. IHF is an internal mediation model where neutral facilitators from the ATO assist in resolving disputes informally, quickly, and without confrontation—avoiding the need for formal litigation. This model offers an effective mechanism to prevent conflict escalation and promote resolutions grounded in mutual understanding.⁶⁷

The success of IHF can be attributed to several core elements. First, the presence of neutral internal facilitators who possess strong communication skills and a sound understanding of tax law. Second, the process is voluntary, free of charge, and time-bound, minimizing the burden on both taxpayers and the authority. Third, there are clear technical guidelines, such as the Code of Settlement, ensuring the process remains within legal boundaries and avoids moral hazard.⁶⁸ The process is also highly efficient, with many disputes resolved in less than 60 days.

In terms of relationships, IHF fosters a dialogical environment where both parties' arguments are heard and respected. This approach aligns with the Cooperative Compliance Framework of the OECD,⁶⁹ in which taxpayers are treated as rational partners rather than mere objects of enforcement. Studies by Braithwaite⁷⁰ dan Kirchler et al.⁷¹ through the Slippery Slope Framework, underscore the importance of trust and open communication in fostering voluntary compliance—not merely fear of penalties.

The application of this model has shown concrete impact in terms of taxpayer satisfaction, administrative efficiency, and reduction of court caseloads. According to Jone's findings⁷², approximately 80% of cases using IHF do not proceed to litigation, and most result in outcomes acceptable to both parties. This reinforces the notion that IHF is not just a technical process, but also a transformation in how tax authorities view and engage with taxpayers—as trustworthy individuals.

In the Indonesian context, a similar model could be implemented through a phased approach. Pilot programs could focus on low- to medium-value pre-objection disputes, especially those involving administrative matters rather than complex legal questions. This approach aligns with the Dispute Systems Design framework,⁷³ which emphasizes the need to tailor resolution systems to local institutional characteristics and capacities.

⁶⁷ Jone (n 13); Australian Taxation Office (n 8).

⁶⁸ Tran-Nam and Walpole (n 28).

⁶⁹ OECD, 'Co-Operative Compliance: A Framework: From Enhanced Relationship to Co-Operative Compliance' (n 9).

⁷⁰ Braithwaite (n 11).

⁷¹ Kirchler, Hoelzl and Wahl (n 12).

⁷² Jone (n 13).

⁷³ Poitras (n 14).

However, successful implementation cannot rely on structural replication alone. A tax court judge emphasized the need to consider local readiness for dialogue and taxpayer literacy:

‘In Australia, ADR is basically like what our Account Representatives used to do—counselling and consulting, raising awareness. They also give the taxpayer a chance to explain the facts. So eventually, there’s mutual understanding.’⁷⁴

This comment highlights that adopting a similar model in Indonesia must account for local wisdom, including institutional readiness, the communication quality of tax officers, and taxpayers’ understanding of their rights and available procedures.

Thus, Australia’s experience provides not only a technical blueprint for mediation but also a strategic direction for rebuilding trust between taxpayers and the tax authority. The adaptation of the IHF model in Indonesia must be accompanied by facilitator training, supportive regulation (such as PMK), and public campaigns to reshape taxpayer perceptions of the tax authority—from an enforcer to a dialogical partner.

To clarify the scope of policy adaptation, Table 1 summarizes the key elements of Australia’s experience and their potential adaptation to the Indonesian tax system, considering legal, institutional, and resource constraints.

Table 1. Lessons from Australia for Implementing Tax Mediation in Indonesia

| Australian Practice (IHF) | Potential Adaptation in Indonesia |
|--|---|
| Neutral facilitators from within the ATO | Establish an internal mediation unit within DGT with specialized training |
| Informal, voluntary, and cost-free mediation process | Implement free, voluntary mediation during the pre-objection stage |
| Clear technical guidelines (Code of Settlement) | Develop a PMK and SOPs regulating scope and limits of tax mediation |
| Mediation duration capped (≤ 60 days) | Time-bound mediation to ensure administrative efficiency |
| Focus on clarification, not negotiation of tax liability | Emphasis on mutual understanding, not legal compromise |
| Taxpayer as dialogue partner, not subject of enforcement | Reframe DGT’s role as a facilitative partner in tax dispute resolution |

⁷⁴ Interview with Tax Court Judge 2 (Jakarta, 25 February 2025).

Source: Adapted from Australian Taxation Office (2024a), Tran-Nam & Walpole (2016), and interview data (2025)

The table illustrates how the essential components of Australia's IHF model can be strategically tailored to the Indonesian context. For example, neutral facilitators in Australia can be translated into a dedicated internal mediation unit within the DGT, equipped with proper training on technical competence and ethical neutrality. Similarly, the voluntary and informal nature of IHF suggests that Indonesia should place mediation at the pre-objection stage without adding financial burden to taxpayers, thereby enhancing accessibility and participation.

The existence of Australia's Code of Settlement highlights the need for clear technical guidance. Accordingly, Indonesia must issue a Ministerial Regulation (PMK) and accompanying Standard Operating Procedures (SOPs) outlining the scope, process, and authority limits of tax mediation. The 60-day timeframe adopted in Australia sets a benchmark for administrative efficiency worth emulating.

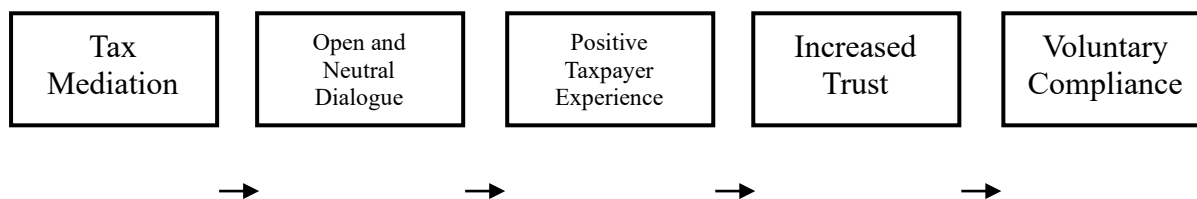
Moreover, the focus of mediation on administrative clarification rather than legal negotiation ensures that the objective is mutual understanding—not compromise of legal obligations. Lastly, viewing the taxpayer as a partner in dialogue, rather than an object of scrutiny, presents a transformative shift in how the DGT could build a more cooperative, trust-based relationship with taxpayers.

E Membangun Kepercayaan dan Edukasi Publik

Australia's experience demonstrates that the success of tax mediation depends not only on institutional and procedural design, but also on the psychological readiness and understanding of the involved parties to engage in meaningful dialogue. In the Indonesian context, the effectiveness of mediation as an alternative dispute resolution mechanism will likewise be determined by the tax authority's ability to create positive taxpayer experiences, improve historically adversarial relationships, and foster perceptions of fairness and transparency.

This section explores how tax mediation functions not only as a tool for resolving administrative disputes but also as a strategic instrument for building trust and promoting voluntary compliance. The following visual (Figure 2) illustrates the relationship between mediation practices and their impact on taxpayer trust and behaviour.

Figure 2. *The Role of Mediation in Promoting Trust and Voluntary Compliance*



Source: Adapted from Feld & Frey (2007), Kirchler et al. (2008), and interview data (2025)

Taxpayer trust in the tax authority is the cornerstone of a voluntary compliance system. In this regard, tax mediation has a dual function: as a means of resolving disputes and as a strategic channel for shaping perceptions of justice and institutional openness. By emphasizing participation and factual clarification within a neutral space, mediation fosters positive experiences for taxpayers and strengthens the psychological bond between citizens and the state.⁷⁵

More importantly, mediation also serves as a reflective space to identify procedural weaknesses in the tax system. A professional mediator emphasized:

‘...If the issue lies in overly complicated procedures and mechanisms... then it must be reconsidered. The DGT needs internal reflection that, in reality, our tax system is burdening taxpayers—or that our information is confusing them.’⁷⁶

A similar view was expressed by a tax consultant, who highlighted how many disputes stem from unresolved factual matters during the audit or objection stages:

‘...quality assurance focuses only on legal issues... not on the facts. This leads to many factual disagreements becoming the source of disputes...’⁷⁷

These statements suggest that mediation can do more than resolve disputes—it can open up opportunities for institutional learning, allowing the DGT to evaluate internal deficiencies in a more constructive and participatory way.

This underscores the need for the tax authority to respond meaningfully to taxpayer feedback, shifting its role from being the sole interpreter of regulation to also becoming a facilitator of fair and communicative resolution. Within this context, public education emerges as a critical complementary instrument. Without adequate public understanding, mediation may be misperceived as a sign of institutional weakness or as a shortcut for taxpayers to evade obligations.

Therefore, public education campaigns must emphasize that mediation is part of responsive governance—a state’s willingness to listen, engage, and resolve differences constructively within the framework of the law. This approach has proven effective in Australia, where the

⁷⁵ Feld and Frey (n 11); Poitras (n 14).

⁷⁶ Interview with Certified Mediator (n 59)

⁷⁷ Interview with Tax Consultant 1 (n 50).

IHF program not only reduced dispute escalation but also enhanced the ATO's reputation as an adaptive and trustworthy institution.⁷⁸

As a long-term strategy, tax mediation should be accompanied by efforts to:

- a. Enhance fiscal literacy among taxpayers,
- b. Improve the communication skills of tax officials,
- c. Shift the public narrative from taxpayers as surveillance targets to equal partners in a cooperative system.

This paradigm shift is essential to build the legitimacy of the tax authority in the eyes of the public and to cultivate a compliance culture based on awareness rather than fear. Hence, tax mediation should not merely be viewed as a technocratic tool for dispute resolution, but as a transformative instrument for strengthening the relationship between the state and its tax citizens

V CONCLUSION

This study concludes that tax mediation holds strategic potential to be implemented as an alternative dispute resolution mechanism that is more efficient, fair, and trust-based in Indonesia. The current dominance of confrontational litigation approaches has created strained relationships between taxpayers and the authority, weakened communication, and hindered efforts to foster voluntary compliance. By adapting the In-House Facilitation (IHF) model from Australia, mediation can be strategically positioned at the pre-objection stage, supported by neutral facilitators, simple procedures, and adequate legal basis through a Ministerial Regulation (PMK). Such a scheme is believed to reduce conflict escalation, reinforce trust, and contribute to more positive administrative experiences for taxpayers.

The main contribution of this research lies in the integration of three theoretical frameworks—the Slippery Slope Framework, Cooperative Compliance Model, and Dispute Systems Design—within the context of Indonesia's tax administration. The study offers several policy recommendations, including: the establishment of an internal mediation unit within the DGT, the drafting of technical SOPs, and the launch of public education campaigns that emphasize the role of mediation as a reflective and dialogical space, not merely an additional administrative procedure. These findings affirm that mediation is not merely a technocratic tool, but a reformative instrument capable of reshaping the relationship between the state and its taxpayers.

Moving forward, a limited pilot program is recommended to assess the practical effectiveness of the proposed mediation design. Further quantitative studies are also encouraged to explore taxpayer perceptions regarding fairness and the effectiveness of mediation in dispute

⁷⁸ Australian Taxation Office (n 8); Tran-Nam and Walpole (n 28).

resolution. With an adaptive and participatory approach, tax mediation in Indonesia holds considerable promise to strengthen the legitimacy of an inclusive and trust-based tax system

A Acknowledgement

The author extends sincere gratitude to all informants who generously shared their time and valuable insights during the data collection process, including officials from the Directorate General of Taxes, Tax Court judges, tax consultants, and professional mediators. Appreciation is also conveyed to the academic advisor and fellow scholars at University of Indonesia for their constructive feedback throughout the development of this article. Special thanks are directed to the editorial and review team of the *Journal of Australian Taxation* for their willingness to evaluate and consider this article for publication.

REFERENCES

- Australian Taxation Office, 'In-House Facilitation' (Retrieved April 25, 2025, from <https://www.ato.gov.au/individuals-and-families/your-tax-return/if-you-disagree-with-an-ato-decision/dispute-a-decision/in-house-facilitation>, 2024)
- Braithwaite V, 'Dancing with Tax Authorities: Motivational Postures and Noncompliant Actions' (2003) <<https://www.researchgate.net/publication/251786547>>
- Braun V and Clarke V, 'Using Thematic Analysis in Psychology' (2006) 3 *Qualitative Research in Psychology* 77
- Creswell JW, *Research Design: Qualitative, Quantitative, and Mixed Methods Approaches* (4th Editio, SAGE Publications 2014)
- Damayanti TW and Supramono S, 'Trust Reciprocity and Power: An Integration to Create Tax Compliance' (2019) 15 *Montenegrin Journal of Economics* 131
- Feld LP and Frey BS, 'Tax Compliance as the Result of a Psychological Tax Contract: The Role of Incentives and Responsive Regulation' (2007) 29 *Law and Policy* 102
- Fröhlich M, *The Nexus of the Rule of Law and Alternative Dispute Resolution: Who Boosts or Sets Back Whom?*, vol 20 (2025)
- Gangl K, Hofmann E and Kirchler E, 'Tax Authorities' Interaction with Taxpayers: A Conception of Compliance in Social Dilemmas by Power and Trust' (2015) 37 *New Ideas in Psychology* 13
- Gerungan A and others, 'Mediation Ecosystem in Indonesia' (2023) 5 *Revista Brasileira de Alternative Dispute Resolution* 73
- Indawati Y, Anggriawan TP and Sakti PB, 'Pengaruh Reformasi Perpajakan Terhadap Kepatuhan Wajib Pajak Di Indonesia' (2024) 6 <<https://review-unes.com/https://creativecommons.org/licenses/by/4.0/>>
- Jone M, 'Evaluating Australia's Tax Dispute Resolution System: A Dispute Systems Design Perspective', vol 13 (2015)
- Kirchler E, Hoelzl E and Wahl I, 'Enforced versus Voluntary Tax Compliance: The "Slippery Slope" Framework' (2008) 29 *Journal of Economic Psychology* 210
- Langbroek P, Remac M and Willemsen P, *The Dutch System of Dispute Resolution in Administrative Law* (2014)
- Lincoln YS and Guba EG, *Naturalistic Inquiry* (Sage Publications 1985)
- Menkel-Meadow C, 'Mediation, Arbitration, and Alternative Dispute Resolution (ADR)' (2015) <<https://ssrn.com/abstract=2608140>> accessed 25 April 2025

OECD, *Manual on Effective Mutual Agreement Procedures (MEMAP)* (OECD Publishing 2007) <https://www.oecd.org/en/publications/manual-on-effective-mutual-agreement-procedures-memap_2bb3ab55-en.html>

——, ‘Co-Operative Compliance: A Framework: From Enhanced Relationship to Co-Operative Compliance’ (2013)

——, *Measures of Tax Compliance Outcomes : A Practical Guide* (OECD 2014)

——, ‘Cooperative Tax Compliance: Building Better Tax Control Frameworks’ <<http://dx.doi.org/10.1787/9789264253384-en>>

——, *Tax Administration 2019: Comparative Information on OECD and Other Advanced and Emerging Economies* (OECD Publishing 2019) <https://www.oecd.org/en/publications/tax-administration-2019_74d162b6-en.html>

——, ‘Tax Administration 3.0: The Digital Transformation of Tax Administration’ (2020) <www.oecd.org/termsandconditions>

Oliveira PTPD, ‘Improving the Relationship Between Tax Authorities and Taxpayers in Brazil’ (2022) 50 *Intertax* 218

Poitras J, ‘What Makes Parties Trust Mediators?’ (2009) 25 *Negotiation Journal* 307

Sekretariat Pengadilan Pajak, ‘Jumlah Berkas Dan Putusan Sengketa Pajak ’ (2025)

Tran-Nam B and Walpole M, ‘Tax Disputes, Litigation Costs and Access to Tax Justice’ (2016) 14 *eJournal of Tax Research* 319

Xynas L and Xynas A, ‘Supporting Taxation’s Extended “Purpose” to encompass the Objective of Socially Human Behaviours’ [2021] *Journal of Australian Taxation*

READABILITY TESTS CONDUCTED ON THE SOUTH AFRICAN VAT ACT UTILISING GENERATIVE AI AS A PRACTICAL SOLUTION

MUNEER E. HASSAN,* MARINA BORNMANA# AND ADRIAN SAWYER‡

Abstract

This study sets out to provide some preliminary findings on the level of readability of the VAT Act in South Africa using well established formulae from the literature. The methodology is readability formulae developed in the education literature and as applied to taxation materials, including legislation, drawing upon the approaches used in overseas studies in countries such as Australia and New Zealand. The study also applies Generative AI (Copilot) to assist with rewriting tax materials to improve their readability. The findings reflect those in prior overseas studies, revealing that the South African VAT Act provisions are very challenging to read and understand, generally requiring the reader to be a university graduate. Material from SARS is found to be more readable than the legislation. The findings suggest that like other jurisdictions, considerable effort is needed to redraft the VAT Act and other material in such a way to improve legislative simplicity so as to make the material more accessible to a wider audience to read and understand. The use of Generative AI is shown to significantly improve readability through suggestions for rewriting VAT legislation although this still requires further review to ensure technical accuracy. This is a first time that the readability of the South African VAT Act has been undertaken, providing a further comparison to the findings of the overseas literature. It provides a basis to encourage legislative drafters to rewrite the VAT Act.

I INTRODUCTION

Value-Added Tax (VAT) is a consumption and destination-based indirect tax.¹ VAT is effectively paid by the end consumer with their consumption of goods and services. VAT is levied on the consumption of goods and services at an equal rate, resulting in both higher- and

* Department of Accountancy, College of Business and Economics, University of Johannesburg, Auckland Park, Johannesburg, South Africa.

Department of Accountancy, College of Business and Economics, University of Johannesburg, Auckland Park, Johannesburg, South Africa.

‡ UC Business School, University of Canterbury, Christchurch, New Zealand and Extraordinary Professor, University of South Africa.

¹ National Treasury, 'Value added tax South Africa 1991–2011' (Online presentation, 2011). <<https://static.pmg.org.za/docs/110323VATSA.pdf>>; South African Revenue Service (SARS), 'Overview of value-added tax presentation to Standing Committee on Finance' (Online presentation, 2016). <<https://static.pmg.org.za/docs/110216overview.pdf>>.

lower-income groups paying at the same VAT rate. VAT is, therefore, a regressive tax.² The costs of administering VAT are relatively low for revenue authorities.

South Africa implemented the VAT Act on September 30, 1991,³ modelled on the New Zealand Goods and Services Tax (GST).⁴ The annual revenue collection objectives of the South African Revenue Service (SARS) are significantly influenced by VAT. VAT was the second-largest contributor to SARS's annual revenue forecast for the fiscal year 2023/24, accounting for 25%⁵, while personal income tax contributed 37.4%.⁶ The 2025 budget 1.0, which was initially scheduled for 19 February 2025, proposed a two-percentage-point increase in VAT, which was expected to generate a total budget income of approximately R58 billion⁷. The Government of National Unity in Parliament did not adopt the budget due to political party differences regarding the proposal to increase the VAT rate. The budget was rescheduled for 12 March 2025. The revised budget 2.0, which was presented to Parliament on 12 March 2025, tabled an increase in the VAT rate in two phases over the course of two years. The VAT rate was to be increased by half a percentage point in 2025/26, effective 1 May 2025, and then by an additional half percentage point in 2026/2027, effective 1 April 2026.⁸ This would have resulted in a 16% VAT rate for the fiscal year 2026/27. The revised tabled increase over two years was, however, then withdrawn, due to political parties' disagreements on increasing the VAT rate.⁹ Budget 3.0 did not table any increase in the VAT rate.¹⁰ The failed proposals at increasing the VAT rate reinforce its status as a critical revenue-generating instrument and emphasise its importance, including the highly political challenges faced when attempting to increase the rate.

The concept of tax complexity is challenging to define and quantify.¹¹ The degree of complexity of tax law is determined by the content of the law (e.g., ambiguity; exemptions, rebates, and concessions; and annual amendments) and the language used to express the law (e.g., plain English, grammar, sentence length, voice, and logical structure).¹² Legal complexity

² Mason W H, 'Value-added tax' In *The Encyclopaedia of Management L-Z: 1125-1129*. (2019). Edited by Burton, Virgil L., III. Farmington Hills: Cengage Gale.

³ *Value-Added Tax Act (Act No. 89 of 1991) (as amended)* (Republic of South Africa).

⁴ Andrew Maples and Adrian Sawyer, 'The New Zealand GST and its Global Impact: 30 Years On' (2017) *New Zealand Journal of Taxation Law and Policy*, 23(1), 9-26.

⁵ National Treasury and South African Revenue Service, '2024 tax statistics – highlights 'SARS. (Online web page, 2024), <<https://www.sars.gov.za/wp-content/uploads/Docs/TaxStats/2024/Tax-Statistics-2024.pdf>>

⁶ Ibid.

⁷ South African Institute of Chartered Accountants (SAICA), 'Is a VAT rate increase to 17% justifiable?' *SAICA*. (Online web page: 2025), <<https://www.saica.org.za/news/is-a-vat-rate-increase-to-17-justifiable>>.

⁸ National Treasury, 'Budget speech by the Minister of Finance' (Web page, 2025). <<https://www.treasury.gov.za/documents/national%20budget/2025/speech/speech.pdf>>.

⁹ National Treasury, 'Media statement on reversal of VAT increase' (Web page, 2025) <https://www.treasury.gov.za/comm_media/press/2025/2024042401%20Media%20Statement%20on%20the%20reversal%20of%20the%20vat%20rate%20increase.pdf>.

¹⁰ National Treasury, 'Minister Enoch Godongwana: Budget Speech 2025' (Web page, 21 May 2025) <<https://www.gov.za/news/speeches/minister-enoch-godongwana-budget-speech-2025%20A0-21-may-2025>>.

¹¹ Stanley S Surrey, 'Complexity and the internal revenue code: the problem of the management of tax detail' (1969). *Law and Contemporary Problems*, 34(4), 673-710.

¹² Binh Tran-Nam, 'Tax reform and tax simplification: Some conceptual issues and a preliminary assessment' (1999). *The Sydney Law Review*, 21(3), 500-522.

denotes the challenges of reading, understanding, interpreting, and applying specific legislation in diverse practical contexts – in this study legal complexity refers specifically to tax statutes. The use of plain English, grammar, sentence length, and voice collectively impact the readability of the law. Readability is the ease with which a text can be understood.¹³

The VAT Act is legally complex due to its readability, which makes it challenging to teach, apply in practice, and administer.¹⁴ Hassan's empirical investigation establishes that the lengthiest section in the VAT Act is section 17(2) (denied input, entertainment).¹⁵ The study further cites several sections in the VAT act where passive voice is used and suggests that the Tax Administration Act (TAA) is a good measure of an Act that uses active voice.¹⁶ The VAT Act's complexity compromises the VAT system's objective. Even though only some researchers emphasise the impact of tax law complexity on compliance, it is well-documented that it also affects the level of legal certainty.¹⁷ Thus, taxpayer compliance may be enhanced by tax simplification.

The South African VAT Act is difficult to read, which is the research issue behind this study. Thus, this study focuses on the readability of the VAT Act. The sections of the VAT Act that are the most difficult to read, as supported by empirical evidence, will be validated using readability tests in this study. For the first time, this study applies readability tests to the South African VAT Act, presenting a novel contribution. The study then implements generative Artificial Intelligence (AI) to simplify the legal drafting of section 17(2), thereby offering a practical solution to respond to the research problem. Consequently, this investigation implements mixed methodologies to solve the research problem.

The remainder of this paper is organised as follows. In section 2 the research methodology is presented, followed by the literature review in section 3. Section 4 presents the results of the analysis, with section 5 setting out the conclusions and areas for future research.

II RESEARCH METHODOLOGY

The study employs a quantitative methodology, using statistical metrics to evaluate the readability of specific sections of the VAT Act. It also incorporates a qualitative methodology with a qualitative assessment of the simplified text. The readability tests employed were Flesch Reading Ease Score (FRES), Flesch-Kincaid Grade Level (F-KGL), Average Sentence Length (ASL) and Percentage of Passive Voice (PPV) and were performed using Microsoft Word. The qualitative assessment was performed by obtaining opinions from a number of academics

¹³ Musa Sulaiman Umar and Natrah Saad, 'Readability assessment of Nigerian Company Income Tax Act' (2015). *Jurnal Pengurusan* 44, 25–33.

¹⁴ Muneer E Hassan, 'A Framework for a Simpler South African Value-Added Tax Act' (2023). University of Johannesburg (South Africa).

¹⁵ *Ibid.*

¹⁶ Republic of South Africa (n 5).

¹⁷ Yehonatan Givati, 'Resolving legal uncertainty: the fulfilled promise of advance tax rulings' (2009). *Virginia Tax Review*, 29, 137.

teaching VAT on the readability and the meaning of the simplified text. Their opinions were analysed thematically to conclude on the usefulness of generative AI to simplify legal text.

The design of the study was guided by a pre-test, post-test experimental design. In this type of study, the researcher examines an outcome of a test by observing a phenomenon before and after a treatment or intervention.¹⁸ The original texts were first subjected to the readability test to determine the baseline results. Thereafter, the treatment simplification using Large Language Model (LLM), was applied, and the same readability tests were applied to the generated text. Results of the before and after treatments were compared and the qualitative assessment were interpreted to complement the results.

A Sampling

The text used in the readability tests were the denied input of entertainment where section 17(2) is the lengthiest section in the VAT Act.¹⁹ The sampling approach for the selection of academics was purposive as it was important to obtain opinions from people who regularly interact with the VAT Act and are familiar with these sections. Therefore, academics who teach VAT at South African Higher Education institutions were approached by email and asked to read the original text and the two simplified versions before responding to a few short questions. The aim was to gauge their opinion on whether the text reads more easily and had retained its meaning.

B Selection of tools for simplification

A general LLM, Microsoft's Copilot, was used to simplify the legal texts. A specialised LLM, TaxGPT®, was considered but was not available in South Africa at the time. TaxGPT® is regarded as an AI Tax assistant developed for accounting and tax firms or businesses to assist them with complex tax queries and research, writing and document analysis related to tax practice. This tool could be employed in future research.

C Ethical considerations

The study obtained ethical clearance from the University of Johannesburg's Research Ethics Committee with respect to the academic participants who teach VAT. Participants to the study provided informed consent to the study and their confidentiality remains ensured.

¹⁸ Bruce Blaine, 'Statistics and Data Analysis in a Pre-Post Design' (2023). In: *Introductory Applied Statistics*. Springer, Cham.

¹⁹ Hassan (n 16).

III LITERATURE REVIEW

A Tax complexity

Tax administration pertains to the methods and procedures employed by the tax authority to ensure adherence to tax obligations, including payment responsibilities. In contrast, tax policy encompasses the principles of taxes levied on taxpayers by the authority. Clear and concise legislation is necessary to ensure that taxpayers can understand and adhere to it accurately and efficiently.²⁰ The VAT Act's complexity compromises the objective of the VAT system.²¹

Complexity science is the project of constructing models for situations where the diversity and interconnectedness of agents can and often do impact the results.²² Legal scholars have developed descriptive, prescriptive, and ethical frameworks to clarify the consequences of this method within the legal sphere. Schuck²³ defines a legal system as complicated when its rules, procedures, institutions, and supporting culture demonstrate four characteristics: density, intricacy, differentiation, and indeterminacy or uncertainty. The complexity of legal texts is determined by structural, lexical, and syntactical features.²⁴

Like many other laws, tax legislation frequently exhibits ambiguity in various instances.²⁵ There exist three categories of potential ambiguities in tax law: ambiguity pertaining to the exact interpretation of the legislative text; ambiguity as to the implementation of the law in a particular factual scenario; and ambiguity as to the kind of evidence required to demonstrate essential facts. Tax complexity is a difficult concept to define and quantify. However, various methodologies exist for classifying tax complexity. Tax complexity denotes convoluted substantive tax regulations characterised by intricate interrelationships and frequent modifications in the tax treatment of transactions that may not differ in substance or form; all articulated in a complex statutory terminology and structure.²⁶ An increase in the sophistication of tax legislation leads to tax complexity.²⁷ According to Tran-Nam, the degree of complexity of tax law is determined by both the language used to express the law (e.g., plain English, grammar, sentence length, active voice and logical structure) and the content of the law (e.g.,

²⁰ American Institute of Certified Public Accountants (AICPA), 'Tax policy concept: Guiding principles of good tax policy: A framework for evaluating tax proposals' (Web page, 2001). <<https://us.aicpa.org/content/dam/aicpa/advocacy/tax/downloadabledocuments/tax-policy-concept-statement-no-1-global.pdf>>.

²¹ Hassan (n 16).

²² J B Ruhl and Daniel Martin Katz, 'Measuring, monitoring, and managing legal complexity' (2015). *Iowa Law Review*, 101, 191.

²³ Peter H. Schuck, 'Legal complexity: Some causes, consequences, and cures' (1992). *Duke Law Journal*, 42, 1.

²⁴ Bernhard Walzl and Florian Matthes, 'Towards measures of complexity: Applying structural and linguistic metrics to German laws' (2014). In *Legal knowledge and information systems*, 153-162.

²⁵ Givati (n 19).

²⁶ Surrey (n 13).

²⁷ Maryann Richardson and Adrian J Sawyer, 'A taxonomy of the tax compliance literature: Further findings, problems and prospects' (2001). *Australian Tax Forum*, 16(2), 137-320.

ambiguity; exemptions, rebates and concessions; and annual amendments).²⁸ Legal complexity denotes the challenges associated with the reading, understanding, interpretation, and application of a specific tax statute in diverse practical contexts. In this definition, legal simplicity is of fundamental interest to academic and practicing tax attorneys, tax advisors, tax policymakers and the judiciary.

The lack of readability of tax laws has long been subject to vigorous criticism. According to Ross (1964), as cited by Tan and Tower:

[e]ffective collection from the standpoint of the economy as a whole requires minimum cost not only to the government but also to taxpayers as well. Simplicity in tax legislation and provision of adequate, clearly worded information are of greatest importance. The incomprehensibility of tax legislation has long been the target of harsh criticism.²⁹

Although some researchers emphasise the influence of tax law complexity connected with compliance, it is well documented that tax law complexity also has an impact on the level of legal certainty³⁰. Tax simplicity thus improves taxpayer compliance. Empirical research substantiates that the VAT Act is legally complex due to its readability, making it difficult to teach, apply in practice and administer.³¹

Taxpayers and tax authorities both appreciate the clarity of tax legislation.³² Taxpayers must comprehend the timing, location, and methods of tax payment to adhere to tax legislation. Tax authorities must understand taxpayer obligations, the appropriate timing for penalty imposition, and related factors to effectively enforce tax legislation. The legislation mandates all these attributes. Complex tax legislation may jeopardise the tax system, leading to diminished compliance rates among taxpayers. Consequently, readability is essential for tax compliance and administration.

B *What is readability?*

Readability determines the relative ease with which certain texts can be comprehended compared to others.³³ Readability denotes the simplicity with which a text may be comprehended.³⁴ Consequently, reading is essential for understanding.³⁵ To ensure a document is legible and comprehensible, it is essential to assess the type and quantity of ideas presented, as well as the terminology, style, format, and font. Klare defines readability as “the ease of

²⁸ Tran-Nam (n 14).

²⁹ Lin Mei Tan, and Greg Tower, ‘The readability of tax laws: An empirical study in New Zealand’ (1992). *Australian Tax Forum*, 9(3), 355–372.

³⁰ Givati (n 19).

³¹ Muneer E Hassan, Marina Bornman and Adrian Sawyer, ‘Guidelines for a simplified Value-Added Tax Act’ (2024). *South African Journal of Accounting Research*, 38(3), 229-246.

³² Umar (n 15).

³³ William H DuBay, ‘The principles of readability’ (2004). *Online submission*.

³⁴ Umar (n 15).

³⁵ Frank F Urbancic and Ko Hsu, ‘The readability of instructions for income taxation in the Western states’ (2007), *Mountain Plains Journal of Business and Technology*, 8(1), 4.

understanding or comprehension due to the style of writing.”³⁶ Hargis et al.³⁷ state that readability is the “ease of reading words and sentences”. DuBay defines readability as “the degree to which a given class of people find certain reading matter compelling and comprehensible.”³⁸ This definition considers the reader’s familiarity with the relevant literature in relation to the texts.

Dale and Chall provide the most comprehensive definition:

The sum total (including all the interactions) of all those elements within a given piece of printed material that affect the success a group of readers have with it. The success is the extent to which they understand it, read it at an optimal speed, and find it interesting.³⁹

Kimble asserts that:

‘plain language is not just about vocabulary. It involves all the techniques for clear communication – planning the document, designing it, organizing it, writing clear sentences, using plain words, and testing the document whenever possible on typical readers’.⁴⁰

Felker, as referenced by Schriver, contends that the word ‘plain English’ insufficiently represents the field and advocates for the term ‘document design’ as a substitute:

Effective and comprehensible papers require more than merely straightforward vocabulary and uncomplicated language. The structure and presentation of a document may be equally significant as its language. The extent to which the document aligns with the users’ capabilities and the context of its use may influence comprehension as significantly as well-articulated language⁴¹.

C Readability measures

Tax law’s comprehensibility can be assessed ordinally or cardinally.⁴² An ordinal assessment of legal simplicity involves ranking two tax laws without specifying the degree of simplicity or complexity between them. Each tax statute (or segment of tax statute) is allocated a distinct score derived from a cardinal clarity assessment. The scores indicate the degree to which one tax system is simpler or more complex than the other. The FRES exemplifies a fundamental metric of legal clarity in language terms.

³⁶ George Roger Klare, *The measurement of readability*. (Iowa State University Press, 1963).

³⁷ Gretchen Hargis et al., *Developing quality technical information: A handbook for writers and editors*. (Prentice Hall, 1998).

³⁸ DuBay (n35).

³⁹ Edgar Dale and Jeanne S Chall, ‘The concept of readability’ (1949), *Elementary English*, 26(1), 23.

⁴⁰ Joseph Kimble ‘Writing for dollars, writing to please’ (1996), *The Scribes Journal of Legal Writing*, 6, 2.

⁴¹ Karen A Schriver, ‘Document design from 1980 to 1989: Challenges that remain’ (1989), *Technical Communication (Washington)*, 36(4), 316–331.

⁴² Tran-Nam (n 14).

The readability of a document is assessed using the FRES.⁴³ The following formula is employed to calculate the FRES, which relies on word and sentence length:⁴⁴

$$FRES = 206.835 - 0.846wl - 1.015sl.$$

Where: $wl =$ word length (number of syllables per hundred words) and $sl =$ sentence length measured in the number of words.

This information is generated via Word’s readability statistics.

The importance of the formula is evident when one understands that word length serves as an indirect indicator of word complexity, while sentence length functions as an indirect indicator of sentence complexity.⁴⁵ Consequently, the greater the length of words and sentences, the more challenging it becomes to understand the material. The method employs a score range of 1 to 100 to assess text readability, with lower values signifying challenging language, while conventional scores of 60 to 70 denote easily readable text.⁴⁶

Table 1 presents an overview of the reading ease scores.

Table 1: FRES

| FRES score | Description of level of readability |
|------------------------|--|
| 0.00 to 30.00 | Very difficult |
| 30.00 to 50.00 | Difficult |
| 50.00 to 60.00 | Fairly difficult |
| 60.00 to 70.00 | Standard |
| 70.00 to 80.00 | Fairly easy |
| 80.00 to 90.00 | Easy |
| 90.00 to 100.00 | Very easy |

Source: Flesch⁴⁷

Alongside the FRES, additional readability metrics frequently utilised in empirical research including the F-KGL, ASL, and PPV. Markel suggests that an average of 15 to 20 words is the

⁴³ Rudolph Flesch, ‘A new readability yardstick’ (1948), *Journal of Applied Psychology*, 32(3), 225.

⁴⁴ Ibid.

⁴⁵ Ibid 226.

⁴⁶ Ibid 230.

⁴⁷ Ibid.

most effective for technical communication.⁴⁸ According to Stevenson, if the PPV is less than 10%, then to use the colloquial saying “you are doing well”.⁴⁹

F-KGL converts the 0–100 raw FRES into the years of education typically required to comprehend the materials⁵⁰ (Kincaid, Fishburne, Rogers & Chissom, 1975). F-KGL assesses readability by analysing syllables per word and words per sentence, similar to the FRES

$$F - KGL = (0.39 \times \text{total words/total sentences}) + (1.8 \times \text{total syllables/total words}) - 15.59.^{51}$$

Table 2 below illustrates how to interpret the results of F-KGL.

Table 2: F-KGL

| Flesch-Kincaid Score | Reading Level | School Level | Age Range (US) | Example Book |
|----------------------|---------------|---------------------------|----------------|-------------------------|
| 0 - 3 | Basic | Kindergarten / Elementary | 5 - 8 | Hooray for Fish! |
| 3 - 6 | Basic | Elementary | 8 - 11 | The Gruffalo |
| 6 - 9 | Average | Middle School | 11 - 14 | Harry Potter |
| 9 - 12 | Average | High School | 14 - 17 | Jurassic Park |
| 12 - 15 | Advanced | College | 17 - 20 | A Brief History of Time |
| 15 - 18 | Advanced | Post-grad | 20+ | Academic Papers |

Source: Readable⁵²

Readability test variations of F-KGL, for example, the Gunning Fog Index Readability Formula, sometimes referred to as the FOG Index, and the SMOG Readability Formula, a Simple Measure of Gobbledygook, also measures the grade level needed to understand the text.⁵³ Gobbledygook refers to language that does not make sense or is hard to understand.

By the 1980s, there were 200 formulas, and more than a thousand studies published on the readability formulas confirming their robust theoretical and statistical validity.⁵⁴ Despite the

⁴⁸ Mike Markel, *Technical Communication* (9th ed. Bedford/St Martin’s, 2010).

⁴⁹ Roy Stevenson, ‘Five Surprisingly Simple Readability Statistics to Improve Your Writing’ *Pitch Travel Write* (web page 2024) <<https://www.pitchtravelwrite.com/readability.html>>

⁵⁰ J Peter Kincaide et al., ‘Derivation of new readability formulas (automated readability index, fog count and flesch reading ease formula) for navy enlisted personnel’ (1975), *Naval Technical Training Command Millington TN Research Branch*.

⁵¹ Ibid 14.

⁵² Readable, ‘Flesch Reading Ease and the Flesch Kincaid Grade Level’ *Readable* (web page) <<https://readable.com/readability/flesch-reading-ease-flesch-kincaid-grade-level/>>.

⁵³ Brian Scott ‘The Gunning Fog Index (or FOG) Readability Formula’. *ReadabilityFormulas.com*. (Web page 2025) <<https://readabilityformulas.com/the-gunnings-fog-index-or-fog-readability-formula/>>.

⁵⁴ DuBay (n 35).

efficacy of the readability formulas, they have consistently been a focal point of dispute. Following the emergence of the “plain language” movement in the 1960s, which led to legislation mandating the use of plain language in public and commercial documents, several articles criticised the use of readability formulas. A number of studies thoroughly address the formula critics’ concerns.⁵⁵ Despite the criticism, readability tests are more prevalent than ever before.⁵⁶ As such, this study employs FRES and F-KGL, thus the specific limitations and strengths of these metrics are evaluated further.

The FRES does, however, possess certain limitations. The formula primarily emphasises word and sentence length. It neglects other essential elements such as sentence structure, lexical diversity, and clarity. The formulae fail to provide precise grading for context relevant to the reader. A text laden with jargon may achieve a high score, despite its difficulty for the ordinary reader. The formula examines a singular facet of readability. It may overlook additional factors that influence a reader’s comprehension of the material, such as the use of diagrams.⁵⁷

F-KGL, like FRES, also has its limitations.⁵⁸ The formula may inadequately evaluate writings that employ unconventional language or those composed in distinct regional languages. The formula neglects readers’ pre-existing understanding of the topic. Readers may interpret texts variably depending on their knowledge of the topic matter. Dependence on quantitative metrics may fail to encompass all dimensions of text complexity. Elements such as writing style, tone, and rhetorical strategies can affect reading.

Notwithstanding these constraints, simplicity and precision have rendered FRES popular among educators, publishers, and legal professionals.⁵⁹ Technical writers also use F-KGL.⁶⁰ The VAT Act is a legal document utilised by educators for instruction, which is inherently technical; therefore, the FRES and F-KGL are deemed appropriate readability formulas. Further, FRES and F-KGL are applied in this study to validate the empirical findings of Hassan et al. rather than using the formulas as a primary test.⁶¹ Conversely, ASL pertains to average sentence length, while PPV concerns the fraction of passive voice. Despite including sentence length in the FRES and F-KGL, it is essential to assess ASL and PPV independently.⁶² This study thus also incorporates ASL and PPV alongside FRES and F-KGL.

⁵⁵ R W Benson, ‘The end of legalese: The game is over’ (1984-1985), *Review of Law and Social Change* 13(3), 519-573; J S Chall, ‘Readability and prose comprehension: Continuities and discontinuities’ In *Understanding reading comprehension: Cognition, language, and the structure of prose* (International Reading Association, 1984); Dale and Chall (n 39, 19 - 26); DuBay (n 35); Edward B Fry, ‘Reading formulas: maligned but valid’ (1989), *Journal of Reading* 32(4), 292-297; George R Klare, ‘Readable computer documentation’ (2000), *ACM Journal of Computer Documentation* 24(3), 148-16.

⁵⁶ DuBay (n 35).

⁵⁷ Brian Scott ‘Learn about the Flesch Reading Ease Formula’ *ReadabilityFormulas.com* (Web page 2024) <<https://readabilityformulas.com/learn-about-the-flesch-reading-ease-formula/>>

⁵⁸ Ibid.

⁵⁹ Ibid.

⁶⁰ Scott (n 53).

⁶¹ Hassan (n 33).

⁶² David Smith and Grant Richardson, ‘The readability of Australia’s taxation laws and supplementary materials: An empirical investigation’ (1999), *Fiscal Studies*, 20(3), 321–349.

D Readability studies

Prior research has corroborated the application of these readability metrics in evaluating the readability level of tax legislation.⁶³ The literature did not disclose any evidence of prior empirical investigations that applied readability criteria to the South African VAT Act.

Richardson and Smith conducted an empirical study to evaluate the readability of Australia's GST legislation.⁶⁴ The GST is a VAT implemented at every stage, and thus, Richardson and Smith's study is explored further.⁶⁵ A substantial sample of GST legislation was evaluated for readability using the FRES and the F-KGL. Passive constructions and average sentence length were also examined. The study, utilising the FRES, found that 72.16% of the GST legislation portions were challenging or exceedingly challenging to read, necessitating a degree of education for understanding. Only 11.93% of the segments of the GST Act achieved an acceptable readability standard of 60 or above and a Form 4 or lower educational level. Their findings indicated that the Australian GST Act was challenging to comprehend, the GST legislation was less accessible than the Income Tax Act of 1997 and enhancing the readability of GST text might serve as a means to streamline the tax system. Unfortunately, there are no plans to rewrite either the Australian or the New Zealand GST Acts.

E The use of generative AI in legal text simplification

'Text simplification is the process of reducing the linguistic complexity of a text to improve its understandability and readability', without changing the meaning of the text.⁶⁶ Text simplification (TS) usually involves the tasks of lexical simplification (identifying complex words and replacing them with simpler synonyms) and syntactic simplification (to achieve a more straightforward sentence structure).⁶⁷ To perform this process using automation, is an area of research that has shown much progress since the late 1990's and has developed

⁶³ Tamer Budak and Simon James 'The level of tax complexity: A comparative analysis between the U.K. and Turkey based on the OTS index' (2018), *International Tax Journal*, 44(1), 23–36; Antonio Lopo Martinez, and Raimundo Da Silva, 'Tax law readability and tax complexity' (2019), SSRN; Caroline Pau, Adrian Sawyer and Andrew Maples, 'Complexity of New Zealand's tax laws: An empirical study' (2007), *Australian Tax Forum*, 22(1), 59–92; Grant Richardson and David Smith, 'The readability of Australia's Goods and Services Tax legislation: Empirical investigation' (2002), *Federal Law Review*, 30(3), 475–506; Grant Richardson and Adrian Sawyer, 'Complexity in the expression of New Zealand's tax laws: An empirical analysis' (1998), *Australian Tax Forum*, 14(3), 325–360; Natrah Saad, Noraza Mat Udin and Chek Derashid, 'Complexity of the Malaysian income tax Act 1967: Readability assessment' (2014), *Procedia-Social and Behavioral Sciences*, 164, 606-612; Kathryn Saw and Adrian Sawyer, 'Complexity of New Zealand's income tax legislation: The final instalment' (2010), *Australian Tax Forum*, 25(2), 213–245; Smith (n 62); Tan and Tower (n 31); Umar (n 15); Urbancic and Hsu (n 37).

⁶⁴ Richardson and Smith (n 63)

⁶⁵ Ibid.

⁶⁶ Suha S Al-Thanyyan and Aqil M Azmi, 'Automated Text Simplification: A Survey' (2021), *ACM Computing Surveys*, 54(2), 1.

⁶⁷ Alexandre Alves et al., 'Automatic Simplification of Legal Texts in Portuguese Using Machine Learning' (2023). In *Legal Knowledge and Information Systems*, 281-286.

alongside the rapid growth in machine learning, Natural Language Processing (NLP), and software techniques for text simplification, also in the legal domain⁶⁸. In addition, an increasing amount of research focuses on the use of NLP and machine learning for assessing the readability of legal text.⁶⁹

Domain-general TS studies have shown great benefits of simplification in regular text, but due to the complex jargon in the legal field, called Legal English or “Legalese”, domain-general TS methods can function sub-optimally on legal texts.⁷⁰ In the legal domain, Garimella et al. investigate and compare some automated TS methods for lexical and syntactic simplification⁷¹. They conclude that “lexical simplification methods will benefit from having a legal lexicon as they still sometimes generate replacements that do not fit the legal context”.⁷² A study on simplifying legal texts found that using machine learning models, trained specifically on legal documents, improved the readability of legal texts through more compact sentences with shorter words.⁷³

With the dawn of generative AI tools such as ChatGPT, Claude and CoPilot, access to models to obtain simplified texts became easier and widespread. ChatGPT is a LLM that uses deep learning techniques to generate human-like texts. Research has shown that simplified texts generated by ChatGPT can enhance readability⁷⁴. LLMs excel at capturing complex linguistic nuances by considering sentence context and effortlessly generating coherent text, which has contributed to their rapid popularity. While LLMs can be used for text simplification, achieving the desired level of simplification requires a carefully crafted prompt.⁷⁵ It will be interesting to compare the performance of a general purpose LLM, e.g. ChatGPT, with an LLM trained on a legal corpus, in simplifying sections of the VAT Act.

IV RESULTS

Hassan’s empirical study identifies section 11(2)(1) (zero-rating of exported services) as the most difficult provision to comprehend due to its lack of simple English⁷⁶. Hassan’s research further substantiates that the lengthiest section of the VAT Act is section 17(2) (denied input,

⁶⁸ Al-Thanyyan and Azmi (n 66).

⁶⁹ Michael Curtottie, et al., ‘Machine learning for readability of legislative sentences’ (2015). *Proceedings of the 15th International Conference on Artificial Intelligence and Law, ICAIL 2015, June 8-12, 2015*, 53-62. San Diego, CA, USA

⁷⁰ Mert Cemri, Tolga Çukur, T and Aykut Koç, ‘Unsupervised simplification of legal texts’ (2022). *arXiv preprint arXiv, 2209.00557*

⁷¹ Aparna Garimella et al., ‘Text Simplification for Legal Domain: Insights and Challenges’ (2022). *Proceedings of the Natural Legal Language Processing Workshop 2022*, 296-304. Association for Computational Linguistics

⁷² Ibid 300.

⁷³ Alves et al. (n 67).

⁷⁴ Andrea Sastre et al., ‘Is ChatGPT Able to Generate Texts that Are Easy to Understand and Read?’ (2024), *Good Practices and New Perspectives in Information Systems and Technologies*.

⁷⁵ Vanessa Toborek, ‘Let us be clear: Why text simplification matters and what ML can do to help’ *Lamarr Institute* (Web page 15 November 2023) <<https://lamarr-institute.org/blog/text-simplification-and-ml/>>.

⁷⁶ Hassan (n 16).

entertainment)⁷⁷. This study initially conducts readability tests on the VAT Act in contrast to comparable legislative texts as well as SARS guides. Subsequently, it applies these tests to the specific sections of the VAT Act identified as particularly challenging to comprehend (namely, section 17(2)). The selection of section 11(2), which pertains to denied VAT inputs, was made in preference to section 11(2)(l), which pertains to the zero-rating of exported services and is more intricate in nature, for the purpose of testing.

A Readability tests: VAT Act in comparison to other statutes and SARS Guidelines

The researchers conducted readability assessments (i.e. FRES, F-KGL, ASL, and PPV) on the VAT Act, comparing it with New Zealand's GST Act (No. 141 of 1985) (the GST Act 1985).⁷⁸ The South African VAT Act is largely based on New Zealand's GST Act.⁷⁹ The New Zealand GST Act 1985 represents a simpler and more straightforward variant of VAT than the European Model.⁸⁰ Despite New Zealand's revision of its income tax rules, the GST Act remains unaltered, notwithstanding judicial endorsement for its amendment.⁸¹

The researchers incorporated the TAA in the comparison due to its commendable organisation, structure, and utilisation of active voice.⁸² Furthermore, the research expands the readability assessments to encompass the SARS VAT 404 Vendor Guide. The SARS VAT 404 Vendor Guide is a fundamental resource that minimises the use of technical and regulatory terminology as feasible.⁸³

Table 3 summarises the results of our readability assessments of the VAT Act in contrast to provisions in New Zealand's GST Act, the TAA, and the SARS VAT 404 Vendor Guide.

Table 3: Readability test results – VAT Act

| Readability test | The Vat Act | New Zealand GST Act | TAA | SARS VAT 404 Vendor Guide |
|-------------------------|--------------------|----------------------------|------------|----------------------------------|
| FRES | 33.7 | 19.0 | 40.9 | 39.5 |
| F-KGL | 15.8 | 18.3 | 13.6 | 13.0 |

⁷⁷ Ibid

⁷⁸ *Goods and Services Act, 41 of 1985* (New Zealand Parliament).

⁷⁹ National Treasury (n 3); SARS (n 3).

⁸⁰ Maples and Sawyer (n 6).

⁸¹ Adrian Sawyer, 'Complexity of tax simplification: A New Zealand perspective'. In *The complexity of tax simplification*, 110–132. (Palgrave Macmillan 2016).

⁸² Hassan (n 16); Fareed Moosa, 'Tax Administration Act: Fulfilling human rights through efficient and effective tax administration' (2018). *De jure*, 51(1), 1–16.

⁸³ SARS, *VAT 404 Guide for Vendors*, (Web page, 2019) <<https://www.sars.gov.za/wp-content/uploads/Ops/Guides/LAPD-VAT-G02-VAT-404-Guide-for-Vendors.pdf>>.

| | | | | |
|------------|-------|-------|-------|-------|
| ASL | 29.6 | 31.3 | 24.3 | 22.4 |
| PPV | 23.3% | 12.1% | 29.4% | 41.4% |

Source: author's own analysis (2025)

The FRES score of 33.7 for the VAT Act signifies that it is difficult to read, whereas the New Zealand GST Act is very difficult to read at 19.0. However, the TAA and SARS VAT 404 Vendor Guide, which are still difficult to read as per the FRES, demonstrate some enhancements in the outcomes.

The F-KGL score of 15.8 for the VAT Act and 18.3 for the New Zealand GST Act indicates an advanced level of education, necessitating a post-graduate student's ability to read and comprehend the law. The F-KGL score of 13.6 for the TAA and 13.0 for the SARS VAT 404 Vendor Guide signifies that it is at an advanced level, necessitating a college student's ability to read and comprehend the law.

The ASL for the VAT Act is 29.6 words, while the New Zealand GST Act is 31.3 words, both significantly beyond the recommended range of 15-20 words. The TAA and the SARS VAT 404 Vendor Guide of 24.3 and 22.2 words, close to the recommended average word count.

The PPV of the New Zealand GST Act aligns more closely with a practice of under 10%, although the VAT Act, TAA, and SARS VAT 404 Vendor Guide significantly exceed standard norms.

The findings indicate that the VAT Act is challenging to interpret, necessitating a postgraduate reading proficiency for comprehension. Similar to the VAT Act, the New Zealand GST Act is exceedingly challenging to interpret, necessitating a postgraduate reading proficiency for comprehension. Both the VAT Act and the New Zealand GST Act indicate that the ASL exceeds the allowable average. The New Zealand GST Act aligns with the prevailing practice regarding PPV. The outcomes are unsurprising since the South African VAT Act is predominantly derived from the New Zealand GST Act. The TAA and the SARS VAT 404 Vendor Guide exhibit enhanced readability results relative to the VAT Act, and the ASL aligns more closely with the acceptable average word count, although the PPV remains elevated. The results thus confirm and validate Hassan's⁸⁴ empirical findings that the VAT Act is difficult to read.

B Readability tests: Specific section of the VAT Act

The researchers conducted readability assessments (i.e. FRES, F-KGL, ASL, and PPV) on the following specific section in the VAT that are in practice challenging to understand:

- Section 17(2) (denied input, entertainment), length of the section.

⁸⁴ Hassan (n 16).

Table 4 presents a summary of the results of the readability tests that have been applied to section 17(2) in the VAT Act.

Table 4: Readability test results – Section 17(2) in the VAT Act

| Readability test | Section 17(2) (denied input, entertainment) – Length of the section |
|-------------------------|--|
| FRES | 0 |
| F-KGL | 30.9 |
| ASL | 70.3 |
| PPV | 33.3% |

Source: author’s own analysis (2025)

The FRES score of 0 indicates that these sections are exceedingly challenging to read, while the F-KGL score of 30.9 signifies that the reading level is advanced and necessitates a postgraduate education for comprehension of the material. Further, the ASL score of 70.3 words per sentence indicates a very high score where the acceptable average is that of 15 to 20 words per sentence. The PPV score of 33.3% is significantly elevated relative to the tolerable standard of under 10%.

These readability test results further validate Hassan’s⁸⁵ empirical findings that section 17(2) in the VAT Act is difficult to read.

C Generative AI applied in improving the readability of a specific section of the VAT Act

The researchers used Microsoft’s Copilot to improve the readability of section 17(2) of the VAT Act. The following prompt was applied to Copilot, “Improve section 17(2) of the South African Value-Added Tax Act by making it easier to read by specifically improving the Flesch Reading Ease Score (FRES), Flesch-Kincaid Grade Level (F-KGL), average sentence length (ASL), and the amount of passive voice used (PPV)”.

Table 5 below represents the comparative tests before and after the simplification. The original and the improved text are contained as an Appendix to this paper. These are raw generated AI rewriting put through the readability test without any human interventions to check the output.

⁸⁵ Hassan (n 16).

Table 5: Readability test results – Comparative, Section 17(2) of the VAT Act

| Readability test | Original text | Revised text |
|------------------|---------------|--------------|
| FRES | 0 | 38.6 |
| F-KGL | 30.9 | 13.3 |
| ASL | 70.3 | 22.1 |
| PPV | 33.3% | 15.7% |

Source: author’s own analysis (2025)

These updated readability test results show a dramatic improvement in how understandable Section 17(2) of the South African VAT Act is after revision.

1. Flesch Reading Ease Score (FRES)

- Original: 0 → Revised: 38.6
- Interpretation:
 - A score of 0 is extremely difficult to read—comparable to dense academic or legal writing.
 - The revised score of 38.6 moves the text into the *difficult but readable* range, suitable for professionals and educated readers.
- Significance: This change makes the law more accessible to a broader audience, reducing the need for legal interpretation.

2. Flesch-Kincaid Grade Level (F-KGL)

- Original: 30.9 → Revised: 13.3
- Interpretation:
 - A grade level of 30.9 is far beyond postgraduate level—virtually unreadable without specialized training.
 - The revised level of 13.3 is appropriate for someone with a high school education or early college experience.
- Significance: this makes the law understandable to business owners, accountants, and general taxpayers—not just legal experts.

3. Average Sentence Length (ASL)

- Original: 70.3 words → Revised: 22.1 words
- Interpretation:
 - Sentences over 70 words are extremely hard to follow, especially when packed with clauses and legal jargon.

- The revised average of 22.1 words is much more manageable and aligns with best practices for clear writing.
- Significance: shorter sentences improve comprehension, reduce cognitive load, and help readers retain key information.

4. Passive Voice Percentage (PPV)

- Original: 33.3% → Revised: 15.7%
- Interpretation:
 - Passive voice can obscure who is responsible for actions, which is problematic in legal writing.
 - Reducing passive voice to 15.7% makes the text more direct and easier to interpret.
- Significance: improves clarity and accountability in legal obligations and rights.

Overall Impact

These changes reflect a strong move toward plain language legal drafting, which:

- Enhances transparency and accessibility.
- Supports compliance by making rules easier to follow.
- Reduces misinterpretation and reliance on legal professionals for basic understanding.

The original and the improved text in the Appendix was sent to five lecturers who teach VAT at a South African Higher Education Institution. The lecturers were requested to comment on the improved text. The results of the survey responses are tabulated in Table 6.

Table 6: Survey responses: Lecturers who teach VAT at a South African Higher Education Institution

| | Participant 1 | Participant 2 | Participant 3 | Participant 4 | Participant 5 |
|--|---------------|---------------|---------------|---------------|---------------|
| Do you agree that the improved text in relation to section 17(2) improves the readability? | Yes | Yes | Yes | Yes | No response |
| Does the improved text still achieve the same legal interpretation as the original text? | Yes | Yes | No | Yes | No response |

Source: author's own analysis (2025)

The responses from the participants validate the readability test results conducted on the South African VAT Act on section 17(2). Participant number three confirmed that the revised section 17(2) did not achieve the same legal interpretation as the original text and highlighted that the revised text missed some of the legal references that are contained in the original text. Thus, the use of AI as a generative tool in drafting the VAT Act has not been perfected and cannot be relied on completely but can still serve to assist in legal drafting. This feedback implies that even with the use of Generative AI tools, there remains a need for human intervention to ensure there is no change in substance that would lead to a change in interpretation and application of the legislative provision.

V CONCLUSION

It is well established in the literature that tax legislation and other related materials are difficult to read and understand. Various forms of assessing these challenges (including readability measures) have been employed in many jurisdictions, but very little attention has been focussed on South African tax material. The South African VAT Act has been shown to be very complex and difficult to read and understand.⁸⁶ This study, building on earlier research, provides evidence from applying traditional readability formulae to the lengthiest provision to comprehend section 17(2) (denied input, entertainment)), to support this position.

This study takes this analysis an important step further, providing evidence of how the provision could be simplified. It does this by utilising Generative AI (Microsoft's Copilot) to develop an easier to comprehend provision. Copilot's suggestion for rewriting the provision was tested through seeking feedback from experienced academic teachers of VAT law in South Africa. An important observation from this feedback is that while using Generative AI is helpful, there remains a need for human overview to ensure the rewritten provision does not change the interpretation and application of the law.

TaxGPT®, a specialised LLM, was contemplated; however, it was not accessible in South Africa at the time of publication of this article. TaxGPT® is considered an AI tax assistant that was created for accounting and tax firms or businesses to help them with complex tax queries, research, writing, and document analysis related to tax practice. TaxGPT® may be implemented in future research.

⁸⁶ Hassan (n 16).

REFERENCES

- Al-Thanyyan, S., & Azmi, A. (2021). Automated Text Simplification: A Survey. *ACM Computing. Surveys*, 54(2), 1-36. doi:<https://doi.org/10.1145/3442695>
- Alves, A., Miranda, P., Mello, R., & Nascimento, A. (2023). Automatic Simplification of Legal Texts in Portuguese Using Machine Learning. In *Legal Knowledge and Information Systems*, 281-286. doi:10.3233/FAIA230975
- American Institute of Certified Public Accountants. (2001). *Tax policy concept: Guiding principles of good tax policy: A framework for evaluating tax proposals*. Available at: <https://us.aicpa.org/content/dam/aicpa/advocacy/tax/downloadabledocuments/tax-policy-concept-statement-no-1-global.pdf> (Accessed: 7 April 2024)
- Benson, R. W. (1984-1985). "The end of legalese: The game is over." *Review of Law and Social Change* 13(3), 519-573
- Blaine, B. (2023). Statistics and Data Analysis in a Pre-Post Design. In: *Introductory Applied Statistics*. Springer, Cham. https://doi.org/10.1007/978-3-031-27741-2_10
- Budak, T. & James, S. (2018). The level of tax complexity: A comparative analysis between the U.K. and Turkey based on the OTS index. *International Tax Journal*, 44(1), 23–36
- Cemri, M., Çukur, T., & Koç, A. (2022). Unsupervised simplification of legal texts. *arXiv preprint arXiv, 2209.00557*
- Chall, J. S. (1984). Readability and prose comprehension: Continuities and discontinuities. In *Understanding reading comprehension: Cognition, language, and the structure of prose*, ed. J. Flood. Newark, DE: International Reading Association
- Curtottie, M., McCreath, E., Bruce, T., Frug, S., Weibel, W., & Ceynowa, N. (2015). Machine learning for readability of legislative sentences. *Proceedings of the 15th International Conference on Artificial Intelligence and Law, ICAIL 2015, June 8-12, 2015*, 53-62. San Diego, CA, USA
- Dale, E., & Chall, J. S. (1949). The concept of readability. *Elementary English*, 26(1), 19-26
- DuBay, W. H. (2004). The principles of readability. *Online submission*
- Flesch, R. (1948). A new readability yardstick. *Journal of Applied Psychology*, 32(3), 221–233
- Fry, E. B. (1989). 'Reading formulas: maligned but valid.' *Journal of Reading* 32(4), 292-297
- Garimella, A., Sancheti, A., Aggarwal, V., Ganesh, A., Chhaya, N., & Khambatla, N. (2022). Text Simplification for Legal Domain: Insights and Challenges. *Proceedings of the Natural Legal Language Processing Workshop 2022*, 296-304. Association for Computational Linguistics
- Givati, Y. (2009). Resolving legal uncertainty: the fulfilled promise of advance tax rulings. *Virginia Tax Review*, 29, 137

- Hargis, G., A. K. Hernandez, P. Hughes, J. Ramaker, S. Rouiller, & E. Wilde. (1998). *Developing quality technical information: A handbook for writers and editors*. Upper Saddle River, NJ: Prentice Hall
- Hassan, M. E. (2023). *A Framework for a Simpler South African Value-Added Tax Act*. University of Johannesburg (South Africa)
- Hassan, M. E., Bornman, M., & Sawyer, A. (2024). Guidelines for a simplified Value-Added Tax Act. *South African Journal of Accounting Research*, 38(3), 229-246
- Kimble, J. (1996). Writing for dollars, writing to please. *The Scribes Journal of Legal Writing*, 6, 1
- Kincaid, J.P., Fishburne, R.P. Jr., Rogers, R.L. & Chissom, B.S. (1975). *Derivation of new readability formulas (automated readability index, fog count and flesch reading ease formula) for navy enlisted personnel*. Naval Technical Training Command Millington TN Research Branch
- Klare, G. R. (1963). *The measurement of readability*. Ames, Iowa: Iowa State University Press
- Klare, G. R. (2000). Readable computer documentation. *ACM Journal of Computer Documentation* 24(3), 148-168
- Maples, A. & Sawyer, A. (2017). “The New Zealand GST and its Global Impact: 30 Years On”, *New Zealand Journal of Taxation Law and Policy*, 23(1), 9-26
- Martinez, A.L. & Da Silva, R. (2019). *Tax law readability and tax complexity*. SSRN. Available from: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3440547
- Mason, W.H. (2019). Value-added tax. In *The Encyclopaedia of Management L-Z: 1125-1129*. Edited by Burton, Virgil L., III. Farmington Hills: Cengage Gale
- Marke, M. (2010). *Technical Communication*, 9th ed. Bedford/St Martin’s
- Moosa, F. (2018). Tax Administration Act: Fulfilling human rights through efficient and effective tax administration. *De jure*, 51(1), 1–16
- New Zealand Parliament. (1985). Goods and Services Act, 41 of 1985
- National Treasury. (2011). *Value added tax South Africa 1991–2011* [Presentation]. <https://static.pmg.org.za/docs/110323VATSA.pdf> (Accessed: 23 April 2025)
- National Treasury & South African Revenue Service. (2024). *2024 tax statistics – highlights*. Available: <https://www.sars.gov.za/wp-content/uploads/Docs/TaxStats/2024/Tax-Statistics-2024.pdf> (Accessed: 3 March 2025)
- National Treasury. (2025a). *Budget speech by the Minister of Finance*. Available: <https://www.treasury.gov.za/documents/national%20budget/2025/speech/speech.pdf> (Accessed: 23 April 2025)

National Treasury. (2025b). *Media statement on reversal of VAT increase*. Available: https://www.treasury.gov.za/comm_media/press/2025/2024042401%20Media%20Statement%20on%20the%20reversal%20of%20the%20vat%20rate%20increase.pdf (Accessed: 24 June 2025)

National Treasury. (2025c). *Minister Enoch Godongwana: Budget Speech 2025*. Available: <https://www.gov.za/news/speeches/minister-enoch-godongwana-budget-speech-2025%C2%A0-21-may-2025> (Accessed: 24 June 2025).

Pau, C., Sawyer, A. & Maples, A. (2007). Complexity of New Zealand's tax laws: An empirical study. *Australian Tax Forum*, 22(1), 59–92

Readable. N.d. *Flesch Reading Ease and the Flesch Kincaid Grade Level*. <https://readable.com/readability/flesch-reading-ease-flesch-kincaid-grade-level/> (Accessed: 23 April 2025)

Republic of South Africa. (1991). *Value-Added Tax Act (Act No. 89 of 1991) (as amended)*. Pretoria: Government Printer

Republic of South Africa. (2011). *Tax Administration Act (TAA), 28 of 2011 (as amended)*. Pretoria: Government Printer

Richardson, M. & Sawyer, A. (1998). Complexity in the expression of New Zealand's tax laws: An empirical analysis. *Australian Tax Forum*, 14(3), 325–360.

Richardson, M. & Sawyer, A. (2001). A taxonomy of the tax compliance literature: Further findings, problems and prospects. *Australian Tax Forum*, 16(2), 137–320

Richardson, G. & Smith, D. (2002). The readability of Australia's Goods and Services Tax legislation: Empirical investigation. *Federal Law Review*, 30(3), 475–506

Ruhl, J. B., & Katz, D. M. (2015). Measuring, monitoring, and managing legal complexity. *Iowa Law Review*, 101, 191

Saad, N., Udin, N.M. & Derashid, C. (2014). Complexity of the Malaysian income tax Act 1967: Readability assessment. *Procedia-Social and Behavioral Sciences*, 164, 606-612

Sastre, A., Iglesias, A., Morato, J., & Sanchez-Cuadrado, S. (2024). Is ChatGPT Able to Generate Texts that Are Easy to Understand and Read? *Good Practices and New Perspectives in Information Systems and Technologies*. WorldCIST 2024. doi: doi.org/10.1007/978-3-031-60221-4_14

Saw, K.S.L. & Sawyer, A. (2010). Complexity of New Zealand's income tax legislation: The final instalment. *Australian Tax Forum*, 25(2), 213–245

Sawyer, A. (2016). Complexity of tax simplification: A New Zealand perspective. In *The complexity of tax simplification*, 110–132. Edited by S. James, A. Sawyer, & T. Budak, London: Palgrave Macmillan

- Schraver, K.A. (1989). Document design from 1980 to 1989: Challenges that remain. *Technical Communication (Washington)*, 36(4), 316–331
- Schuck, P. H. (1992). Legal complexity: Some causes, consequences, and cures. *Duke Law Journal*, 42, 1
- Scott, B. (2024). Learn about the Flesch Reading Ease Formula. *ReadabilityFormulas.com*. <https://readabilityformulas.com/learn-about-the-flesch-reading-ease-formula/> (Accessed: 1 April 2025)
- Scott, B. (2025). The Gunning Fog Index (or FOG) Readability Formula. *ReadabilityFormulas.com*. Available: <https://readabilityformulas.com/the-gunnings-fog-index-or-fog-readability-formula/> (Accessed: 1 April 2025)
- Smith, D. & Richardson, G. (1999). The readability of Australia's taxation laws and supplementary materials: An empirical investigation. *Fiscal Studies*, 20(3), 321–349
- South African Institute of Chartered Accountants (SAICA). (2025). *Is a VAT rate increase to 17% justifiable?* Available: <https://www.saica.org.za/news/is-a-vat-rate-increase-to-17-justifiable> (Accessed: 3 March 2025)
- South African Revenue Service. (2016). *Overview of value-added tax presentation to Standing Committee on Finance*. <https://static.pmg.org.za/docs/110216overview.pdf> (Accessed: 3 March 2025)
- South African Revenue Service (SARS). (2019). *VAT 404 Guide for Vendors*. Available from: <https://www.sars.gov.za/wp-content/uploads/Ops/Guides/LAPD-VAT-G02-VAT-404-Guide-for-Vendors.pdf> (Accessed: 23 April 2025)
- Stevenson, R. (2024). *Five Surprisingly Simple Readability Statistics to Improve Your Writing*. <https://www.pitchtravelwrite.com/readability.html>. (Accessed: 23 April 2025)
- Sulaiman Umar, M. & Saad, N. (2015). Readability assessment of Nigerian Company Income Tax Act. *Jurnal Pengurusan* 44, 25–33
- Surrey, S. S. (1969). Complexity and the internal revenue code: the problem of the management of tax detail. *Law and Contemporary Problems*, 34(4), 673-710
- Tan, L.M. & Tower, G. (1992). The readability of tax laws: An empirical study in New Zealand. *Australian Tax Forum*, 9(3), 355–372
- Toborek, V. (2023, November 15). *Let us be clear: Why text simplification matters and what ML can do to help*. Retrieved from Lamarr Institute for Machine Learning and Artificial Intelligence: <https://lamarr-institute.org/blog/text-simplification-and-ml/>
- Tran-Nam, B. (1999). Tax reform and tax simplification: Some conceptual issues and a preliminary assessment. *The Sydney Law Review*, 21(3), 500–522

Walt, B., & Matthes, F. (2014). Towards measures of complexity: Applying structural and linguistic metrics to German laws. In *Legal knowledge and information systems*, 153-162. IOS Press

West, E. (2025). *Proposal that broke Budget 2025: 2% VAT increase amidst spending pressures*. Available: <https://www.iol.co.za/business-report/economy/proposal-that-broke-budget-2025-2-vat-increase-amidst-spending-pressures-5deb4c66-4d5b-4b01-906e-1fcc2b3ca684> (Accessed: 23 April 2025)

Appendix: results of Copilot's output

| Original text | Revised text |
|--|---|
| <p>17. Permissible deductions in respect of input tax</p> <p>(2) <i>Notwithstanding anything in this Act to the contrary, a vendor, shall not be entitled to deduct from the sum of the amounts of output tax and refunds contemplated in section 16 (3), any amount of input tax—</i></p> <p>(a) <i>in respect of goods or services acquired by such vendor to the extent that such goods or services are acquired for the purposes of entertainment: Provided that this paragraph shall not apply where—</i></p> <p>(i) <i>such goods or services are acquired by the vendor for making taxable supplies of entertainment in the ordinary course of an enterprise which—</i></p> <p>(aa) <i>continuously or regularly supplies entertainment to clients or customers (other than in the circumstances contemplated in item (bb)) for a consideration to the extent that such taxable supplies of entertainment are made for a charge which—</i></p> <p>(A) <i>covers all direct and indirect costs of such entertainment; or</i></p> <p>(B) <i>is equal to the open market value of such supply of entertainment,</i></p> <p><i>unless—</i></p> <p>(i) <i>such costs or open market value is for bona fide promotion purposes not charged by the vendor in respect of the supply to recipients who are clients or customers in the ordinary course of the enterprise, of entertainment which is in all respects similar to the entertainment continuously or regularly supplied to clients or customers for consideration; or</i></p> | <p>17. Permissible deductions in respect of input tax</p> <p>(2) Despite anything else in this Act, a vendor may not deduct input tax from the output tax and refunds under section 16(3) for the following:</p> <p>(a) Input tax on goods or services acquired mainly for entertainment, except when:</p> <p>(i) The vendor acquires these goods or services to make taxable supplies of entertainment in the normal course of business, and:</p> <p>(aa) The vendor regularly provides entertainment to clients or customers for a fee that:</p> <p>(A) Covers all direct and indirect costs of the entertainment; or</p> <p>(B) Equals the open market value of the entertainment.</p> <p>However, this does not apply if:</p> <p>(i) The costs or market value relate to genuine promotional activities, where the vendor does not charge clients or</p> |

(ii) the goods or services were acquired by the vendor for purposes of making taxable supplies to such clients or customers of entertainment which consists of the provision of any food and a supply of any portion of such food is subsequently made to any employee of the vendor or to any welfare organization as all such food was not consumed in the course of making such taxable supplies;

(bb) supplies entertainment to any employee or office holder of the vendor or any connected person in relation to the vendor, to the extent that such taxable supplies of entertainment are made for a charge which covers all direct and indirect costs of such entertainment;

*(ii) such goods or services are acquired by the vendor for the consumption or enjoyment by that vendor (including, where the vendor is a partnership, a member of such partnership), an employee, office holder of such vendor, or a self-employed natural person in respect of a meal, refreshment or accommodation, in respect of any night that such vendor or member is by reason of the vendor's enterprise or, in the case of such employee, office holder or self-employed natural person, he or she is by reason of the duties of his or her employment, office or contractual relationship, obliged to spend away from his or her usual place of residence and from his or her usual working-place. For the purposes of this section, the term "**self-employed natural person**" shall mean a person to whom an amount is paid or is payable in the course of any trade carried on by him or her independently of the person by whom such amount is paid or payable and of the person to whom the services have been or are to be rendered, as contemplated in the proviso to paragraph (ii) of the exclusions to the definition of "remuneration" in paragraph 1 of the Fourth Schedule to the Income Tax Act;*

customers for similar entertainment that is regularly supplied for a fee; or

(ii) The goods or services are used to make taxable supplies of entertainment involving food, and any leftover food is given to employees or welfare organizations.

(bb) The vendor supplies entertainment to an employee, office holder, or connected person for a charge that covers all direct and indirect costs.

(ii) The vendor acquires goods or services for meals, refreshments, or accommodation consumed by the vendor, a partner, employee, office holder, or self-employed person. This applies when they must spend a night away from their usual home or workplace due to business reasons. Here, a "self-employed natural person" means someone paid in their own business independently from the payer or the person receiving the services, as defined in the Income Tax Act.

(iii) The vendor supplies entertainment on a conveyance (e.g., a bus or ship) to passengers or crew during a journey, as part of a taxable transport service.

(iv) The vendor supplies meals or refreshments during or immediately before or after a seminar or similar event, and charges the participants for these.

(iii) such goods or services consist of entertainment supplied by the vendor as operator of any conveyance to a passenger or crew member; in such conveyance during a journey, where such entertainment is supplied as part of or in conjunction with the transport service supplied by the vendor; where the supply of such transport service is a taxable supply;

(iv) such goods or services consist of a meal or refreshment supplied by the vendor as organizer of a seminar or similar event to a participant in such seminar or similar event, the supply of such meal or refreshment is made during the course of or immediately before or after such seminar or similar event and a charge which covers the cost of such meal or refreshment is made by the vendor to the recipient;

(v) such goods or services are acquired by a municipality for the purpose of providing sporting or recreational facilities or public amenities to the public;

(vi) such goods or services are acquired by a welfare organization, for the purpose of making supplies in the furtherance of its aims and objects; or

(vii) such goods or services are acquired by a vendor for an employee or office holder of such vendor, that are incidental to the admission into a medical care facility;

(viii) such goods or services consist of a meal or refreshment supplied by the vendor as operator of any ship or vessel (otherwise than in the circumstances contemplated in subparagraph (iii)) in such ship or vessel to a crew member of such ship or vessel, where such meal or refreshment is supplied in the course of making a taxable supply by that vendor; or

(ix) that entertainment is acquired by the vendor for the purpose of awarding that

(v) A municipality acquires goods or services to provide public sporting or recreational facilities or amenities.

(vi) A welfare organization acquires goods or services to support its aims and objectives.

(vii) The vendor acquires goods or services for an employee or office holder's incidental admission to a medical care facility.

(viii) The vendor supplies meals or refreshments to a crew member on a ship or vessel during a taxable supply, except in cases covered by (iii).

(ix) The vendor acquires entertainment to award as a prize under section 16(3)(d) following a supply under section 8(13).

(b) Input tax on fees or subscriptions for membership in sporting, social, or recreational clubs, associations, or societies.

(c) Input tax on motor cars supplied to or imported by the vendor, except when:

(i) The vendor acquires the motor car solely to make a taxable supply of that motor car in the normal course of business, such as selling, instalment credit agreements, or rental at economic rental consideration.

entertainment as a prize contemplated in section 16 (3) (d) in consequence of a supply contemplated in section 8 (13);

(b) in respect of any fees or subscriptions paid by the vendor in respect of membership of any club, association or society of a sporting, social or recreational nature; or

(c) in respect of any motor car supplied to or imported by the vendor: Provided that—

(i) this paragraph shall not apply where that motor car is acquired by the vendor exclusively for the purpose of making a taxable supply of that motor car in the ordinary course of an enterprise which continuously or regularly supplies motor cars, whether that supply is made by way of sale or under an instalment credit agreement or by way of rental agreement at an economic rental consideration;

(ii) for the purposes of this paragraph a motor car acquired by such vendor for demonstration purposes or for temporary use prior to a taxable supply by such vendor shall be deemed to be acquired exclusively for the purpose of making a taxable supply; and

(iii) this paragraph shall not apply where—

(aa) that motor car is acquired by the vendor for the purposes of awarding that motor car as a prize contemplated in section 16 (3) (d) in consequence of a supply contemplated in section 8 (13); or

(bb) the supply of that motor car is in the ordinary course of an enterprise which continuously or regularly supplies motor cars as prizes to clients or customers (other than to any employee or office holder of the vendor or any connected person in relation to that employee, office holder or vendor) to the extent that it is in

(ii) The motor car is acquired for demonstration or temporary use before making a taxable supply.

(iii) Exceptions include when:

(aa) The motor car is acquired to award it as a prize under section 16(3)(d) following a supply under section 8(13).

(bb) The vendor regularly supplies motor cars as prizes to clients or customers (excluding employees or connected persons), as part of taxable supplies.

(d) Input tax on goods or services acquired by a superannuation scheme under section 2, for supplying medical or dental services, or related goods necessary for these services.

consequence of a taxable supply made in the course or furtherance of an enterprise; or

(d) in respect of any goods or services acquired by a superannuation scheme referred to in section 2, for the purposes of the supply by such scheme of any medical or dental services or services directly connected with such medical or dental services or of any goods necessary for or subordinate or incidental to the supply of any such services.

BEYOND TAX LIMITATIONS: POLICY AND PRACTICE

AUDREY HAIXIN TSIK, * JOSEPH DREW,# PROFESSOR MASATO MIYAZAKI[‡] AND
BRIAN DOLLERY^π

Abstract

Tax limitations are often thought of as an efficacious method of preventing the abuse of monopoly powers. However, to address waning financial sustainability or to meet community demands for services, it may also be necessary for tax limitation regimes to provide a way to move beyond a tax limit. Key to the integrity of a system such as this is robust and reliable evidence. This paper provides a retrospective analysis of the reliability of key data used to make important decisions for local government to go beyond tax limitations. We find evidence to demonstrate a substantial discordance between projections used for decision-making and actual outcomes. We argue that these results may cast doubt on the integrity of tax limitation regimes and then we propose various important public policy interventions that might reasonably be used to mitigate matters.

I INTRODUCTION

Tax limitations are a frequently used regulatory device in local government regulation, including in Australia, Canada and the United States. The main idea of tax limitations is to restrict the spatial monopoly power of local governments to raise property taxes and thus prevent monopoly abuse.¹ The normative prescriptions of standard economic theory hold that local government enjoys a monopoly in the provision of essential local services.² Due to the fact that local governments also possess the legal authority to tax (a monopoly power missing in both the private sector and in most other public utilities) – as well as draconian powers to

* University of Newcastle, Australia.

Professor, University of Newcastle, Australia

[‡] Professor, Saitama University.

^π Emeritus Professor, University of New England, Australia.

¹ J Drew and B E Dollery, “Careful What You Wish For: Rate-capping in Victorian Local Government” (2016) 17(1) *Journal of Australian Taxation* 139.

² B E Dollery and A Wijeweera, “Time for Change? An Assessment of Rate-Pegging in New South Wales Local Government” (2010) (6) *Commonwealth Journal of Local Governance* 56.

repossess land and sell it in the case of non-payment of taxes – this may pose significant risk to landowners.³ Accordingly, it is argued that this state of affairs warrants regulation by higher tiers of government to ensure efficient and equitable outcomes⁴.

However, tax limitations present numerous potential problems. Most pressing is the likelihood that tax limitations might give rise to unsustainable local governments, leading to financial administration or even bankruptcies^{5,6}. In addition, it has also been argued that tax limitations may mean that local governments are unable to effectively respond to community needs or demands; they may result in the poor maintenance of essential infrastructure, such as local roads, or give rise to infrastructure backlogs that may hinder much needed development of housing stock⁷.

As a consequence, tax limitation regimes inevitably need to incorporate some mechanism for local governments to go beyond the tax limits. Put differently, policies must exist to enable local governments to extract additional tax flows and hence address problems, such as waning financial sustainability or funding special projects demanded by the community. However, if processes of this kind are based on inadequate empirical foundations, it may place the integrity of the entire tax limitation regime at risk. Indeed, the very intent of tax limitations may be undermined if local governments are able to raise their taxes by hefty margins when there is no sound reason for doing so. Notwithstanding the need for empirical evidence of this kind, to date there has been no academic research on the matter of local governments exceeding tax limitations. The present paper seeks to address this gap in the literature.

A key component of any process to allow local governments to go beyond tax limitations is financial data on assessing the gap between current revenue paths and projected expenditures. This data is usually included in the strategic long-term budget documents of local governments and inevitably becomes the focus of deliberations by regulators charged with overseeing applications to go beyond the mandated tax limits. In this paper, we examine the association between projections in financial plans used for decision-making around applications to exceed tax limits and actual outcomes in subsequent audited financial reports.

In essence, our research question revolves around the reliability of the data provided by local governments to regulators. Moreover, we consider what this might mean for the integrity of the tax limitation regime and changes that might be required to public policy to redress any deficiencies.

To provide a retrospective and comparative analysis of the reliability of key data used to make important decisions for local government to go beyond tax limitations, we first set out the

³ Drew and Dollery, above n, 1.

⁴ S J Bailey, *Local Government Economics: Principles and Practice* (Macmillan Press Ltd, 1999).

⁵ J Drew and N Campbell, "Autopsy of Municipal Failure: the Case of Central Darling Shire" (2016) 22(1) *Australasian Journal of Regional Studies* 79.

⁶ J Drew, D McQuestin and B Dollery, "Good to Share? The Pecuniary Implications of Moving to Shared Service Production for Local Government Services" (2019) 97(1) *Public Administration*, 132.

⁷ B Dollery, H Kitchen, M McMillan and A Shah, *Local Public Fiscal and Financial Governance: An International Perspective* (Palgrave MacMillan, 2020).

context for our study as well as the relevant theoretical considerations. We then provide further details on the empirical methodology that we employ. Thereafter, we present our results and a discussion linking our findings to the theory presented earlier. We conclude by considering various important public policy implications arising from our work.

II CONTEXT AND THEORY

Rate-capping represents a sub-set of a larger class of public sector regulation concerned with state-imposed limitations on the expenditure and taxation by local government, including property taxation⁸. This form of regulation has spawned a theoretical and empirical literature with a strong American institutional flavour⁹. State-wide limitations on local taxes, fees and charges, including property taxes, are common in the United States¹⁰. However, comparatively little is known about the impact of either specific tax or expenditure constraints on local government. Moreover, this North American empirical literature sheds little light on rate-pegging in Australian state local government jurisdictions, given the significant differences between Australian and American local government, not least the much narrower range of functions in Australian local government.

This study uses the local government system in New South Wales (NSW) in Australia as our research context in response to the aforementioned gap in the scholarly literature. It is well suited to our study firstly because NSW has a long-standing tax limitation regime (colloquially referred to as ‘rate capping’) that has been in place for over five decades. This means that more than sufficient time has elapsed for waning financial sustainability to emerge as a serious concern and for critical infrastructure backlogs to develop¹¹. It is also important to study the NSW process because local government taxes are a contentious matter and are often politicised at both the local and state government levels^{12,13}.

Rate caps limit the increase in the total tax take – levied according to unimproved land value – that may be extracted by a local government. As a consequence of rate capping, a given local government’s overall rates revenue cannot increase by more than the percentage increase

⁸ See, J. Temple (1996), “Community Composition and Voter Support for Tax Limitations: Evidence from Home-rule Elections” (1996) 62(4) *Southern Economic Journal*, pp.1002-1016 for a review of the American literature.

⁹ S. Bailey, *Local Government Economics: Principles and Practice* (Macmillan 1999); A. Hillman, *Public Finance and Public Policy* (Cambridge University Press, 2005).

¹⁰ D. Figlio and A. O’Sullivan “The Local Response to Tax Limitation Measures: Do Local Governments Manipulate Voters to Increase Revenues?” (2001) 44(1) *Journal of Law and Economics*, pp. 233-257.

¹¹ J Drew, *Saving Local Government: Financial Sustainability in a Challenging World* (Springer,2022).

¹² J Skatssoon, “Ditch Current Rate Pegging System, Local Govt Professionals Say”, *Government News* (5 May 2024) <<https://www.governmentnews.com.au/ditch-current-rate-pegging-system-local-govt-professionals-say/>>.

¹³ M Gorrey, “Skyrocketing Sydney Council Rates Bills Trigger Independent Investigation”, *The Sydney Morning Herald* (3 July 2023) <<https://www.smh.com.au/national/nsw/skyrocketing-sydney-council-rates-bills-trigger-independent-investigation-20230626-p5djk0.html>>.

approved under delegation of the NSW Local Government Minister.¹⁴ In NSW, the Independent Pricing and Regulatory Tribunal (IPART) sets the rate cap.

IPART is also charged with assessing applications to go beyond the rate cap (according to delegation by the Minister as enabled by the Act¹⁵ and these are referred to as Special Rate Variations (SRVs). SRV applications may be submitted on an annual basis to IPART; currently the deadline for SRV applications is February, which if approved take effect in July of the same calendar year. IPART bases its decision-making on applications made by NSW local governments which include ten-year Long-term Financial Plans (LTFP) as a key piece of evidence. These local government applications (including the LTFPs) are available on the IPART website. In addition, all NSW local governments are required to upload audited financial statements onto their own websites by the 30th of November each calendar year (it should be noted that the financial year in Australia ends 30th June each year) according to the Local Government Act¹⁶. Having access to both the key financial projection documents used for decision-making, as well as actual audited data for subsequent years, places us in a unique position to test the reliability of data used for these important decisions and hence the integrity of the process.

There are presently 128 local government areas in New South Wales. Compared with most other developed countries, the remit of Australian local government is rather constrained, with the main focus traditionally being placed on roads (eighty per cent of the national road network is owned by local government), recreation and waste¹⁷. Rural local governments are also typically charged with providing water and sewer services, but these funds are restricted and entirely financed through fees and charges in combination with grants from higher tiers of government (and hence they are not relevant to the SRV process). In recent years, the remit of NSW local governments has been expanded to include some 'services to people', such as home and community care, aged care, child care and healthcare, as well as the provision of services on behalf of higher tiers (such as licensing and the like). These services appear on a case-by-case basis with differing characteristics according to spatial remoteness and local need.

It is thus clear that local government plays a crucial and expanding role with respect to the provision of local public goods and services that most Australians use on a daily basis. Having sufficient revenue to fund these essential services is thus of paramount importance. In the 2022-2023 fiscal year, aggregate total revenue from the continuing operations of NSW local governments was \$19.38 billion, aggregate total expenses from continuing operations was \$15.12 billion and aggregate nett operating result (before capital grants and contributions) was \$228.66 million. The aggregate revenue structure of NSW local government is mostly comprised of: (i) property taxation (representing around 27.67% of the revenue in 2022-23 financial year), (ii) fees and charges (around 28.58%) and (iii) grants and contributions (around 35.00%). The relative importance of taxation revenue for individual local governments depends

¹⁴ Drew, above n 8.

¹⁵ Parliament of New South Wales, *Local Government Act 1993* (NSW, 1993).

¹⁶ Parliament of NSW, above n 12.

¹⁷ Drew, above n 7.

mostly on their spatial remoteness (through higher horizontal fiscal equalisation grants for rural and remote councils) and the services that they provide (such as water).

The expenditure structure (in terms of accounting categories) of NSW local government in aggregate is as follows: (i) employees and superannuation (around 34.14%), (ii) materials and contracts (around 37.17%), (iii) depreciation and amortisation (around 21.19%) and (iv) other expenditure (such state emergency service levies and donations to community groups) (around 4.06 %). The single largest expenditure category is undoubtedly roads, although accurate and consistent data for functional spending is no longer available¹⁸.

A Theory and Practice for Special Rate Variations

IPART (2023, p. 11) declares that the rate cap used in NSW has two principal objectives:

- (i) To protect ratepayers from increases in their tax impost; and
- (ii) To allow councils to automatically increase rate revenue each year to keep pace with changes to the cost of providing goods and services.

According to the regulator, the first purported purpose of the rate cap is consistent with neo-classical economic concerns on the potential for local monopolies to abuse their powers that we have already noted. Some might argue that elections ought to be a constraint on local government taxing powers – however, it seems that state legislators and the regulator feel that four-year electoral cycles are not sufficient. Concerns around potential abuse of monopoly power are further exacerbated by the well-known principal-agent problem: the interests and incentives of ratepayers (the principals) may well be at odds with the priorities of the local government decision-makers (the agents)¹⁹. In addition, information asymmetries and distance between the principals and agents mean that often the two parties may be unaware of their respective concerns and behaviour²⁰. This is particularly the case in local government where voluminous and complex legislation and financial data may well be beyond the grasp of most ratepayers²¹.

Distrust between principals and agents, aggravated by information asymmetries and distance, tends to accumulate following personal finance theory²². This rests on the proposition that

¹⁸ G Fahey, J Drew and B Dollery, “Merger Myths: A Functional Analysis of Scale Economies in New South Wales Local Government” (2016) 16(4) *Public Finance and Management* 362. This paper includes details of past functional summaries.

¹⁹ J Drew and B Dollery, “A Fair Go? A Response to the Independent Local Government Review Panel’s Assessment of Municipal Taxation in NSW” (2015) 30(3) *Australian Tax Forum* 471.

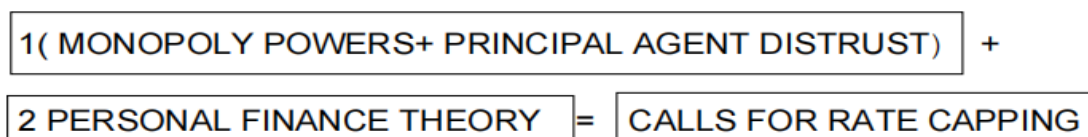
²⁰ J Drew, J O Flynn and B Grant, “Performing What? Exploring and Expanding the Notion of Synecdoche in Performance Management Practice” (2018) 42(3) *Public Administration Quarterly* 113.

²¹ Drew, above n 8.

²² D M Cutler, E L Glaeser and J L Vigdor, “The Rise and Decline of the American Ghetto” (1999) 107(3) *Journal of Political Economy* 455.

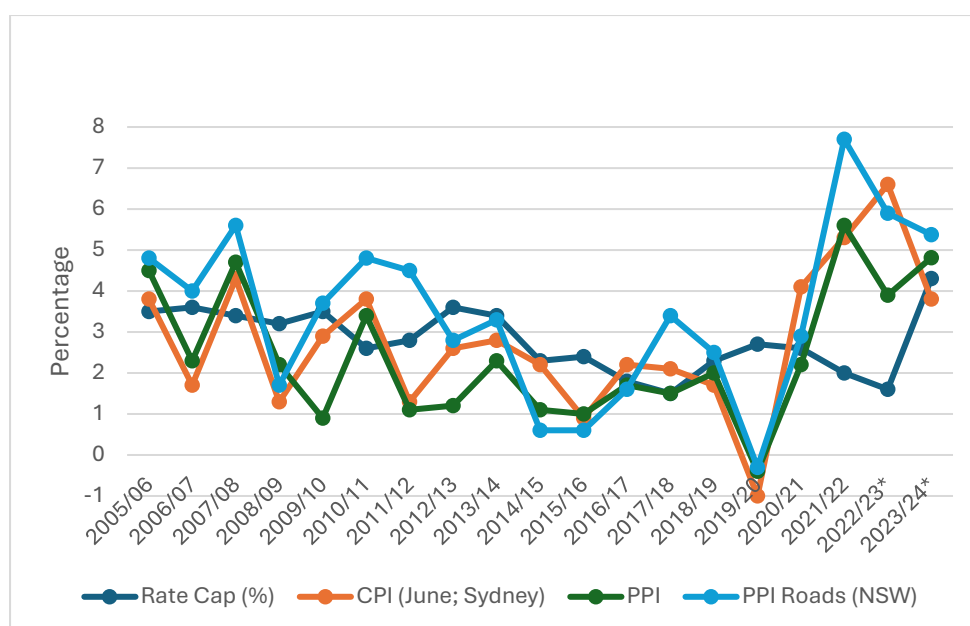
people typically judge matters in light of their own personal finances. Thus, when tax bills are both visible and onerous, ratepayers are inclined to seek caps as a way of taking pressure off their own personal budgets. This is a particular problem for local governments where tax bills are issued quarterly for often substantial amounts in contrast to other taxes, like income taxes, that may be deducted from remuneration prior to being paid, or taxes incorporated into the cost of the purchase price (GST or stamp duty). Furthermore, ignorance around the actual proportion of revenue derived from taxes, as well as the real costs of providing services, tends to result in organised political action and media attention orientated towards severely limiting tax imposts. This is indeed a major reason why rate capping was implemented in NSW in 1975 and it appears to be a major concern for IPART as regulator to this present day (see Figure 1).

Figure 1. The Motivation for Rate Capping.



The second purported reason for the rate cap – according to IPART – is the need for all organisations to have their revenue increase at least in line with changes to their production costs. If the rate cap is calculated carefully and is an accurate measure of the increase to costs faced by local governments, then it serves a useful purpose in assuring financial sustainability and intergenerational equity. This is especially valid if individual local government decision-makers might not have the skills or requisite data to properly ascertain matters for themselves. However, due to both poor resourcing and poor methodology, the rate cap has clearly failed to fulfil this part of its mandate over time, as conceded by the regulator²³. Indeed, a time-series comparison of rate caps against different official measures of inflation (Figure 2) makes matters clear (especially with respect to the change in costs for the single largest local government expense, which is roads):

²³ IPART, “2025-26 Guidance Booklet for Councils Special Variations: How to Prepare and Apply”(IPART,2024) <https://www.ipart.nsw.gov.au/sites/default/files/cm9_documents/2025-26-Guidance-booklet-for-Councils-Special-Variations-How-to-prepare-and-apply.PDF>.

Figure 2. Rate Cap Compared to Various Measures of Inflation²⁴

It might be noted that the regulator seeks to set a rate cap well in advance of the actual increase to local government costs (typically an announcement is made in October of the year prior to the next financial year – that is, at least eight months prior). The rate cap currently employs a combination of Consumer Price Index (CPI) projections from the Reserve Bank of Australia, wage enterprise bargaining increases (where available), as well as population estimates to achieve this objective. There is some reason to doubt the wisdom of using CPI projections given that they reflect predictions about the increase in costs on consumer goods – such as alcohol and tobacco (6.58%), recreation (12.74%) and education (4.69%) – that may also reflect central bank attempts at ‘jawboning’. However, a full critique of methodology is clearly outside the scope of this paper. What is apposite is to acknowledge that there is often a large gap between the rate cap allowed and the actual likely increase in costs faced by local governments in NSW as confirmed in Figure 2 (moreover, this gap widened considerably as a result of the public policy response to COVID-19).

If the rate cap does not keep pace with the changes in the costs faced by local governments, then it is clear that financial sustainability will decline accordingly. Indeed, this is what the comparative empirical evidence has found in Australia; rate capping is often associated with higher debt loads, lower levels of maintenance and greater infrastructure backlogs²⁵. Inadequate rate caps over an extensive period of time often need to be mitigated by local governments going beyond the cap in one or more years – that is, through an SRV – to avert financial crisis²⁶.

²⁴ The last two years of this graph are impacted by tailored rate caps recently introduced by IPART. CPI is the consumer price index, which is the inflation on a basket of household goods and services. PPI is the producer price index, and PPI roads is the sub-index specifically referring to roads constructed in the state of NSW (this also includes private and other tier government costs).

²⁵ Drew and Dollery, above n1.

²⁶ Drew and Campbell, above n 5.

Even if rate caps were accurate and sufficient, it would still be necessary to provide a path for local governments to go beyond the tax limitations because otherwise it would not be possible to respond to changing community preferences for new local services or local infrastructure. Put differently, in the absence of a mechanism such as the SRV, it would be possible to sustainably fund only current infrastructure and service levels.

IPART acknowledges these reasons for providing a mechanism to allow local governments to go beyond the cap. In its *SRV Guidelines*²⁷, IPART states that an SRV allows a local government to exceed the rate cap for one or more years in order to either ‘manage sustainability’ (an apparent admission that the rate cap may not have achieved the second purported goal in the past), or ‘provide the services and infrastructure desired by their communities’ (a response to changes in community preferences).

Following the Act²⁸, IPART²⁹ outline five criteria that must be met before an SRV can be approved:

- Financial need (demonstrated in the LTFP)
- Community awareness and engagement
- Impact on the ratepayer
- Exhibition of the Integrated Planning and Reporting materials (which includes the LTFP)
- Productivity and cost containment (which ought to be reflected in the LTFP)

It is noteworthy that three of these mandatory criteria revolve around long-term financial plans and one of the two parts of the application is a spreadsheet of LTFP data (focussing principally on the Income Statement accounting categories). Moreover, it is not surprising that the LTFP takes centre-stage in this process given the two stated purposes of the rate cap (to protect ratepayers and keep pace with changes in costs). Indeed, unless a genuine need existed for a change in the course of taxation revenue into the future, then approval of an SRV would clearly annul the purpose of the rate cap. Put differently, without genuine need for additional taxation revenue approval of a SRV would potentially allow for the abuse of monopoly power, do nothing to protect principals from their agents and result in greater (unnecessary) personal finance stress. It could thus make the whole rate cap process futile.

There is no extant scholarly critique of the LTFP compilation process employed by local governments in the state. However, the authors of this paper have been involved with working alongside scores of local governments and can attest to the common procedure adopted. We understand that this evidence is not conclusive, but we do feel that most readers will benefit from a brief explanation of matters.

²⁷ IPART, above n15, p. 4.

²⁸ Parliament of NSW, above n12.

²⁹ IPART, above n 20.

Proprietary software packages are generally employed by most local governments in the state. These packages take the form of a complex series of spreadsheets linked to other local government software applications. Data is downloaded on current costs directly from the local government records. Accounting staff are then required to insert assumptions for each field that is not stable over time. For instance, staff will be required to insert a global percentage figure for the increase expected to fees and charges for each of the future ten years (some of which are regulated by state government). Typically, the number 2.50% is ubiquitous presumably because this is what the OLG Guidelines suggest local governments assume to be the annual increase to the rate cap which is meant to be reflective of increases to costs (we refer readers to Figure 2 above with respect to the reliability of this assumption). Similarly, annual assumptions are required for grant flows, staff wages, materials, future contracts and the like. Ideally, LTFPs should be informed by Operational Plans which list fees individually and Asset Management Plans which score asset conditions and detail maintenance requirements, although this is not explicitly the case. Moreover, it is generally the case that the accounting staff involved in the LTFP exercise usually have limited contact with the works and engineering teams or the political representatives often charged with some of the key decision-making. Furthermore, LTFPs are supposed to be updated annually, and varying levels of resourcing are typically invested into the exercise.

Nevertheless, the LTFP represents the main instrument used by local governments to demonstrate their need for additional taxation revenue into the future, with reference to a projection of revenues and expenditures for ten fiscal years. Notably the regulator is typically not provided with the actual LTFP software and therefore does not have access to the precise assumptions used for each element, nor any justification for same. The focus of the regulator is on the importance of the requested increase to allowable taxation revenue for minimising or eliminating gaps between the two aforementioned income statement items, reflected in the nett operating result. We remind readers that SRV decisions generally allow for permanent changes to future taxation revenues. However, the need for this can clearly only be ascertained if the data provided to the regulator is reasonably accurate.

III METHODOLOGY

To analyse the reliability of the SRV process – and hence the integrity of the rate cap regime – we first collected applications for SRVs for local governments from the IPART website for the 2017 round. We then downloaded the audited financial statements for the nine local governments, which made applications in this round, for the subsequent six years so that comparisons could be made between projections used for decision-making purposes and actual outcomes.

We did not go further back than 2017 because of significant regulatory changes that occurred in June 2016³⁰ (not least of which were the forced amalgamations in May 2016 and the subsequent three-year rate freeze that applied to these local governments). Moreover, as we shall see, six years of comparative data were sufficient for us to draw firm conclusions regarding the robustness of the data that lie at the heart of the IPART process. This is especially the case given that SRV increases typically occur over one to three years (indeed, the maximum duration in this round was just four years).

It should be stressed that - as a check on the robustness of our findings - we also repeated the aforementioned process for the 2018 round. In this case, there were thirteen local governments involved, and we were able to compare five years of subsequent audited financial data (notably all but one of the SRV applications in this round had spans of three years or less).

From the various pieces of data gathered we then constructed a spreadsheet listing the LTFP projections for each year (as per the SRV application) and then underneath inserted the actual audited result for each respective accounting element for each of the subsequent years (as per the audited financial statement).

We focused our analysis on the deviation of three main indicators: (i) total income (excluding capital grants and contributions), (ii) total expenses and (iii) nett operating result (excluding capital grants and contributions). Capital grants were excluded from the income and nett operating result figures because grants of this kind are largely unpredictable, depending somewhat on political factors affecting state and federal governments. In addition, most of the expenditure associated with capital grants is capitalised – it is allocated as an accounting accrual (depreciation) over a long period of time, often decades – and thus its inclusion would create a clear imbalance in our analysis. In Table 1 we list and define the various accounting elements that make up the three indicators that we focussed on:

³⁰ Other changes ushered in during this reform included central auditing, changes to the accounting categories, and a greater standardisation of accrual practices.

Table 1. Elements of Revenue and Expenditure Used in NSW Local Government

| Revenue | Definition | Expenditure | Definition |
|--------------------------------|--|---------------------------------------|--|
| Rates | Taxation based on unimproved land value | Employee benefits and on-costs | All costs related to employment including wages, superannuation, training and employee insurance |
| User charges and fees | Fees and charges for non-public goods | Borrowing costs (i.e. interest costs) | Interest expense and establishment costs related to lending facilities |
| Interest and Investment income | Revenues from interest-bearing assets, such as savings accounts, bonds, or loans | Materials and contracts | Expenses for the purchase of goods and services necessary for operations |
| Other revenues | Revenues from non-core operations or non-primary revenue streams | Depreciation and amortisation | An accrual accounting expense that systematically allocates the cost of a long-life asset over its useful life. (Excluded from our analysis) |
| Grants for operating purposes | Grants that can be used for any purpose (usually untied) | Other Expenses | Costs that do not fit into the primary categories of expenses |
| Grants for capital purposes | Grants given to construct a particular hard infrastructure asset. (Excluded from our analysis) | | |

We calculated the deviation, for each element for each council for each year according to standard mathematical practice: $\text{actual} - \text{projected from LTFP} / \text{projected}^{31} * 100$. We did not present the deviation for individual accounting elements but instead used this information to aid our discussion. We then calculated various standard statistical measures of central tendency (mean and median) and spread (interquartile range given by quartile one and quartile two) and graphed these for the three key indicators that we focus on. Particular emphasis was placed on the operating results (excluding grants and contributions for capital purposes) as this

³¹ LTFP projections were divided by 1,000 because these were generally provided in whole dollars, but financial statements are typically denominated in thousands of dollars.

is a key indicator of financial sustainability, according to NSW regulators, and hence a primary focus for decision-makers with respect to SRV applications. We remind readers that capital grants tend to be lumpy and unpredictable and furthermore that the effect of this expenditure is delayed as an accrual item – hence their exclusion. We presented data according to deviation as per the arithmetic calculation (i.e. not absolute value) in order that judgements could be made about potential strategic behaviour as well as the scale of the problem with respect to SRV decision-making. Most of our focus was on the median outcomes as the data were skewed and given our interest in typical outcomes the median is the best statistical measure in this kind of situation. Notably we did not assume strategic behaviour but in view of the IPART statement on rate cap objectives (around protecting ratepayers) that we wrote of earlier, along with some related extant scholarly evidence, it was prudent to at least contemplate this possibility.

IV RESULTS AND DISCUSSION

First, we look at discrepancies in nett operating result for the LTFFP and make some judgements about what this potentially means for the validity of the SRV process and hence rate capping. We then will look at the typical discrepancies in both income and expenses, respectively, to try to ascertain whether the discrepancies we previously observed in the nett operating result might have been deliberate (gaming) or otherwise. For each exercise we repeat the process for both the 2017 SRV round and 2018 SRV round to provide maximum assurance.

We remind readers, from Section 2, that the main function of a rate cap is to protect ratepayers from monopoly power and the principal-agent problem. A secondary function – according to the regulator – is to facilitate financial sustainability by ensuring that increase in taxation keeps apace with changes to expenditure needs. If a local government receives large increases which ultimately prove to be unnecessary to balance their budget, then IPART probably has not been successful in protecting the ratepayer at all, although financial sustainability might still be assured.

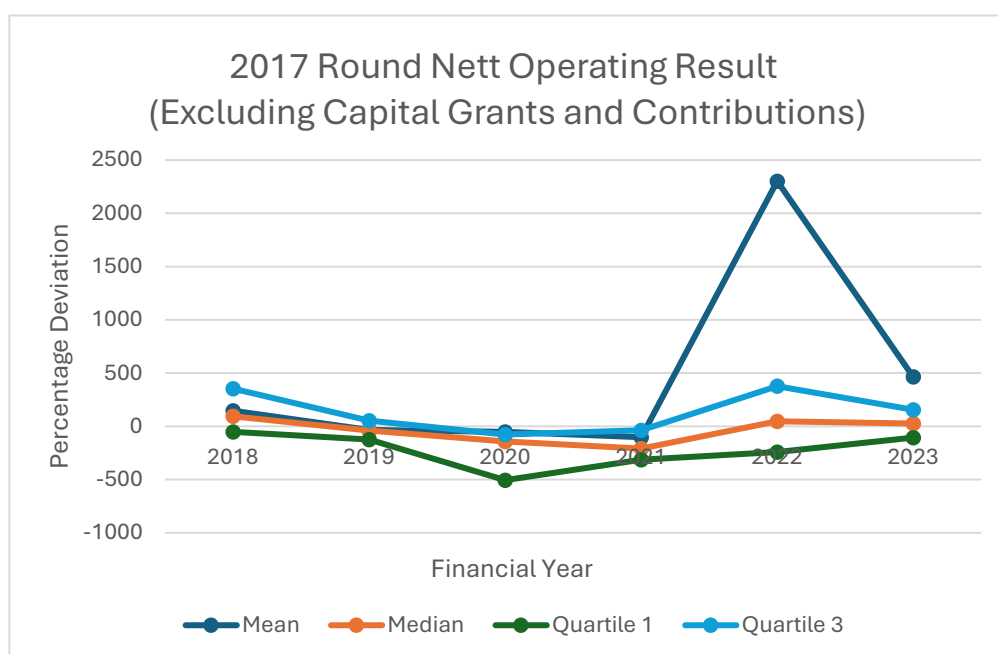
Small discrepancies in budgets are inevitable³², but large discrepancies may be a problem with respect to the integrity of a rate cap regime. We must thus first determine what might be acceptable. In this regard, it seems to be the case that discrepancies which are larger than the SRV applied for may suggest that the SRV decision, at least in retrospect, was unwarranted. Moreover, the direction of the discrepancy would also seem to be important. If the nett result is negative this generally means that actual outcomes were worse than predicted, so local councils should perhaps have asked for a larger SRV. It would mean that the ratepayer has not been required to pay more than necessary, but financial sustainability may not be assured. If the nett result is positive, this would mean that the actual outcomes were better than predicted.

³² D McQuestin, M Noguchi and J Drew, “The Association Between Budget Inaccuracy and Technical Efficiency in Australian Local Government”, (2022) 42(4) *Public Money & Management* 251.

This suggests that perhaps they should have asked for a lower SRV: local governments may not have protected the ratepayer, but finances may be sustainable.

Figure 3 shows that the typical nett operating result (as measured by the mean) ranged from 102.182% through to 2,301.91% over the six-year period. There is also a large difference between mean and the median which suggests a lot of skewing, which thus indicates that we might be better off relying on the median in this particular case which ranges from -209.042% through to 94.188%.

Figure 3. Nett Operating Result Excluding Capital Grants and Contributions, 2017 Round



Furthermore, we previously deduced that a positive discrepancy is likely to have meant that the regulator (i.e. IPART) may have failed to protect the ratepayer and that a negative answer might mean that a local government did not ask for sufficient additional revenue to allow it to become sustainable. For the 2017 round of the SRV there were both positive and negative discrepancies. It is thus hard to be definitive about the overall effects of poor data on the decisions made by IPART. However, it does seem reasonable to conclude that such great disparities do not instil any confidence that the SRV decision-making was indeed warranted, in retrospect.

Some specific examples might serve to underscore the gravity of the discrepancies for the integrity of the rate cap regime. In its media release for the 22.21% cumulative SRV approved for Inverell, IPART (2017) stated that ‘in the case of Inverell Shire Council, we are satisfied the council has demonstrated the need for additional revenue’. In the documents submitted by Inverell Council they predicted an operating result (excluding capital grants) of \$1.587 million

for their general fund for 2018. The additional income from rates and annual charges amounted to some \$717,208, according to the submission. The actual outcome for the 2018 financial year (for the General Fund), according to audited financial statements, was a \$7.226 million surplus. It thus seems that the additional taxation revenue was not in fact required. Had IPART based its decisions on more reliable forecasts, then it is likely that the SRV might have been rejected, and the residents spared the tax increase. Similarly large discrepancies occurred for all three financial years that increases above the cap were approved for, in the case of Inverell. It is thus hard to argue that the additional revenue was indeed needed to balance the budget, and hence hard to declare that IPART achieved its stated purpose of protecting the ratepayer in this case.

At the opposite extreme, discrepancies may have imperiled the financial sustainability of the local government. For example, Port Macquarie-Hastings applied to have a ‘5.39% increase to be retained permanently in the rate base to replace an expiring special variation’³³ In their application the Port Macquarie-Hastings local government predicted a deficit in the 2018 financial year of \$2.482 million for their general fund. According to the audited financial statement, the actual result for the General Fund was a deficit of some \$3.805 million. Subsequent years incurred even larger deficits. Thus, the SRV applied for may not have been sufficient to assure financial sustainability and it is likely that more accurate forecasts might have reasonably been expected to prompt the local government to have applied for a higher SRV.

We remind readers that what is critical here is the size of the discrepancy with respect to amount of additional tax money requested for approval by the regulator. The discrepancy may not be particularly large with respect to the size of the total expenditure or revenue – but this is not the most important criteria when considering the integrity of the tax regime. The stated purposes of the taxation limitation regime are to protect the ratepayer from unnecessary taxation increases and also assure financial sustainability. If decisions are made that in retrospect can be proved to be inconsistent with either of the stated goals then this might cause some to doubt the integrity of the entire regime. Otherwise stated, if the key evidence used for SRV rulings contains discrepancies so large that had they been known contrary decisions would have been made, then clearly this represents a significant problem that warrants urgent attention.

Table 2 indicates the typical SRV applied for by these local governments in the 2017 round which should be read in cognizance of our findings illustrated in Figure 3.

Table 2. The Applications for the 2017 Round of SRVs & Subsequent Approvals (cumulative compounded rate in parentheses)

³³ IPART, “Special Variations & Minimum Rates 2017-18” (2018) <<https://www.ipart.nsw.gov.au/Home/Industries/Local-Government/Reviews/Special-Variations-Minimum-Rates/Special-Variations-Minimum-Rates-2017-18>>.

| Council | Application for SRVs in each year and total increase (%) | Actual amount approved and total application (%)³⁴ |
|-------------------------|---|--|
| Ballina | 4.9, 5.9, 5.9 (17.64) | 4.9 |
| Bellingen | 6 | 6 |
| Byron | 7.5, 7.5, 7.5, 7.5 (33.55) | 7.5, 7.5, 7.5, 7.5 (33.55) |
| Inverell Shire | 6.25, 7.25, 7.25 (22.21) | 6.25, 7.25, 7.25 (22.21) |
| Lockhart Shire | 4.6, 4.6, 4.6, 4.6, 4.6, 4.6, 4.6 (37) | Not approved |
| Mid-Coast | 11, 5, 5, 5 (28.5) | 10, 5, 5, 5 (27.3) |
| Muswellbrook | 4, 5, 5, 5 (20.39) | Not approved |
| Port Macquarie-Hastings | 5.39 | 5.39 |
| Shoalhaven City | 13.2, 14 (29.05) | 13.2 |

For assurance purposes we repeated the exercise for the 2018 round. Figure 4 shows the nett operating result for the 2018 round (using 2019-2023 financial year data). This time the discrepancy is typically negative. The typical result (as measured by the mean) ranged from -4,894.8% through to -160.69% over the five-year period. Moreover, there is a significant difference between the mean and median ranging from 83.22% to 4,837.14%, which suggests that there is a large degree of skewing and thus that we might be well advised to focus on the median in this particular case, which ranges from -708.52% through to -57.04%.

³⁴ Some of these were only approved on a temporary basis.

Figure 4. Nett Operating Result Excluding Capital Grants and Contributions, 2018 Round

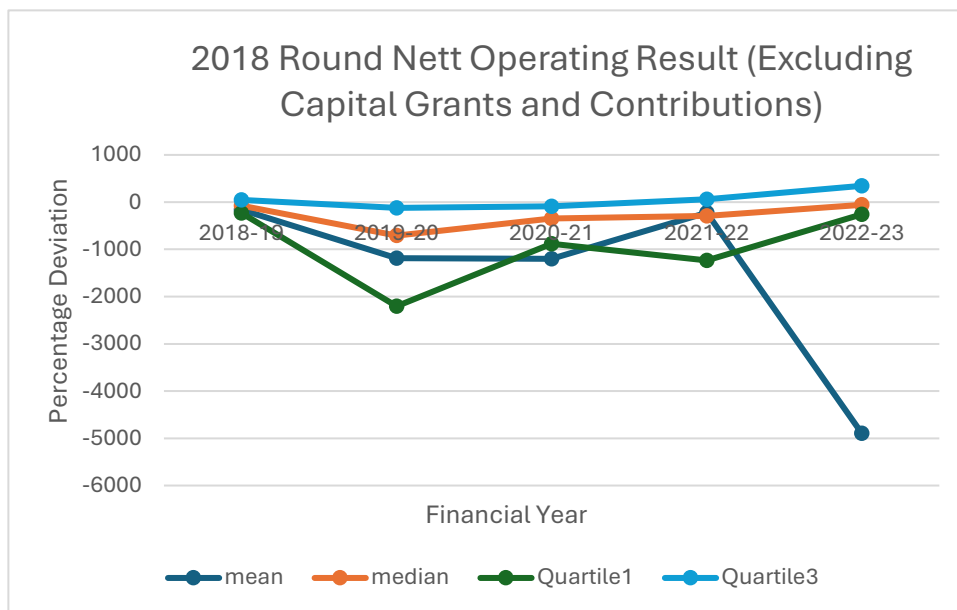


Table 3 shows the typical SRV applied for and the typical approved SRV for these thirteen local governments in the 2018 round. Discrepancies graphed in Figure 4 are problematic because they are often larger than the SRV either applied for or approved. As we previously noted, if the nett result is negative, then this means that actual outcomes were worse than predicted, so councils should perhaps have asked for larger SRVs. While it does mean that the ratepayer has not been required to pay more than necessary, financial sustainability may not be achieved. This may make the SRV decision appear retrospectively to be inappropriate. It is worth noting that here it was not the regulator that protected the ratepayer from potential monopoly abuse and the principal-agent problem; instead it appears to have been mere happenstance.

Table 3. The Applications for the 2018 Round of SRVs & Subsequent Approvals
(cumulative compounded rate of increase in parentheses)

| Council | Application for SRVs in each year and total increase (%) | Actual amount approved and total application (%)³⁵ |
|-----------------|---|--|
| Ballina | 9.1, 5.9 (15.5) | 9.1, 5.9 (15.5) |
| Balranald | 10, 10, 10, 10, 10, 10, 10 (94.87) | 10, 10, 10, 10, 10, 10, 10 (94.87) |
| Bellingen | 6, 6, 6 (19.1) | 6, 6, 6 (19.1) |
| Clarence Valley | 8, 8, 8 (25.97) | 8, 8, 8 (25.97) |
| Hawkesbury City | 9.5, 9.5, 9.5 (31.29) | 9.5, 9.5, 9.5 (31.29) |
| Kempsey | 6.5 | 6.5 |
| Kiama Municipal | 6, 6, 6 (19.1) | 6 |
| Lismore City | 2.71 | 2.71 |
| Muswellbrook | 14.73 | 14.73 |
| Randwick City | 7.64, 5.52, 5.52 (19.85) | 7.64, 5.52, 5.52 (19.85) |
| Shoalhaven City | 17.1, 5, 5 (29.1) | 17.1, 5, 5 (29.1) |
| Upper Hunter | 6.3, 6.3, 6.3 (20.1) | Not approved |
| Willoughby City | 3.06 | Not approved |

We next turn to the components of the nett operating result – income and expenditure – with a view to seeing whether the discrepancies may be deliberate. There is some possibility of gaming given the incentives involved for local government decision-makers, especially in view of the extant evidence of manipulating data in other areas of local government finance³⁶. We

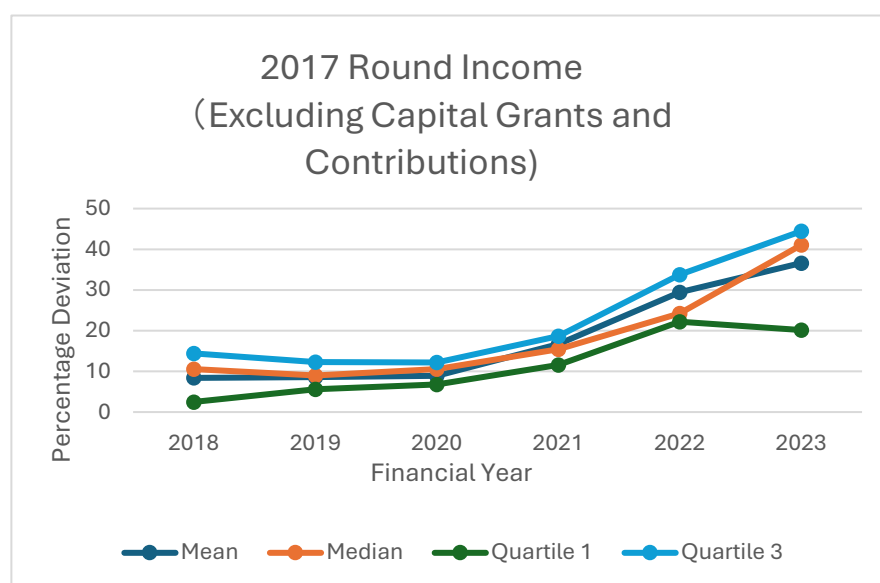
³⁵ Some of these SRV approvals were only temporary.

³⁶ J Drew, “Playing for Keeps: Local Government Distortion of Depreciation Accruals in Response to High-Stakes Public Policy-Making” (2018) 38(1) *Public Money & Management* 57.

also remind readers of the stated aim of the rate cap to protect ratepayers which is at least suggestive of the potential for behaviour of this kind.

Looking at the income data first in the 2017 round (see Figure 5), we find that the typical discrepancies were in fact positive. This means that the actual income was better than predicted. This information seems to be consistent with local governments that may have been gaming. It is also consistent with decision-making by the regulator that may not have protected the ratepayer.

Figure 5. Income Excluding Capital Grants and Contributions, 2017 Round

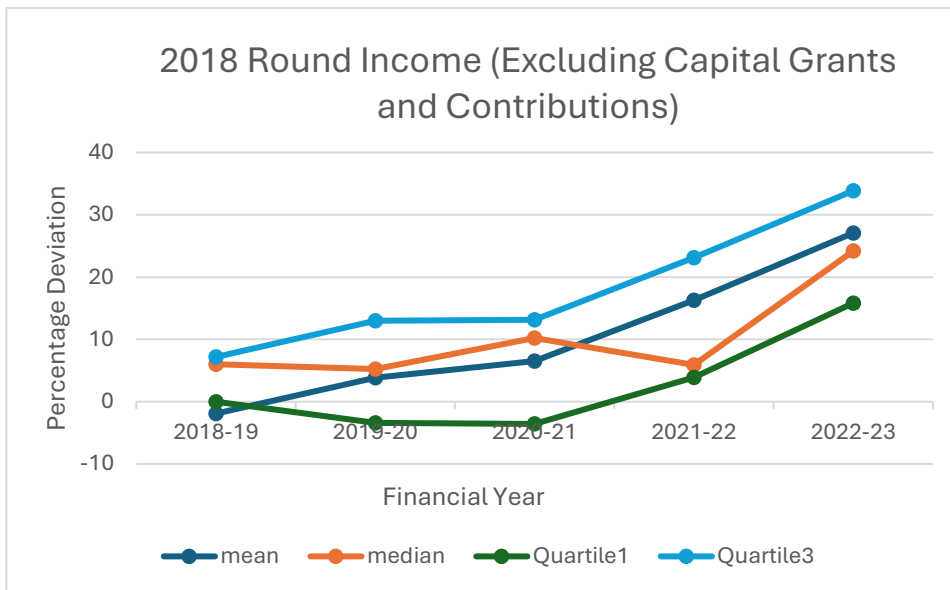


To illustrate matters, we can once again look at our two exemplar local governments for the 2017 round, Inverell and Port Macquarie-Hastings. For the 2018 financial year Inverell projected a revenue (excluding capital grants) of 26.488 million for their general fund in the LTFP submitted to IPART. Their actual result was revenue of \$31.479 million (excluding capital grants). This discrepancy was far greater than the tax increase approved. Moreover, the significant discrepancy occurred just one year out on the LTFP and increased considerably over time (the discrepancy in 2018 was 18.84%; by 2023 it had risen to \$12.72 million or 41.06%). Port Macquarie-Hastings also serially under-estimated their revenue for the general fund, excluding capital grants. In 2018 the discrepancy was \$11.75 million (12.69%) and by 2023 it had risen to \$21.263 million (20.16%). Clearly the revenue estimates in the LTFPs submitted to support applications to IPART were not a good foundation for making these important decisions.

The median discrepancy in income data for the 2018 round (see Figure 6) was also consistently positive; that is, the actual income was higher than expected. This also suggests possible

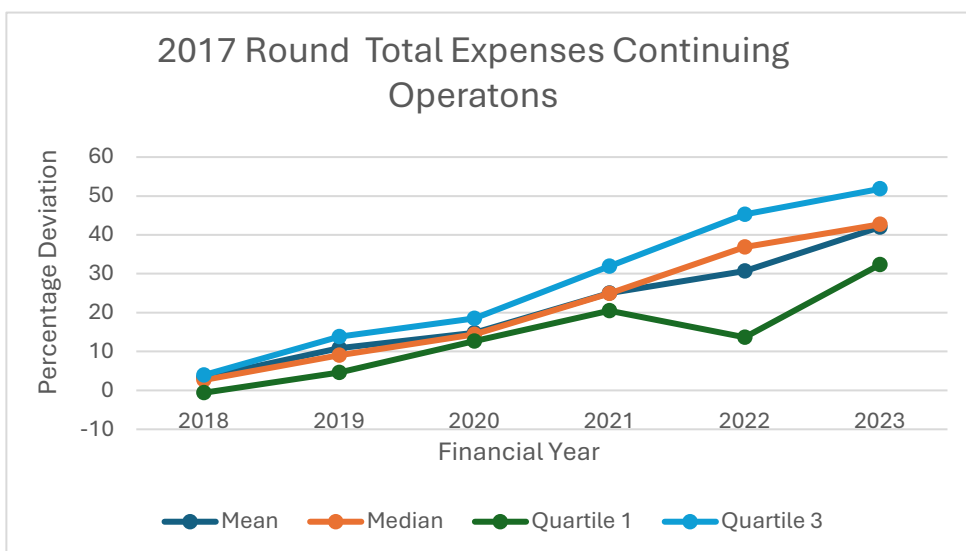
gaming of the SRV by these local governments and likely failure of regulators to protect taxpayers.

Figure 6. Income Excluding Capital Grants and Contributions, 2018 Round



It is also important to examine the expenditure side (see Figure 7). The typical result (median) for expenses in the 2017 round was positive for each year, which means that actual expense was higher than predicted. Although this is not consistent with gaming, it may reflect inaccuracies in the initial budget which underestimated the actual needs of operations. This may suggest that local governments either lack effective cost controls, or perhaps the capacity to accurately understand their needs and feed these into the LTFP process.

Figure 7. Total Expenses Continuing Operations, 2017 Round

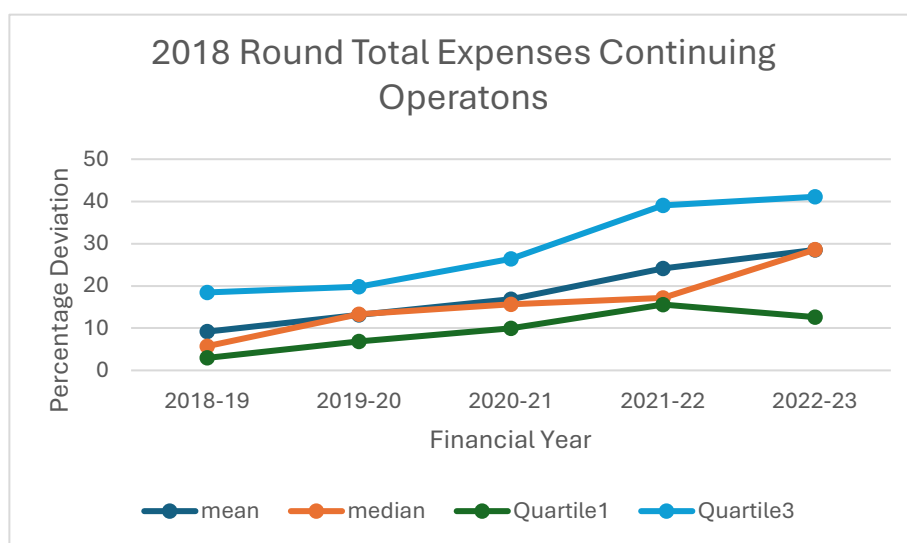


Some specific examples will make matters even more clear. Inverell projected expenditure for the general fund in 2018 of \$24.9 million and delivered audited expenditure of \$24.253 million,

which represented a budget discrepancy of just -2.6%. This was one of the few instances where a council spent less than they told IPART that they would when making their SRV application. However, all subsequent years were ‘over-spends’: by the 2023 financial year Inverell was spending some \$15.7 million more than they predicted in their LTFP submitted to IPART, a discrepancy of some 56.5%. Port Macquarie-Hastings, on the other hand, consistently exceeded their expenditure projections for all years of the SRV. In 2018, they expected general fund expenditure of \$95.1 million but delivered audited expenditure of \$108.2 million (a discrepancy of 13.75%). By 2023, this discrepancy had blown out to 19.86% (a projected result of \$105.5 million but an actual audited outcome of \$126.4 million). Thus, it is clear that in most cases the expenditure projections contained in the submitted LTFPs were not a sound foundation for important decision-making with respect to SRVs.

Figure 8 shows that the typical result (median) for expense in the 2018 round was also positive. This again demonstrates that actual expense was higher than predicted which is not consistent with gaming but may point to ineffective cost controls or a lack of accuracy in budget preparation instead.

Figure 8. Total Expenses Continuing Operations, 2018 Round



In sum, these empirical results suggest that there may be some potential gaming in revenue, but little to no evidence of gaming in expenditure. It would not make sense to game on one side of the accounting ledger but do the opposite on the other side. Accordingly, we deduce that the aggregate nett operating discrepancies are not the result of gaming; it seems to be simply a lack of competence. However, setting this matter aside, it is still the case that the discrepancies overall with respect to nett operating result – that is, the combined outcomes of revenue and expenditure discrepancies – were very large; indeed larger than the SRVs applied for in most cases. Large discrepancies of this kind risk invalidating the entire SRV regulatory process. Moreover, having typical discrepancies in the 2017 round which were both negative and positive in various individual years does not instil any confidence that sound decisions were

possible for the regulator based on this unreliable data. In addition, more obvious trends in the graphs for the 2018 round illustrate that local governments typically serially poorly estimate both income and expenditure. This may suggest that local governments might lack effective cost control capabilities and processes.

It might be argued that our results were affected by COVID-19. This is certainly a possibility, albeit marginal and contained to only the outer years. We note that the first two financial years in the 2017 round LTFPs occurred well before the coronavirus was known to be a problem³⁷. Large discrepancies had already emerged by this time. Furthermore, local government in Australia has a very limited remit with few functional responsibilities associated with health (which is the purview of state government on the whole). Some distortion may have occurred from the 2021 financial year onwards, but this would mostly have affected only one side of the accounting ledger. Thus, marginal effects may explain only some of the discrepancies but fail to account for the bulk of the inconsistencies.

In sum, our empirical results suggest that the LTFPs used by IPART for SRVs are significantly inaccurate with respect to the size of the taxation increase applied for and thus not a sound basis for decision-making.

V CONCLUSION

In this paper, we examined the integrity of the tax limit system by retrospectively analyzing key data used for important decision-making. Because the SRV process relies heavily on accounting data to justify the need for a tax increase, our evaluation necessarily involved a comparison of the LTFP projections with what actually transpired in subsequent audited financial statements. We found large inconsistencies between actual data and the forecasts of LTFPs. We argued that the pervasiveness of large discrepancies – often larger than the actual SRV tax increase applied for – undermines the overall integrity of the tax limitation regime.

There are a number of apparent remedies that might ensure improved integrity of tax limitation regimes. The first potential remedy is that IPART might invest more resources into exploring the accuracy of the LTFP submitted by each local government. For instance, IPART might request details of the various assumptions used to formulate the LTFP, along with reasoning for same, and interrogate these accordingly. It could also review the accuracy of previous annual budget projections on the understanding that these might point to systemic problems in budgeting processes³⁸. In addition, IPART might perform a similar analysis to that in our paper for all SRVs approved. If they were to find large discrepancies that might potentially invalidate

³⁷ Moreover, the 2020 financial year was only affected by a few months with respect to national COVID policy interventions.

³⁸ Note B5-1 of the audited financial statements require local governments to provide explanations for discrepancies in the Income Statement elements that exceed ten percent (for the single year). IPART might profitably review these explanations to understand the quality of local governments' budget controls and also ascertain where likely problems might occur in the LTFP.

their earlier decision, they could write to the local governments to ask them to explain the reasons for the deviations. Indeed, for very large discrepancies, it might be reasonable to amend future allowable rate cap increases to reflect the discrepancy. For example, it was apparent in our exemplar local government – Inverell – that important discrepancies existed early on, and this could potentially have been used to justify a revision to the allowable increase in the second or third year of this particular SRV. Action of this kind would seem especially important when addressing the discrepancy and would better protect the ratepayer. It might also be helpful for IPART to publish large discrepancies on their website to increase transparency and reduce information asymmetries – a remedy that seems especially salient in the current era of open government.

Penalties might also be considered appropriate in some cases, and we note that the OLG Guidelines already imply penalties in some instances where the terms of a previously granted SRV have not been complied with. Thus, punitive measures – such as fines or prohibitions for applying for future SRVs – could be considered appropriate in exceptional circumstances.

The next possible remedy is for local governments, themselves, to become more aware of the problem and improve their procedures accordingly. In this regard, it would seem important for local government staff to base their decisions on robust and reliable data. For example, rather than increasing staff costs by the OLG recommended assumed rate peg (which has proved unreliable in the past) – as often occurs – local government CFOs could instead use actual enterprise bargaining agreement rates of increases. For other components of the LTFP projections – such as material costs – CFOs could instead employ projections of PPI data and ensure that these are also linked to asset management plans along with input by works and engineering staff. Put differently, sound reasons should be given for each assumption made and these should be based on known facts wherever possible. Indeed, if our recommendations to IPART were adopted, senior council staff might be more inclined to take more care in the preparation of LTFP applications.

Future research on tax limitations might profitably be directed at examining the question of how context affects outcomes. For instance, the Victorian government also has relatively recently implemented rate capping and a process for assessing SRVs, but it employs slightly different legislation and a different regulator (Essential Services Commission). If researchers were to find different results in Victoria, then we might be able to draw some conclusions regarding the cause of the very large discrepancies that we have uncovered in NSW in this paper. In addition, studies in different countries might also prove illuminating. This might be a way of determining whether budget assessment methods, accounting systems or even corporate cultures could be part of the explanation for why we found such alarmingly large discrepancies in this paper.

In sum, we can now assert with confidence that both scholars and regulators of local government must think beyond merely the policy and theory of tax limitations and instead look into actual practice. Local governments need to calculate their future revenue needs more precisely and strive to narrow the deviation between reality and expectation, while protecting taxpayers' rights and achieving ongoing fiscal sustainability.