



TAXATION INSTITUTE of AUSTRALIA

# ANNUAL REPORT 2001

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TAXATION INSTITUTE OF AUSTRALIA

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<b>Ray Conwell</b> FTIA	Immediate Past President
<b>Barry Low</b> FTIA	Senior Vice President, National Membership Committee Chairman
<b>Gil Levy</b> FTIA	Junior Vice President and Treasurer
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# PRESIDENT'S REPORT

The Taxation Institute works on a broad canvas, across all aspects of taxation education, policy, law and practice. This is possible in a very large part because members volunteer their time

Alice McCleary, President

Any year which includes a Federal election, the dawning reality of GST and IAS, the commencement of the income tax reforms, several bi-elections largely fought on tax issues, a major stoush at NTLG, the mass-marketed tax-scheme debacle, and a sensationalised court case involving many senior ATO personnel, was never going to be a quiet year. 2001 lived up (or should that be down?) to all expectations.

The Taxation Institute played a major role in all aspects of tax during 2001 - at the educational, political, technical, and administrative levels.

## The year in a nutshell

The year commenced with much angst regarding the Government's timetable for its reform program. The planned 1 July 2001 introduction dates for consolidations, entity taxation, imputation reform etc looked extremely tight, as the legislation was far from finalised. The uncertainty was resolved in March - co-incidentally within hours of my public plea for some clarification on the issue. It is ironic that now, nearly a year on, the July 2002 implementation date for consolidations and imputation looks almost as unachievable as it did this time last year.

2001 saw a vastly improved depreciation regime, new concepts of debt and equity, the death of the overly-ambitious entity taxation proposals, an election promise that the Government would partially wean itself off the super surcharge drug, and rumours of "something" about trusts (but exactly what, no-one knows - and will any of it be retrospective to February 1999?).

For tax practitioners, there was the awful reality of the ATO's New Tax System administration: the annual instalment debacle; waiting on the phone; CB/CP forms mysteriously appearing out of the ether without warning; waiting on the phone; antiquated ATO IT systems which could not seem to determine how much tax people owed, or how much they had paid, or why they had paid it; ludicrous lodgement deadlines; waiting on the phone; repeatedly wrong client addresses and bank details on ATO documents; and of course waiting on the phone. To be fair, the ATO was considerably under-funded to carry out the huge task of tax reform, and the Government's timeframes were just as difficult for the ATO to meet as they were for taxpayers.

However, the Institute considers that the ATO's performance over the past year was considerably below what could be reasonably expected, particularly in relation to its willingness to accept that problems existed. We have a long way to go before there is any common understanding with the ATO on what the profession can achieve for the tax system, and what is simply impossible.

The Board of Taxation has been busying itself with a number of projects, the most controversial of which is the Tax Value Method. The Board ran a successful conference on TVM in July, with speakers against TVM generally outnumbering and out-arguing those in favour. Notwithstanding the overwhelming criticism of TVM from delegates (who represented just about everyone with a stake in the tax system), work continues apace on the project. The Board is due to make recommendations to Government on the feasibility of TVM by mid-year.

## Tax information overload – and guess who pays?

During 2001, 22 revenue Bills were passed, 366 ATO rulings and determinations released, and many draft documents released for





comment. And of course, there were fact sheets galore! Statistics released during the year show that, in the critical lead-up to GST's introduction, the ATO's telephone advisory staff got their advice wrong once in about every four calls. More than anything, these statistics demonstrate that getting tax right 100% of the time is virtually impossible - no matter who you are or how much money you spend on training and education.

Unfortunately, penalty regimes do not reflect this reality. Taxpayers are likely to be fined if they have not read and understood all ATO pronouncements which directly relate to their affairs - even though the ATO has demonstrated that it cannot do this itself. And although the ATO's response that it will not impose penalties for "honest mistakes" is welcome, it *will* nevertheless impose the General Interest Charge on such honest taxpayers. There seems to be a perception within both the Government and the ATO that an interest charge of approximately 11% compounding daily - at a time when ordinary interest rates are only 5% - is somehow not a penalty! Let's face facts: the GIC really comprises both a standard interest charge and a significant penalty. Honest taxpayers should not be subject to both. The time has come for the GIC to be set at (say) bank interest rates plus 2%, and for any other charges to be dealt with transparently and openly in the penalty provisions.

### Tax Schemes

The personal and financial impacts of a wide variety of mass-marketed tax schemes - on both individuals and the community at large - were graphically demonstrated during 2001. The Institute gave evidence before the Senate's Inquiry into mass-marketed tax schemes, and was mentioned approvingly several times in the Senate's final report. We have also assisted the ATO in its thinking on these difficult matters, and on how to reduce the possibility of a repeat of the phenomenon. We will continue to contribute to the on-going debate on this important matter.

The *Petroulias* case has undoubtedly muddied the waters on schemes generally, and it may be that there is no real closure on this episode of tax history until that case has finally resolved itself.

### Alienation of Personal Services Income

Alienation should never have been one of the abiding tax themes of 2001. After all, the legislation came into effect in *July 2000*, and it really only codified existing case law.

So why did we have couriers marching on Canberra, tax policy being announced live on talk-back radio, hundreds of rancorous column inches in the popular press, and Federal bi-elections fought on this issue? Here are some of the reasons - and unfortunately, none of them are unique in Tax-land:

- Virtually no enforcement of the existing law by the ATO over two decades (for example, no questions about income splitting on any tax return in the '80s and '90s)
- Lack of genuine consultation with practitioners and business-people about the detail of the law prior to its introduction
- Lack of vigorous debate in Parliament, where practical implementation questions could have been raised
- Failure to listen to those in the private sector with objective suggestions to offer, once the legislation was passed
- Lack of ATO publicity of the legislation in the period following its introduction - although it must be admitted this would have been difficult, given the intense GST focus during that same period.
- Very significant delay in issuing vital clarificatory rulings by the ATO (we are still waiting on some, 20 months later)

- Retrospective changes developed "on the run", after tax returns had been printed and distributed (rendering them seriously incorrect in relation to PSI issues)
- Imprecise press releases which did not clearly explain the Government's proposed amendments
- Confusion among bureaucrats as to what the political decisions actually were
- Inadequate explanation by the ATO of the detailed interaction between the old (but still effective) law and the new PSI law. In particular the ATO has refused to provide specific guidance for the IT industry and other "knowledge workers" in relation to Part IVA. Instead, the ATO argues that such professionals can gain adequate guidance from a couple of old rulings concerning medical practitioners - all of which are more than a decade old, refer to s 260 more often than to Part IVA, and pre-date the outsourcing revolution of the '90s when alienation became standard in some sectors.

The end result is confusing legislation which seems to have missed its mark. Genuine businesses have been seriously inconvenienced, and those at whom the legislation was aimed have been able to work around its complexities without being caught. The next exciting episode will commence when the building sector first comes into the PSI net in July this year - hang on to your hats!

### Financial Performance

As you will see from the detailed financial statements that accompany this report, the Institute made a loss in 2001. This is disappointing in any circumstances, but against the background of one of the busiest years in our history, it is particularly galling. The causes are two-fold: reduced education income, and lower-than-anticipated website revenue. It is important to recognise that these are *income* issues - at all times the Institute's costs have been properly managed and were generally below budget. I also hasten to assure members that our balance sheet remains strong, with a good cash position, significant reserves and a positive cash flow from operations: the Institute is a solvent and vibrant organisation.

Some history will put the loss in perspective. In 1999, the Institute made a surplus of about \$520,000 - very considerably above our budget for that year. That surplus came about primarily because of the unexpectedly huge demand for educational programs on the New Tax System - and on GST in particular. National Council resolved to use the 1999 surplus to build a website which would be the first port-of-call for all tax professionals - with not only all the latest legislation, EMs, rulings and other widely-available materials, but with all the technical papers and presentations from our own educational functions, and all our publications. Ultimately, we hoped to provide education functions on-line, simultaneously with the live presentation - allowing on-line participants to ask questions of the presenter by email etc. It was a most exciting project, and after very careful consideration National Council resolved to spend approximately \$2m over three years to develop such a site.

During 2000 demand for tax education began to slow - not because the need for education was any less (in fact, it was greater as mere proposals became laws), but because practitioners were overloaded. Practitioners were so busy getting their clients ready for tax reform they had little time for the "luxury" of training. As well, quite soon after the website was launched in October 2000 it emerged that the pay-per-view income model we had adopted - on the advice of internet specialists - was not very appealing to our users, and would require re-consideration. Nevertheless, the Institute achieved a small surplus in 2000 of around \$40,000.

During 2001, attendances at all our education functions were significantly lower again. Even functions with well-established reputations and consistently high attendances over the years - such as State Conventions - recorded only 50% - 60% of the usual participants. The Institute responded by holding more functions than in previous years, in the hope that we could entice members out of their busy offices and into tax education.



This was only partially successful - tax practitioners are simply exhausted, and can spare little time away from their businesses if all the required paperwork is to be completed within time. Many have told me of their disappointment about missing their favourite conventions - I look forward to their returning to the Institute in 2002.

In relation to the website, National Council resolved to move away from pay-per-view and to adopt a subscription-based model. The result of this was Member PLUS and Group PLUS, launched in the latter part of the year. There has been good initial take-up of subscriptions, and more marketing work will continue in the coming months. The website continues to develop in content and search ability all the time - if you have not visited [www.taxinstitute.com.au](http://www.taxinstitute.com.au) for some time, I urge you to re-visit soon.

I remain convinced that the Institute has wisely invested its 1999 profits in the website. As a member service, it is an outstanding resource. For those who have not yet considered subscribing to Member PLUS, you will probably be contacted over the course of the next few months. Please listen to what our staff have to tell you about the website, ask for a trial, and see the benefits for yourself. The website is the way of the future - once used, you will wonder how you survived before!

Before leaving financial matters, members may be assured that the Institute's budget for 2002 reflects modest income expectations, and expenses have been tailored to fit these reduced income levels.

#### **The Institute does not run itself...**

The Taxation Institute works on a broad canvas, across all aspects of taxation education, policy, law and practice. This is possible in very large part because members volunteer their time - as educators, as planners, as technical resources, as chairmen (I am not of the "chairperson" school), as committee members, as writers, as editors, and as advisors. Without this contribution, there can be no Taxation Institute. To the hundreds of members right across Australia who have assisted in running the Institute this year, my personal thanks. I have also valued the contribution of those members who have raised with me their concerns and suggestions - often these have resulted in a useful anecdote to illustrate a technical submission, a new press release or an additional matter to raise in a technical forum.

Of course, the Institute also employs a number of staff, both our National office and in the States. Our staff include those who work with the volunteers directly to realise their education and technical ideas, and those with expertise quite outside that of the average tax practitioner - such as publishers, IT and web experts, membership specialists, and librarians. The staff are managed by our Chief Executive Officer, Noel Rowland, a natural and gifted leader. I have certainly benefited from Noel's advice, assistance and friendship, and I am sure all those who work with him - volunteers and staff - share that sentiment.

I wish the Institute all the best for 2002 and the future - its success is in the hands of all members.

Alice McCleary, President

# CEO'S REPORT

The challenge for the Institute is to more effectively deliver professional development activities so practitioners see them as a worthwhile investment on an ongoing basis

Noel Rowland, CEO

2001 saw the Taxation Institute consolidate its market leadership position in a year where the pace of change and reform slowed.

Key initiatives for the Institute during 2001 included:

- Launching the online knowledge resource, Member PLUS and Group PLUS
- Strengthening the Institute's branding
- Improvements in its flagship product *Taxation in Australia*
- Improving communication with our target audiences
- Forging closer relationships with our strategic alliance partners
- A range of new national CPD events

In 2001, tax professionals returned to their desks to deal with the administrative reality of the preceding period of intense tax reform. The market throughout 2001, and particularly after the events of September 11, underwent a declining demand for tax education, not surprising given the overwhelming period of tax reform we had endured. The result for the Institute was lower attendances at our educational seminars, in 2001 compared with 2000, although the popularity of National events continued to grow.

The challenge for the Institute is to more effectively deliver professional development activities so practitioners see them as a worthwhile investment on an ongoing basis.

A primary focus in 2001 was the launch of Member PLUS, and Group PLUS, the Institute's online subscription-based knowledge resource. Member PLUS and Group PLUS, underscore our role in providing comprehensive and timely information to members and other users of the Institute's services.

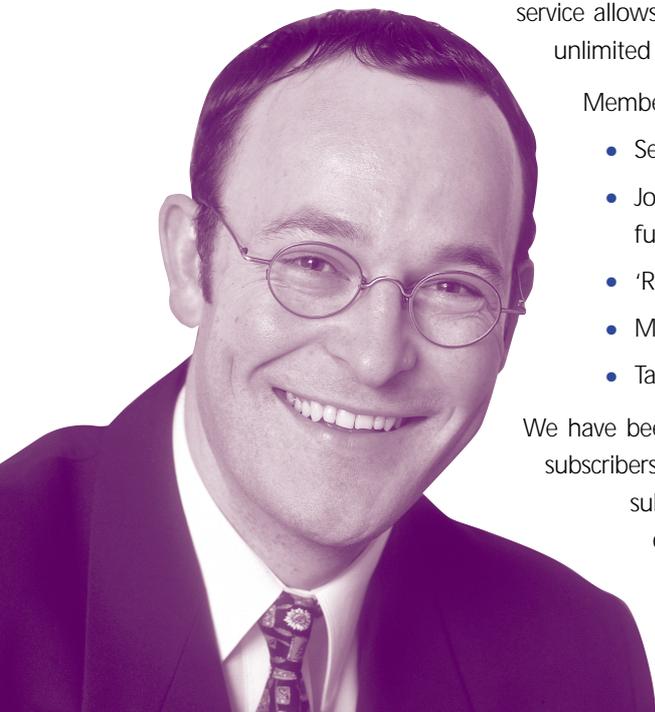
Research of our client base and a review of pricing options clearly indicated that a full subscription-pricing model was most appropriate to user needs. For one annual fee, the new service allows tax professionals unrestricted access to the Institute's knowledge base, with unlimited search, view and download capability.

Member PLUS features include:

- Searchable database of State and National seminar and convention papers
- Journal archives from *Taxation in Australia* and *The Tax Specialist* including all full articles from 1996
- 'Real-time' links to Institute submissions and ATO website
- Media Releases
- TaxVine

We have been receiving some great feedback from our Member PLUS and Group PLUS subscribers who are finding that the TIA knowledge base sitting next to their commercial subscriptions and internal knowledge bases is filling a void not offered by any other product.

Relative to the price of commercial subscriptions available, the value offered by this subscription is enormous. We were pleased with the initial take-up at the end of 2001, and hopeful of increasing subscriptions during 2002.





The management of the Institute's online strategies was assisted by the creation of a Website Reference Group. The group provided invaluable guidance and recommendations on content management, pricing models and marketing of the website.

Further implementation of the Institute's web strategy, based around the 'tax portal' model, will continue to be an important priority.

While the Institute's financial results in 2001 were negative, our organisation remains strong and solvent. Recent initiatives by the Taxation Institute will contribute to income growth and further cement our position as the leading tax body in Australia.

### **Tax Policy and Research**

The Institute's technical team was involved in a wide range of tax policy and research activities during the year and demonstrated thought leadership on a number of key issues. Some notable achievements include:

- Recognition of TIAs independent role in tax policy - the Institute was quoted on tax reform by both political parties during the 2001 Federal election
- Leading debate in tax policy change in areas of FBT, GST, contractors reform and business tax reform, including preparing over 70 per cent of joint body submissions on GST rulings and determinations
- Success in obtaining reform of the BAS (including associated GST and PAYG legislative changes), improving the running balance accounts and introduction of sensible administration rules in respect of ultimate beneficiary rules
- Constantly sought after and significant contributor to media commentary on tax issues
- Continuing to take on a leadership role at the national Tax Liaison Group (NTLG)

### **TaxLine**

Reflecting the increased use of Internet facilities by members, the TaxLine research team completed 2,014 requests in 2001 compared to 3,923 in 2000.

A growing number of requests related to International Tax issues, in addition to the clear trend of significantly more complex enquiries.

### **Knowledge Products and Services**

*Taxation in Australia* continues to be the journal most highly regarded by Australian tax practitioners. Significant improvements were made in 2001 with a more modern design, a broader range of content sourced from a wider variety of authors, tailored to practitioners' knowledge needs.

The Publishing Committee provides invaluable input to our publishing activities and I believe the journal's content is stronger than it has been for some time. Watch out for further improvements to your journal in 2002.

Subscriptions to *The Tax Specialist* and state convention papers have remained strong, and it is anticipated that the readership for these products will be expanded in 2002 due to Member PLUS and Group PLUS.

The Institute's website showed an increase in usage over the year with 37% of the membership base accessing this facility. The introduction of the online knowledge base boosted site activity in the latter part of the year and we expect this trend to continue.

Continued implementation of the Institute's website strategy will play an important role in achieving our objectives - providing value to clients and a growing revenue source to supplement membership fee income.

Planning is underway to redesign and rebrand the monthly audio tape, TaxTape. The changes will better align the product with new technology and should address slowing subscriptions. Issues of sound quality have also been addressed. This product will be launched with a fresh, modern look at the National Convention in March 2002.

We continue to receive considerable positive feedback from members on the quality and scope of our weekly email newsletter, TaxVine. Whilst not designed to be a comprehensive daily service, TaxVine hits the tax 'highspots'. Of course, members will be aware that towards the end of 2001 we made TaxVine available on a daily basis in addition to its weekly transmission. Member feedback to its earlier delivery via the Institute's website has been very positive.

## Education

There were two new and significant additions to the Tax Institute's calendar in 2001: the Financial Services Conference and the States' Taxation Conference. Both of these events, focusing on more specialist markets were held very successfully for the first time, and now form part of our annual education calendar. Other notable events in 2001 were the Annual National Convention in Sydney and the Annual GST Symposium.

The Institute held 236 seminars in 2001 providing 717 CPD hours. The focus of the educational program is to provide quality, value added knowledge, delivered by experts in their respective fields.

National Roadshows have proven to be particularly successful and the program on CGT and Small Business achieved good attendances. A challenge for the Institute is to continue to identify appropriate topics for the Roadshows and decrease our reliance on our volunteers.

The Institute developed an Education strategy in 2001, which identifies critical areas for change and progress. An Education Advisory Group will be established to progress strategic recommendations from a practical perspective.

A major initiative towards the end of 2001 was the development of a framework, 'Key strategic platforms', to facilitate the delivery of structured seminars in contrast to our single one-off programs. Planning for the establishment of the Institute's in-house education program is well underway and will be launched in early 2002.

A sincere thank you to the state and national Education Committees who continue to ensure the high quality and range of the Institute's tax education program. Thank you also to the work by the National Education Committee on the development of the Institute's education strategy.

## Member Services

Membership numbers remained stable in 2001 relative to 2000, with 10,974 members as at the membership year-end 30/6/2001. I believe this reflects the relatively mature market and the ever continuing rationalisation of member subscriptions. Of course, we remain committed to increasing the number of tax practitioners who are Institute members and do this by continually focusing on providing great value for the membership dollar.

The Institute is continuing to seek alliances with key organisations that broaden the benefits of membership. In 2001 we continued our alliances with ATP and the National Australia Bank, which provide valuable products



and services to members.

### State Activities

#### New South Wales

- 3545 delegates attended 55 events for 156 CPD hours
- Sell out Consolidations program in February 2001
- Successful 2001 regional seminar series
- Presentation of membership pin to Warwick Johnson, after 50 years of membership

#### Victoria and Tasmania

- 3308 delegates attended 42 events for 109 CPD hours

#### Queensland

- 1346 delegates attended 40 events for 137 CPD hours
- Prizes awarded to Students in Taxation Law at nine Tertiary Institutions during the full year

#### Western Australia

- 2653 delegates attended 39 events for 94 CPD hours
- Presentation of 88 silver pins to members who reached 25 years of membership

#### South Australia and Northern Territory

- 3536 delegates attended 54 events for 154 CPD hours
- Submission to the SA Revenue office leading to significant changes in the SA State tax law
- 31 members were presented with a 25-year membership pin at the Annual Cocktail Party in July.

### The Year Ahead

The Institute has a very strong base to begin 2002 with confidence. Key challenges ahead include an increased focus on managing and supporting the Institute's most critical asset: our staff and volunteers.

The implementation of a customer relationship management program will allow us to target our programs more closely to our members' needs and will also be a key strategy to further our goal of building a diverse and active long-term client base.

### Thank You

In a challenging year, our staff and volunteers have continued to provide the support on which the success of our Institute rests. I would like to sincerely thank all who have contributed their time and energy to ensure the pre-eminent position the Institute holds in the market.

Noel Rowland, CEO

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