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Book Review

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Book Review

Abstract

[Extract] Adrian Ogley, *Principles of Value Added Tax*, 1998, Interfisc Publishing, , ISBN 0-9520442-1-8, 239 pages.

As Australia moves to introduce the GST from 1 July 2000, it is easy to get lost in the minutiae of the GST rules and forget the bigger picture. Most Australian advisers have yet to come to grips with the big picture planning for GST that will soon become an essential part of their daily work. The focus is on understanding the detail of the legislation and its application. This book provides a European insight into the principles of planning in a consumption tax regime.

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The structure of this book and the importance of the European Union ("EU") in world trade mean that the book has a wide audience. Australian advisers will find it fascinating to explore the issues that arise in a mature VAT system. The book will give them profitable ideas to explore with their clients in the Australian context. For international tax advisers and anyone involved in tax planning for multinationals it is an excellent guide to VAT principles. Ogley does not pretend to have provided the definitive work on VAT. What he does do very successfully is combine theory with practical application in an examination of the operation of the VAT across the European Union. This book provides a very readable guide to VAT principles for anyone not intimately involved in European VAT practice.

The first chapter provides a clear overview of the general structure and operation of a VAT system. The second chapter briefly sketches how VAT fits within the EU framework. Ogley has eschewed a detailed analysis in these chapters. Yet he has managed to provide enough information for a reader new to the VAT or the operation of the EU to follow the more complex analysis in later chapters. The explanations are simple without being simplistic.

Chapters three and four go to the nub of the European VAT and describe the structure of the tax and the general treatment of goods, services and exemptions. Ogley explains the key provisions of the VAT law using well-chosen extracts from European case law. This serves the dual purpose of clarifying the meaning of the law, and giving an insight into how the courts interpret it. The law is a living thing. It is only through understanding how and why judges reach the decisions that they do, that advisers can predict the official treatment of their own plans, should they come under the microscope.

To the Australian reader, it is fascinating to find a comprehensive jurisprudence on terms such as consideration and the treatment of discounts,

where the same concepts in the Australian law wait to be tested. The author had to be selective in his subject matter and does not explore the issues in great detail. Some items, for example, promotions, are covered in greater depth than others. That is always going to be the shortcoming of an overview of this kind. However, it is important that readers' interest is piqued and they are given enough information to know what topics they wish to pursue. Of particular interest, in light of recent developments, is the discussion of the treatment of telecommunications, which is also discussed in Chapter 7.

Chapters five and six deal with the vexed issues of financial services and property and related supplies. They are chosen as the exemptions that present the most complex technical problems. As a result, they are of most interest to readers. The treatment of financial services explains the basic problem of taxing the value added on financial transactions, and trying to determine what that value is. It identifies the consequent compliance and other problems that make the exemption an important area for tax planning. The chapter on property and related supplies explores the five principles that underlie the EU VAT treatment and how they have been implemented through the sixth directive. A discussion of the application of anti-avoidance provisions is of particular interest.

Chapters seven and eight cover the transitional regime and the definitive system. The transitional regime was introduced on 1 January 1993 in conjunction with the abolition of border controls. It effectively maintains a destination system of taxation, except for individuals, whose purchases for private consumption are usually subject to VAT in the Member State of origin. The complex provisions provide a fascinating example of the difficulties in applying a common tax, while retaining fiscal sovereignty. The operation of the regime provides some useful analogies for the prospective taxation of international electronic commerce, particularly the introduction of an automatic collection system. Ogley does not discuss this issue, but his observations on the transitional regime, particularly the treatment of telecommunications, are relevant to it. The discussion of the Simplification Directives gives very clear examples of the problems the EU still faces with its VAT.

The chapter on the definitive system describes the effort to move towards some form of harmonisation. It notes the difficulties faced by each new proposal and sets out the current position of the European Commission. The Commission's focus seems to be on getting the institutional and administrative structures in place before trying to implement a definitive VAT system.

Chapter nine provides a refreshingly clear outline of the principles of VAT planning. The chapter does not look in detail at specific planning arrangements. It concentrates on the basic principles that any planning arrangement must take into account. The principles are illustrated with

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practical examples. It provides an overview that all but a current VAT specialist would find useful.

Chapter ten will be of particular interest to those concerned with the US and proposals for the reform of the US sales tax system. It discusses subtraction VAT (calculated by reference to an entity's accounts on an aggregate basis, rather than on each transaction) and US Tax Reform. Chapter eleven concludes with a brief overview of the issues of globalisation and trading blocs and unresolved problems of VAT.

This book provides an ideal introduction to the principles of VAT. It is not a book for VAT experts. It is a book for tax advisers, business executives, academics and students who want to get a grasp of the main VAT issues. Those who are looking for extensive detail should do so elsewhere. A useful addition to a second edition would be more comparative tables of the kind shown on page 53, which shows the comparative treatment of permitted promotional activities within Member States. Tables of this kind give a greater flavour of the VAT across the Member States. A major advantage of the book is Ogle's lucid style, which makes a complex subject easy to read.

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