BOOK REVIEW

Claudia Scott (Ed), *Women And Taxation* (1993)

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At one time, not too long ago, tax policy developments in New Zealand attracted little or no attention in Australia. Now, New Zealand developments are reviewed by scholars considering almost all aspects of tax policy. In the past decade, New Zealand has moved from a closed, state-monitored (and state-subsidised) economy with a large social welfare component to the paradigm of a market economy. Obsession with the free functioning of the market has extended to the tax system and led to the adoption of what is perhaps the world's purest (and most comprehensive) Goods and Services Tax (GST) and the transformation of a barely adequate income tax into a model of comprehensive taxation, marred only by the continued exemption from taxation of capital gains.

The collection of essays edited by Claudia Scott is an ambitious look at the operation of the New Zealand tax system, and its interaction with the benefit system, from a gender perspective. The issues and the many conundrums will all be familiar to Australians. Unfortunately, it seems New Zealand is no closer to reconciling the irreconcilable and solving the insoluble than is Australia, but a comparative look at the issues can refresh our analysis of the problems.

Claudia Scott is a Professor of Public Policy at Victoria University, Wellington and the author of a number of well-known tax policy works in New Zealand, many of which deal with that country's GST. Professor Scott writes well and presents sound policy analysis and it is somewhat unfortunate that she has not contributed to the book itself, apart from a brief introduction that seeks to fit the 22 chapters under the four conceptual headings she has chosen. The 38 authors and co-authors, all but two of whom are women, represent a range of backgrounds: lawyers, accountants and economists from the public sector, private practice and academia.

The four conceptual headings used by Professor Scott are: Women and the Tax System (containing five chapters), Women's Work and the Welfare State (containing seven chapters), A Women's Guide to Tax Issues (containing six chapters), and Administration and Design Issues (containing four chapters). Given the range and number of contributors, it is not surprising that the quality of analysis varies. So, too, does the gender relevance of the materials.

There is, for example, little gender-specific relevance to the materials in the third part of the book, "A Women's Guide to Tax Issues". Most of the papers in this part of the book are drafted by tax professionals and are largely tax planning pieces, pitched at a level somewhere between that found in a practitioner's journal and that found in the

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investment pages of the weekend newspaper. The opening chapter in this part, "The Rationale and Long-term Objectives Behind the Recent Tax Reform" provides a helpful background to the current system and the articles that follow are interesting summaries of various aspects of the New Zealand tax system. But apart from the gender of their authors and token references in their titles, these articles have little to do with women and taxation *per se*. The chapters include descriptions of New Zealand's international tax rules, the role of taxation in structuring and funding investment activities and tax issues relating to export opportunities.

The abolition of estate duty in late 1992, almost two decades after the tax ceased to apply in Australia, left the second chapter in this part, "Women and Estate Planning" with little to focus on. Interestingly, the abolition of the estate tax was not accompanied by the repeal of the gift tax, which continues in effect. Unlike Australia, New Zealand has no capital gains tax (although the income tax base apart from capital gains is much broader than Australia's and probably catches many things that would be labelled capital gains in Australia) and hence there is no need for testamentary rollovers in the income tax system.

The chapter on the taxation of redundancy and retirement payments contains a brief history of the peculiar (indeed, perverse) concessional treatment accorded lump sum retirement payments in New Zealand until recently. By way of contrast, the current system is virtually devoid of concessions — retirement payments of almost any description are fully taxed with no provision for rollovers or deferral — and for many Australian policy analysts concerned about the inequities and inefficiencies of the Australian tax concessions for retirement income, the New Zealand system is no doubt a tempting model.

The rationale behind the allocation of essays among the remaining three parts of the book is less clear. The problem is inevitable, perhaps, given the overlap between the three subjects, but the result in some cases is a separation of papers dealing with similar issues. For example, essays on women and compliance issues are found in the first and last parts of the book. The first paper on the subject, "Women and Paying Tax", derives from a compliance survey undertaken by the Inland Revenue Department (the equivalent of the Commissioner of Taxation) in 1992. The second compliance paper, "Is Tax Avoidance a Gender Issue?", is also drafted by IRD personnel, but it is based more on anecdotal than empirical evidence.

The survey from which results were extracted for the first paper was not designed with gender issues in mind. In an attempt to identify these issues, the authors have simply extracted the data separately for men and women. The results show there is very little difference between the sexes in terms of attitudes to compliance issues and knowledge about tax responsibilities. Most of the data is not presented in a comparative format. Rather, the responses of women alone were extracted and presented to show what women think about various compliance issues.

Unfortunately, the data are not correlated to relevant statistics such as income level or employment background and, in the form presented, are therefore of little or no value in terms of analysing compliance issues and designing responses to avoidance and evasion. We learn, for example, that there are five times as many women who support punishment by jail for evasion of $10,000 in tax as there are women who support a similar punishment for evasion of $500 in tax. We learn, too, that in respect of the $500 evasion, the view is skewed towards the extreme option at the other end of the scale and many advocate simply overlooking the infraction. And we discover that twice as many women favour publication of the names of errant taxpayers who evade tax of $10,000 as do women who favour the same policy for taxpayers who evade tax of $500. More relevant would the background of persons holding the views canvassed — is it high income or low income persons who favour jail sentences; is it high income or low income persons who think publicity is a useful deterrent? Armed with this information, one could set about designing different, and more effective, legal responses to different types of avoidance and evasion.

The overall conclusion of the first paper, based on the anonymous replies of respondents, is that women avoid and evade less than men. The authors of the second paper on the subject, two solicitors and one accountant in the Tax Intelligence Unit of the IRD, suggest that the relative ratios of avoiders to evaders differs between the sexes. Based on personal experience, supplemented by interviews with tax inspectors in three large district offices and three small district offices, they conclude the ratio of evasion to avoidance is larger for women than for men. They offer a number of plausible reasons for the unproven conclusion, all based on the different income levels of women and men. Avoidance, the authors point out, requires planning, access to resources, and a flexibility to re-arrange affairs that are available to professionals or company directors, but not employees, particularly part-time employees. The conclusion — lower income taxpayers evade, higher income taxpayers avoid — is gender neutral. The sexual bias is caused by the fact that men earn more than women generally and predominate in the professional and managerial fields. The thesis is supported by the anecdotal evidence offered. Many women participate in the part-time casual labour force (child-care, cleaning, dress-making, and so forth) which operates on a cash basis. Some evasion was a by-product of the fact that the taxpayers derived their income through illegal activities such as prostitution. In some cases the primary motive was not to evade tax but to keep income secret from husbands.

Two changes in laws unrelated to income taxation have had an impact on income tax compliance. The first change was the reform of the family law. Following the introduction of new legislation that established a presumptive equal splitting of family property upon marital breakdown, there was a marked decline in the number of anonymous tips about male taxpayers who had avoided or evaded tax. Presumably, ex-spouses believed that they were sharing some of the benefits of their former partners' avoidance or evasion and concluded that any additional tax paid as a result of a report of avoidance or evasion would come from matrimonial property. The second change, the adoption of a quasi tax-based child support system led to the resurgence of reporting, almost certainly because the level of support imposed on the non-custodial parent is based on that person's reported income.

The child support system is the subject of a separate chapter in the Administrative and Design Issues part of the book. The child support system adopted in 1991 resulted in a transfer of responsibility for the collection of support payments from individual custodial parents using the courts to a new, specialised unit of the IRD. The system was based on the Australian example, which is generally agreed to have been very successful. The logic behind transferring responsibility for support collection to revenue authorities is obvious. The revenue department has the expertise in locating people (they already know where to find most of the people they want) and in extracting money from those people once they have been found. In the meantime, the support system ensures the custodial parents receive their payments; the supporter's debt is to the revenue department, not the beneficiary parent.

In its initial year of operation, the New Zealand child support system did not achieve the same success rate as that realised by Australian authorities. No doubt, the system was still experiencing growing pains during that initial year; nevertheless, it did increase collections by 50 per cent in its first year.

Income statistics underlie many of the remaining chapters in the book. At the heart of so many tax issues — ability to pay, the effects of marginal tax rates, income splitting, avoidance opportunities — is the question of income levels and economic capacity. Time and again authors emphasise the disparity in incomes and economic opportunities between women and men in New Zealand. United Nations figures quoted by the authors of the retirement payments paper noted earlier show that in New Zealand women's earnings are only 80 per cent of men's — not an impressive improvement for a jurisdiction which has had equal pay legislation in effect for more than 20 years.

The initial chapter in the book, "Income Characteristics of Female Taxpayers" provides useful insights into the relative positions of male and female taxpayers based on an analysis of tax returns. For the most part, the figures confirm what any tax professional and probably most laypersons would have intuitively guessed. The ratio of female to male filers is high in the lowest income deciles and the ratio of male filers to female filers is high in the highest income groups. The ratios at both ends of the income spectrum are narrowing slightly, but at glacial speed. Men's incomes peak between ages 41 and 50 while women's incomes tend to be fairly steady from the age of 21 until 70. The breakdown in income type is also what a tax professional might have predicted — mean income from employment for male filers is 60 per cent higher than for female filers. Mean interest income is higher for female filers than for male filers. This statistic probably reflects income-splitting as does the fact that women derive more income from trusts than do male filers.

One interesting change over time is the pattern of dividend derivation. Until full imputation was introduced, women derived on average as much as and sometimes more dividend income than men, but male filers have since pulled ahead of women. With full integration, there is now little or no benefit in diverting dividends to a lower income spouse. In fact, because the dividend tax credit is non-refundable, it may be worth more to a high bracket taxpayer than a lower bracket spouse.

Stories about lawyers tend to be particularly interesting to other lawyers and, in the context of income statistics, I was intrigued by the New Zealand statistics on employment at law firms, many found in a chapter on retirement and redundancy payments. The pattern revealed by the statistics is, I suspect, repeated in many jurisdictions. Significant numbers of women have been graduating from New Zealand law schools for 15 years and approximately equal numbers of men and women have graduated during the past seven years, but women only comprise 22 per cent of practising lawyers in New Zealand and tend to practise in the fields that offer the least remuneration. Almost 40 per cent of male lawyers earn over $95,000 compared with just over 10 per cent of female lawyers in the same earning bracket. On the other hand, only 18 per cent of men lawyers earn less than $40,000 while 45 per cent of women lawyers fall into this income category.

In some ways, the statistics in the chapter on women in the chartered accountancy profession paint an even starker picture of differentiation. There are relatively few women as a percentage of total membership in the chartered accountancy profession, although New Zealand has more proportionally than Australia and far more than the United Kingdom. A higher percentage of women in accounting firms specialise in tax than do women in legal firms, which suggests legal firms are more likely to shunt them elsewhere. But even in the accounting firms, women do not climb very high on the professional ladder. Of the 58 tax partners in the "big six" accounting firms in New Zealand, only three are women.

The three key issues that inevitably arise in the context of most analyses of "women and tax" are the question of spousal or individual units, the treatment of child care and the relationship between the welfare and tax systems with respect to discriminatory treatment between men and women and the disincentive effect of high marginal tax rates faced by people, particularly women, seeking to move from the welfare to the tax system.

The chapter entitled "Taxing the Female — as Woman or Wife" provides a fine overview of the tax unit issues. Like Australia and Canada, New Zealand uses the individual as the basic tax unit. Unlike Australia, New Zealand has experimented with joint taxation: from 1939 until 1960 spousal incomes were aggregated for tax purposes, but unlike the United States spousal unit system, there was no different rate for aggregated incomes — they were simply taxed as one person's income.

The chapter confirms what many tax theoreticians and practitioners suspect, namely that the tax unit problems are truly insoluble. If it is true that optimal tax design requires simultaneous consideration of the choice of tax unit, tax base and of tax rates, the quandary of irreconcilable objectives means the ultimate compromise adopted will satisfy no one. The income tax system uses the individual unit in order to recognise the separate and equal legal status of partners to a relationship and to avoid the high marginal rates imposed on a secondary earner under an aggregated system. The welfare system and the income support measures in the income tax system then re-impose those high marginal tax rates on secondary earners (that is, women) by establishing entitlements and thresholds by reference to joint incomes. Throw in some income tax concessions and rollovers that recognise the reality of family units and some anti-avoidance, anti-splitting measures that seek to prevent taxpayers from exploiting that reality and the result is the inconsistency and anomalies found in all modern tax systems.

Although the issues are complicated, the author of this chapter, a Lecturer in Law at the Waikato Law School, does a good job of presenting them. Some small technical errors (the suggestion that the United States has a deduction for child care), surprising omissions (Carter's recommendations on the family unit in Canada) and incomplete explanations (a quotation from Asprey explaining why that Committee rejected compulsory family units while omitting to explain that the Committee did advocate voluntary family units), detract only marginally from the overall quality of the paper.

New Zealand courts, like Australian, Canadian, United States and British courts, have characterised child care expenses as personal expenses, non-deductible for income tax purposes. The legislatures of most of these jurisdictions have agreed with this characterisation and rejected recognition of child care expenses as a deductible cost of earning income. The exception to the rule is Canada, which provides a restricted deduction for a proportion of child care expenses. At the same time, however, most jurisdictions have recognised child care as a commodity worthy of government assistance and they have thus moved to provide subsidies through a variety of non-tax mechanisms — grants to child care facilities, subsidised state-sponsored child care centres and direct grants to supporting parents.

In some cases, non-tax subsidies have been augmented by tax-based subsidies, but ones designed to avoid the perverse "upside-down" effect of the Canadian deduction-based system. Under the Canadian deduction-based system, the government's subsidy (provided by way of a tax saving) increases with income, so the greatest benefit goes to higher income persons who least need the aid. A more neutral approach is taken in New Zealand where a non-refundable credit (inappropriately labelled a "housekeeper rebate") of up to $310 per year is provided for child care expenses. An even more progressive tax-based subsidy is provided in the United States, where credit for child care expenses disappears as parental income rises.

Unfortunately, the equity advantages of the New Zealand tax credit approach are matched by an efficiency problem arising out of the supplementary direct subsidies provided to lower income persons paying child care expenses. These subsidies are based on joint parental income and thus impose high effective marginal tax rates on persons approaching the subsidy entitlement thresholds.

The conclusions of the paper are somewhat peculiar. On the one hand, the author calls for an increase in the child care subsidy, an approach which would direct assistance to those who most need it and avoid the Canadian problem of increasing benefits for those who least need the help. At the same time, however, the author calls for an exemption from fringe benefits taxation for employer-assisted child care, along the lines of the Australian model. Presumably, the tax system should be equitable in terms of those taxpayers whose employers provide child care and those whose employers provide higher salaries to enable the employees to use alternative child care arrangements. To achieve this equity, if employer-provided child care were exempt from fringe benefits tax, a deduction would be needed for those taxpayers who paid directly for child care. And the deduction, like the tax exemption for employer-provided child care, gives rise to the upside-down problem that the subsidy endorsed by the author avoids. The logic underlying the conclusion is thus difficult to discern.

The chapters looking at the gender implications of the welfare and tax systems are among the strongest in the book, in terms of thoughtful analysis and well researched and supported conclusions. The analysis is, for the most part, from an unambiguous feminist perspective, but the statistics speak for themselves. The problem, outlined so well in a chapter considering "Implications of the Welfare State" is the growing feminisation of poverty in New Zealand. Market and social "reforms", the modern euphemisms for the dismemberment of wage protection legislation and the winding-back of social support and assistance, are having an impact on all lower income groups in New Zealand, but women bear a disproportionate part of the resulting burden.

The failure of the tax and income maintenance systems to alleviate the feminisation of poverty and the failings of those systems generally in respect of their differential treatment of men and women is the subject of one of the most forceful chapters in the book, a chapter in which Prue Hyman advocates the use of "gender-specific" analysis of the tax and income maintenance systems. Traditional analysis seeks to be gender-neutral, but should more accurately be labelled "gender-blind" argues the author, as it fails to take into account the reality of household roles.

"Gender-blind analyses, systems and policies superficially appear to be universal," she claims, "but in fact use methodologies, assumptions and/or practices which systematically disadvantage women, thus not being gender-neutral." The solution advocated is the use of "gender-specific analysis" — analysis that is based on the realities of the different economic roles of women and men.

The conclusions towards which gender-specific analysis leads are somewhat surprising to observers schooled in traditional analysis. An example is the conclusion relating to tax rates. Traditional analysis recognises that the high effective marginal rates imposed on a second-earner entering the work force, particularly on a part-time worker, discourages women, the secondary earners in most households, from moving from home to the labour force. But such analysis does not pursue the implications of different labour supply elasticities for married men and women, differing elasticities that greatly exacerbate the effects of high effective marginal tax rates on participation by women. For men in a household, the gains realised by substituting paid work for leisure are significant; for women the gains realised by substituting unpaid work for paid work are smaller as the impact of the shift on either individual or household welfare is smaller.

But if women are to enjoy the same opportunities to realise economic independence, the tax system should act to balance the different elasticities and achieve genuine equal treatment of men and women. The implication is that "marginal rates of tax should be inversely related to wage elasticities", meaning "the tax system would impose a lower tax rate on working women for efficiency reasons and for distributional reasons". Policies along these lines are highly unlikely to be enacted in legislation. However, the fundamental thesis, that every aspect of government policy should be critically examined to see whether it is based on gender-blind analysis is persuasively argued, with realistic and convincing examples.

At the end of the day, this reader remains not wholly convinced that gender-blindness is inherently gender biased in every case cited. Yes, men receive more benefits from the government-operated accident compensation scheme in respect of sports injuries or work injuries, but should anything be done about it? On the other hand, the claim that the recent tightening of the definitions of medical misadventure and medical maltreatment has a larger and prejudicial impact on women suggests one area where gender-specific analysis could lead to more equitable laws. And if one of the reasons for and consequences of the tighter definitions is the diversion of proportionally greater resources to sports injuries, perhaps even the first statistics reveal gender bias when considered in the wider context.

The primary benefit of this chapter, and indeed the entire book, is the thinking it inevitably stimulates. Throughout the book I asked myself, "What is the analogy in our system? How do our rules deal with that problem?" It is a useful comparative volume that will raise questions about our own systems and throw new light on possible solutions.

Finally, mention should be made of the annotated bibliography, prepared by a masters student in the editor's program at Victoria University, Wellington. The bibliography is both somewhat parochial and somewhat spotty, but it does provide a cursory review of many items relevant to regional analysis which will be useful to persons pursuing further research in the area. The surprising omission and significant shortcoming to the book is the lack of an index. A work covering such a wide range of issues would benefit immensely from an index.