Chapter Six

The Case for a State Income Tax

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This paper lays out the case for reintroducing an income tax at the State level. This idea is not new, nor would its implementation be a first in Australia's post-federation history. What I do hope to achieve is to identify some of the problems that such a move would solve and present something of a feasible structure that could be implemented in practice.

The basic position presented here is that to be able to function properly as a political entity in a federal system, the relevant government needs to be primarily self-sufficient financially. That is, each government needs, more or less, to be able to raise sufficient revenue to fund its own expenditure programs. Right now, the States cannot claim that status. The best way of achieving this within our current system is through reintroducing an income tax at the State level.

This suggestion is not without potential problems and that is what I will address towards the end of this paper. First, this paper provides a survey of the problems with the current system and briefly analysing the revenue-raising options that may be used. After providing reasons why the income tax is the best way of doing this, the paper canvasses the problems that existed before the Second World War when the States did impose their own income taxes. In short, a desire not to return to the administrative nightmare that existed at that time, as well as an arguable lack of political will, represents the major obstacle to the States re-entering the income tax scene. The paper concludes by briefly outlining a system that addresses these problems within a reformed fiscal structure.

Vertical fiscal imbalance

The situation where one level of government is unable to raise sufficient revenue for its expenditures and is consequently financially dependent on another level of government is known as vertical fiscal imbalance.[1] This usually manifests itself where subnational governments are dependent on the national central government to make up for the shortfall. In Australia, this comes about as the States have responsibility for most public expenditure, whereas the most powerful revenue-raising tools are controlled by the Commonwealth Government.

While there is no single generally accepted method of calculating the extent of vertical fiscal imbalance, the level of vertical fiscal imbalance in Australia is generally regarded as one of the largest in any federation in the world.[2]

One measure is that used by the Henry Tax Review,[3] released in 2009, being the revenue transferred from the Commonwealth to the States, expressed as a proportion of the States' total revenue. While the precise percentage has fluctuated, it has tended to be in the order of around 45 to 50 per cent since 2000 (marking the advent of the GST).[4] This proportion varies from State to State, with the larger mainland States tending to be closer to 40 per cent and Tasmania closer to 60 per cent.[5]

This contrasts with the position in other federations; for example, central

government subsidisation in Canada in 2003 was around 17 percent; and in the United States, 22 percent.[6]

It was not ever thus. After the first 10 years of federation (in which special provisions were made to facilitate the transition involved with the States no longer being able to impose excise and customs duties),[7] Commonwealth transfers fell to a low of roughly 12 percent of State revenues on the eve of the Second World War.[8] It was at this point that the Commonwealth took over the field of income tax and large-scale vertical fiscal imbalance began to become part of the Australia federal landscape. I will return to this shortly.

Problems caused by vertical fiscal imbalance

One may be tempted to ask, so what? Why does it matter who raises the revenue, so long as sufficient revenue is raised to meet public expenditure requirements? Indeed, the structure of the goods and services tax (GST), in place since its introduction in 2000, might be identified as a case study in why centralised collection of the revenue is the way to go: the Commonwealth collects the revenue, achieving administrative economies of scale through its national bureaucratic network, and all revenue is distributed to the States to cover their expenditures. Further, the GST replaced a raft of economically inefficient State-level taxes that the States had hitherto had to resort to in order to raise a basic level of revenue for their expenditure requirements.[9]

The answer is that there is plenty wrong with this situation. And the GST provides a good example of just one such problem, as will be analyzed further below.

But the starting point for all problems is what Peter Walsh highlighted at this Society's conference in 1997: "A fundamental principle of responsible government in any system is that each government must raise the money that it spends".[10] Independent and decentralised decision-making, the essence of a federal system, is impossible unless governments are financially autonomous.[11] Political power follows the power of the purse. As much was recognised by Alfred Deakin in the immediate aftermath of federation. Drawing on the experience of history in which controlling the national purse strings eventually positioned the House of Commons as the dominant political institution in the United Kingdom, Deakin predicted that the Commonwealth Government would ultimately come to dominate the States. As he wrote in what has become a well-known passage:

> The rights of self-government of the States have been fondly supposed to be safeguarded by the Constitution. It left them legally free, but financially bound to the chariot wheels of the central Government . . . The Commonwealth will have acquired a general control over the States, while every extension of political power will be made by its means and go to increase its relative superiority.[12]

While complete subservience of the States has not eventuated, Deakin's assessment has proven to be remarkably prescient. The first of these specific problems is the spectre of Commonwealth interference in State policy matters. This is achieved through the Commonwealth's grants power under section 96 of the Constitution. In brief, this power allows the Commonwealth to attach whatever strings it likes to financial grants to the States, subject to the restriction that it cannot discriminate between the States. In fact, this was a key plank in the Commonwealth's ability to crowd the States out of the income tax field in the 1940s and 1950s.

This is one means by which the Commonwealth may circumvent the allocation of

legislative powers in the Constitution, set out mainly in section 51. For instance, the Commonwealth has no authority to make health policy as it applies in the States, yet there is nothing preventing the Commonwealth from formulating a uniform national health policy and making any financial grants to the States contingent on them adopting that policy in its entirety. This was what Deakin had in mind when he described the States being financially bound to the "chariot wheels" of the central government. After all, it is one thing to have the power to make policy and implement laws, but how can this be done without the means to finance those policies?

The second problem of vertical fiscal imbalance, related to the Commonwealth's ability to interfere in State policy, is the divorce of political cost and financial benefit in the fiscal sphere. It is here that the current example of the GST becomes useful. The GST is a Commonwealth tax; it is imposed through Commonwealth legislation and it is administered and collected at a Commonwealth level. Indeed, it is questionable whether the States can, under the Constitution, impose a GST. The States are, however, the beneficiaries of the revenue raised; under the agreement in which the GST was created, the Commonwealth must distribute all GST revenue to the States and territories.

This results in a situation in which GST reform is next to impossible. The rate is currently 10 per cent and is applied to most goods and services, with some notable exceptions, particularly fresh food, health and education. These exemptions were introduced as part of a political deal to secure the GST's passage through the Senate in the late 1990s; there is no coherent tax policy reason for excluding these goods and services from the GST's base.

Attention has recently turned to whether changes in the rate and/or the base can be implemented. Despite the strong economic arguments for doing so,[13] it is highly unlikely any such changes will eventuate under the current system. The reason for expecting all such efforts to fail is the split between political cost and fiscal benefit. As the recipients of all the revenue raised, the States (as a group) have a strong incentive to see the base broadened and the rate increased.

But any such changes must go through the Commonwealth Parliament. As a Commonwealth law, it will be recognised that any such increases are the Commonwealth's doing. Any political grief that is felt will be felt primarily by the Commonwealth. With no benefit, since all the additional revenue will go to the States, what incentive is there for the Commonwealth to take such action?

The only reason that such a state of affairs has been allowed to develop is due to the aforementioned vertical fiscal imbalance. As the States lack the means to raise their own (sufficient) revenue, they are dependent on the Commonwealth to undertake this task for them. As illustrated though, any serious reforms have a negligible chance of occurring while there is this divergence of political cost and fiscal benefit.

Another manifestation of this problem is the "blame game" that is frequently played out between the States and the Commonwealth. The usual pattern observed is that the States are criticised for not doing enough in a particular area (health, education, public transport, environmental protection, etc), who then justify their lack of action on the basis that they have not been given sufficient funds from Canberra. The Commonwealth responds that the States have sufficient funding, but they are not efficient, or they have misplaced priorities, or something similar. And around we go.

Again, such a situation arises only because the States lack revenue-raising capability.

The GST also provides an excellent illustration of the Commonwealth's ability to interfere with the States' policy capacity. While all the GST revenue is distributed to the States, it is the Commonwealth that determines the allocations. While the allocation is meant to be based on horizontal equity, so that all States have access to a sufficient level of funding to provide the same level of public services,[14] there is a high degree of subjectivity to such a process. Consequently, the Commonwealth may use this as a tool by which it may influence State-level policy decisions.

Further, given the overriding objective of horizontal equity, this may be seen as actually a disincentive for the States to be efficient in their service delivery. This arises since any efficiencies obtained in service delivery will manifest as lower budgetary requirements for that same level of services. Assuming these efficiencies are not matched in other States, the more efficient State will see part of its previous allocation of GST revenue distributed to the other States. Controlling the purse strings undermines the notion of fiscal responsibility and contributes to the perpetual blame game.

How should the States raise revenue?

In terms of providing policy prescriptions for how the States should go about raising revenue, many including this author, will regard the notion of a good tax as something of an oxymoron. That being said, the idea behind a good in contrast to a bad tax is this notion of efficiency, which wears a couple of masks.

The primary form of efficiency is economic efficiency. Taxation has behavioural effects in that when something is taxed, people will on average be less inclined to undertake the taxed activity. A tax on goods will be expected to result in fewer sales. Taxing income will result in less paid work being performed. Economic efficiency refers to the extent to which such behavioural effects take place. A more efficient tax will have less of an effect on behaviour than an inefficient tax. Distortions in behaviour driven by the tax system represent an economic cost to the overall economy, reducing total welfare. A poor tax mix, therefore, can result in reduced living standards.

An analysis prepared in September 2011 in the lead-up to the Commonwealth's Tax Forum investigated the economic costs associated with different forms of taxation.[15] It found that taxes on land were the most efficient from an economic perspective, with an average "excess burden"[16] of six cents per dollar of revenue raised.[17] The next most efficient tax using this measure is the GST (average excess burden of 10 cents) followed by personal income tax (15 cents).[18] All other taxes had an average excess burden of at least 20 cents, with some duties having an average excess burden as high as 70 cents per dollar of revenue.[19]

As land taxes are already imposed at the State level, it may be assumed that even if there is scope for additional revenue raising, the States are not inclined to exploit that opportunity. As noted earlier, it is, at best, questionable whether the States could impose a GST due to restrictions under the Constitution.[20] In any event, consumption taxes at the State level have tended to be very difficult to administer and a workable version would need to be accompanied by reintroduction of State border checkpoints for the movement of goods to ensure the GST is applied appropriately, a feature which may itself be open to constitutional challenge.[21]

This leaves personal income tax as the next most efficient tax. Note that this does

not include company income tax, which has a higher average excess burden of 20 cents for every dollar of revenue raised. The scope with personal income tax is sufficient to cover the States' current fiscal reliance on the Commonwealth. As much can be seen by the Commonwealth's own figures, for example, in the 2012-13 Commonwealth Budget, actual net personal income tax receipts for 2010-11 were more than $132 billion.[22] This compares with the ABS statistics showing that Commonwealth transfers to the States in 2010-11 were just under $86 billion.[23] This shows the personal income tax to be a flexible revenue source that more than meets the States' current fiscal shortfall, with sufficient room (as seen by the $46 billion surplus these figures show) for the States to set their own revenue targets and allow the Commonwealth to retain a small personal income tax should the need arise for some cross-subsidisation between the States. This matter is further addressed below during an outline of how such a brave new tax world will look.

When the States did tax income

But, first, let us examine what happened when the States did tax income. After all, those who do not heed the lessons of history are doomed to repeat them. And this is probably a history we do not particularly want to repeat.

Put bluntly, the income tax scene in Australia was a mess. Except for Queensland and Western Australia, all States taxed income before federation and all States had an income tax by 1907, with the Commonwealth entering this area in 1915 as a measure to finance Australia's effort in the First World War.[24] By this stage, double taxation was starting to occur, where the same taxpayer was paying tax more than once on the same income. This may happen, for example, where a taxpayer resides in one State but derives income sourced in another State (such as rental income on an interstate investment property). This was alleviated to a certain degree through a system of rebates, although this did involve timing disadvantages (since the rebates tended to apply in the year after which the original income tax had to be paid) and added to the administrative complexity that already existed with trying to comply with multiple systems and filing multiple returns. Further, there was no uniformity as to the content of laws; each State and the Commonwealth had its own measure of income on which tax was to be levied.

In combating the Depression during the 1930s, some States began levying additional taxes on income. This practice peaked in 1935, with some taxpayers being subjected to up to 14 different income taxes and eligible to claim 12 rebates the following year.[25] This is in addition to the other taxes that were applicable at that time.[26] By 1942, the year of the *First Uniform Tax case*,[27] there were 26 separate Commonwealth and State income taxes.[28]

With the onset of the Second World War, the Commonwealth sought to reach an agreement with the States to take over income taxation for the duration of the war, but not to any avail.[29]

Once the Curtin Labor Government took office, the Commonwealth moved to force the States out of income tax. This was done through the passage of four bills: the first imposed the tax; the second provided financial grants to the States contingent on the States not imposing their own income tax for that particular year; the third made it an offence for a taxpayer to pay a State income tax liability before discharging Commonwealth income tax obligations; and the fourth provided for the

Commonwealth to acquire compulsorily the States' bureaucratic apparatus.

The States challenged this suite of legislation in the High Court. In a decision known as the *First Uniform Tax case*, the High Court upheld the validity of all statutes (albeit not unanimously). Of particular note was that the Court relied predominantly on the grants power under section 96 of the Constitution. With the benefit of hindsight, it may be seen as inevitable that the High Court would have allowed the Commonwealth to implement whatever policy it deemed necessary under the defence power in the Constitution. By basing its decision more heavily on the grants power, however, the prospect that the uniform tax system might well persist beyond the war was recognized.

When the Liberal-Country Party coalition won office in 1949, the Prime Minister, Mr R. G. (later Sir Robert) Menzies commissioned the Commonwealth and State Treasuries to prepare a report on the possibility of returning the income tax field to the States.[30] The report prepared in 1953 canvassed a number of technical difficulties that would need to be addressed before the States could resume taxing income. It is this report and the technical problems identified that I will address in the next section when outlining my proposed scheme.

Suffice to say, the States did not resume taxing incomes. The report just mentioned was considered at the 1953 Premiers Conference. While New South Wales, Victoria and South Australia indicated a willingness to reintroduce their own income taxes (subject to the Commonwealth reducing its involvement sufficiently), and Queensland gave support contingent upon receiving additional Commonwealth support, Western Australia and Tasmania opposed the scheme.[31] In the absence of unanimous agreement, the proposals did not go any further.

New South Wales and Victoria led a subsequent High Court challenge to the constitutionality of the Commonwealth's legislative scheme. The decision is generally referred to as the *Second Uniform Tax case*.[32] While elements of the scheme were invalidated, once again the Commonwealth prevailed overall on the basis of the grants power. The States continued to be crowded out of the income tax field.

On two subsequent occasions the Commonwealth Government has canvassed returning much of the fiscal power associated with income tax to the States. On both occasions political events overtook these intentions, leading to their eventual demise.

The first of these was in 1976 under the Liberal-National Party Government of Malcolm Fraser. In essence, the mechanics of this proposal would be effectively to remove the Commonwealth Government from the allocation process, making grants out of general revenue (as opposed to specific purpose grants that influence State policy), which would be determined by an independent body.[33] The need for fiscal restraint to reduce the Commonwealth budget deficit undermined this system, though, in short order, and Commonwealth payments to the States were slashed.[34]

The Labor Prime Minister, Bob Hawke, canvassed the prospect of reforming intergovernmental fiscal relations in 1990 and commissioned inquiries that were to report in November 1991 on, amongst other matters, vertical fiscal imbalance.[35] However, the leadership struggle that took place during this time detracted from the focus that was suggested would be put on this matter.[36] The Hawke inquiries were not pursued after the change of leadership, as his successor, Paul Keating, pursued a deliberate policy of a strong central government that was anathema to returning any power over income tax to the States.[37]

A proposed scheme

The 1953 Treasury report identified five substantive matters to which attention needs to be directed for a State income tax to be feasible. The brief consideration of a potential scheme provided here addresses these matters.

To give context, the State income tax largely replaces the present Commonwealth personal income tax. The Commonwealth would retain GST receipts collected and, perhaps, increase the rate if and as required. As the GST is a more efficient form of taxation than income tax, if there is no change in the revenue collected, then welfare overall should be improved.

One further broad matter is worth mentioning before addressing the Treasury issues. Under this scheme, it is important that taxation be used only as a revenue-raising tool. At present, the tax system is used to implement economic and social policy in addition to raising revenue. As a result, the tax system is littered with a plethora of concessions, rebates and other special provisions that would be unworkable in a genuine federal system. It would be unworkable since each government is likely to have differing economic and social policy priorities. The opportunity also for arbitrage and evasion under such a system would see a quick return to the undesirable situation that existed prior to the Second World War.

Division of the income tax field

The 1953 Report first identified the extent to which the Commonwealth would withdraw from the income tax field as a matter for consideration.[38] The Commonwealth would retain control over the company income tax. This reflects the reality that, as artificial entities, companies are more easily relocatable than individuals and, therefore, differences in company taxation at the State level are more likely to induce changes in behaviour. One design matter that this feature of the overall scheme would require consideration is the treatment of dividends and whether and how an imputation system could link taxation of company profits by the Commonwealth and the payment of dividends to individual shareholders who are taxed at the State level. But this aspect is too specific for this more general outline.

The extent of withdrawal from the personal income tax is something that would need to be decided once the revenue needs of the Commonwealth and the States are ascertained more accurately, but it is likely that the Commonwealth would retain a nominal presence rate-wise. As discussed below, the legislation itself would need to come from the Commonwealth; the issue here is whether the Commonwealth actually raises any revenue.

In this system, the States would set their own rates, independent of that done by the Commonwealth. Thus, alternative suggestions, where States impose a top up on a Commonwealth rate, or set their rates as a percentage of the Commonwealth rate, are rejected under this proposal. One of the primary justifications for the States reclaiming their income taxing capabilities is to shake off their fiscal binds to the chariot wheels of the Commonwealth. By being independent in this regard, not only of the Commonwealth but of each other, the States regain much of their political autonomy that is presently being compromised. Further, competitive federalism provides a restraint from unreasonable taxation in this area, allowing the States to experiment with their own combination of revenue raising and public expenditure programs. This

would also force the States to be fiscally responsible; high taxing States would be forced to justify the additional impost with, for example, better infrastructure, or better services, rather than, for example, subsidies to favoured groups or inflated budgets for special projects.

Relationship between Commonwealth and State rates

As already canvassed, State rates should be completely independent of Commonwealth rates. This allows for maximum policy flexibility and competitive federalism to restrain State extravagance.

As previously noted, the content of the law should come from the Commonwealth. One consequence of this is that a uniform taxing year is adopted throughout the country. This should not undermine the States' independence in any meaningful way and will reduce unnecessary complexity. For special cases, adjustments to the year of assessment can be allowed for, as is the case under the present Commonwealth system. However, remember that this proposal advocates that the States tax only personal incomes, and it is rare for individuals to require an alternative taxing year (this is usually done only for companies at present).

Degree of uniformity

While the States should have maximum flexibility over their rates, the content of the law should be enshrined in legislation from the Commonwealth, thereby ensuring a uniform personal income tax throughout the country. This would be the single largest initiative that would prevent a reoccurrence of the administrative nightmare that existed up to 1942.

So that the States are able to maintain autonomy over their non-tax policies, it is important that the personal income tax be a revenue-raising tool only. By allowing concessions to achieve economic or social goals, these policies would automatically be implemented throughout the country, undermining State autonomy. This should not be a barrier to implementing these goals at either the Commonwealth or State level; the relevant government merely needs to use a different legislative mechanism to achieve these objectives.

Precedent exists for this type of co-operative scheme. A relatively recent example is the field of corporations law prior to 2001. In the wake of the High Court's 1990 decision in the *Incorporation case*,[39] in which the Commonwealth's attempt to regulate the entire field of corporate law was struck down, the Commonwealth and the States entered into a co-operative scheme in which the Commonwealth enacted model legislation, which was then adopted by the various State parliaments.

Basis for taxing interstate income

There are two broad bases for taxing income that has connections to more than one jurisdiction: source and residence. In short, source refers to the jurisdiction where the income is generated (for example, the location of the investment property that generates rental income, or the location of where sales are made for business income). Residence refers to the jurisdiction in which the taxpayer is located. It was a divergence in approaches to this matter between the States that largely caused the problems leading up to the Commonwealth's takeover of the income tax field.

The prescription put forward here is to tax income based on residence. This

resolves almost all problems associated with identifying the source of income, especially as today, the specific location of the taxpayer does not dictate their income generating abilities for many different types of income. For example, bank interest is normally sourced where the relevant account is held, but there is nothing stopping an individual ordinarily resident in Tasmania from opening a bank account in Queensland, especially given the advent of controlling bank accounts over the internet.

One objection may be that the primary form of individual income is salary and wages and this system allows for a situation where the individual may work in a high taxing State but reside in a low taxing State. The practical implications of this in Australia are so minor that this should not be a barrier to this design decision. With only one or two exceptions (Albury-Wodonga being the one that immediately springs to mind), Australia's population centres tend to be located sufficiently far from State borders that this is unlikely to be a major problem. Some thought would need to be dedicated to how itinerant (or fly-in fly-out) workers should be treated, and this would normally be dealt with by residency rules. However, as a starting principle, this is much more workable than the alternative.

One advantage that such an approach has that did not exist in 1953 is that a substantial amount of analysis has taken place on this very issue in an international tax context. The system's design would draw on these lessons to develop a scheme that achieves the overall goals.

Arrangements for collecting income tax

This is not the same issue as it may have appeared in 1953. The States now have their own revenue collection agencies which could fulfil this role.

The preferable alternative, especially in light of the uniform legislation, is for the Commonwealth to collect the revenue and distribute to the States. This would need to be a strict agency arrangement, however; there can be no discretion at the Commonwealth level or even through an independent body allowing for a reallocation according to need or whatever other basis is decided to be flavour of the month. Otherwise, the current dysfunctionality seen with the GST arrangements will result in short order. The system proposed in this paper reflects that used in Canada, where the Federal Government collects the income tax revenue on behalf of the provinces (except for Quebec). This would undoubtedly require the States to make some contribution to the costs of the Commonwealth's administrative apparatus and each State would need to determine their most cost effective means of raising and collecting their own income tax revenues.

A perfectly predictable response to the model put forward in this paper is that, despite the substantive merits, there is no political will to make this proposal a reality. While that may be true at the present time, there is unlikely to be political will for such a fundamental change to the current system without a viable alternative being available. While the model presented in this paper is only a starting point, with significant detail to be refined, it may represent the necessary starting point for generating that political will.

Endnotes

The author would like to acknowledge the assistance of Michael Gilmour in compiling the statistical data used in this paper.

1. Miranda Stewart, "Australia" in Gianluigi Bizioli and Claudio Sacchetto (eds), *Tax Aspects of Fiscal Federalism: A Comparative Analysis*, IBFD, 2011, 168: "subnational governments have inadequate revenues to fund their expenditure responsibilities".

2. *Ibid.*

3. Commonwealth Treasury (Chair: K. Henry), *Australia's Future Tax System* ("Henry Review"), 2010.

4. Henry Review, *Architecture of Australia's Tax and Transfer System*, Commonwealth of Australia, 2008, 298.

5. *Ibid.*

6. Organisation for Economic Cooperation and Development (OECD), *Economic Survey of Australia 2006: Fiscal relations across levels of government*, http://www.oecd.org/australia/economicsurveyofaustralia2006fiscalrelationsacrosslevelsofgovernment.htm (accessed 9 September 2012).

7. Stewart, *op. cit.*, 168-169.

8. Henry Review, *op. cit.*, 301.

9. For a brief overview of these arrangements put in place with the introduction of the GST in Australia, see Stewart, *op. cit.*, 172-173.

10. Peter Walsh, "Labor and the Constitution: Forty Years On", *Upholding the Australian Constitution*, vol. 9, The Samuel Griffith Society, 1997, 160.

11. J.S.H. Hunter, *Federalism and Fiscal Balance*, Australian National University Press and Centre for Research on Federal Fiscal Relations, 1977, 39.

12. Alfred Deakin (ed. J.A. La Nauze), *Federated Australia*, Melbourne University Press, 1968, 97.

13. In brief, the exemptions (which go to the broadness of the base) for food, education and health represent efforts to alleviate the GST's negative effects on low income earners. The problems with a total exemption is that what should be

a targeted exemption is available to all. The measure is, therefore, more expensive (in terms of lost revenue), necessitating a higher general rate (alleviating measures should be achieved outside of the tax system to be properly targeted). Alternatively (or additionally), higher GST revenue may be used to fund a reduction in less efficient taxes while maintaining the same levels of revenue.

14. Henry Review, *op. cit.*, 299.

15. KPMG-Econtech, *Economic Analysis of the Impacts of GST to Reform Taxes* (September 2011).

16. "The average excess burden … is defined as the total loss in living standards from imposing a particular tax, per dollar of government revenue raised"; *ibid.*, 5.

17. *Ibid.*

18. *Ibid.*

19. *Ibid.*

20. See comments in Stewart, *op. cit.*, 163. It should be emphasised that the position on this matter is far from clear on the current state of the law.

21. Section 92 of the Commonwealth Constitution states that "trade, commerce, and intercourse among the States, whether by means of internal carriage or ocean navigation, shall be absolutely free",

22. Federal Budget 2012-13, Paper No 2, Statement 5, 5-19.

23. Australian Bureau of Statistics, Release 5512-0 Government Finance Statistics, Australia, 2010-11, Table 239.

24. W.T. Murphy, "Australian State Income Tax Schemes" in W. Prest and R.L. Mathews (eds), *The Development of Australian Fiscal Federalism: Selected Readings*, Australian National University Press, 1980, 276.

25. K.M. Laffer, "Taxation Reform in Australia" in W. Prest and R.L. Mathews (eds), *The Development of Australian Fiscal Federalism: Selected Readings*, Australian National University Press, 1980, 299.

26. *Ibid.*

27. *South Australia v Commonwealth* (1942) 65 CLR 373.

28. *Ibid.*, 300.

29. K.H. Bailey, "The Uniform Income Tax Plan (1942)" in W. Prest and R.L. Mathews (eds), *The Development of Australian Fiscal Federalism: Selected Readings*, Australian National University Press, 1980, 311.

30. Commonwealth and State Treasury Officers 1953, *Resumption of Income Tax by the States* in W. Prest and R.L. Mathews (eds), *The Development of Australian Fiscal Federalism: Selected Readings*, Australian National University Press, 1980, 347-359.

31. W. Prest and R.L. Mathews (eds), *The Development of Australian Fiscal Federalism: Selected Readings*, Australian National University Press, 1980, 272. See also Cheryl Saunders, "The Uniform Income Tax Cases" in H.P. Lee and George Winterton (eds), *Australian Constitutional Landmarks*, Cambridge University Press, 2003, 67-68.

32. *Victoria v Commonwealth* (1957) 99 CLR 575.

33. Russel Mathews and Bhajan Grewal, "Fiscal Federalism in Australia: From Whitlam to Keating", Centre for Strategic Economic Studies, Working Paper No 1, 1995, 14-16.

34. *Ibid*., 16-17.

35. *Ibid*., 31.

36. *Ibid*., 32.

37. *Ibid.*

38. *Resumption of Income Tax by the States*, *op. cit*., 348-351.

39. *New South Wales v Commonwealth* (1990) 169 CLR 482.