Tax planning in Australia’s income tax system
Tristram Sainsbury and Robert Breunig
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**Key findings**

- Australians with flexibility over how their income is earned and the motivation to achieve tax savings can structure their financial affairs using a mix of companies, partnerships, trusts and superannuation funds.
- Tax planning allows some Australians to achieve highly ‘tax effective’ outcomes, with the most ambitious arrangements carrying the prospect of no tax liability at all.
- That some Australians can access tax planning arrangements while others cannot results in people in objectively similar situations being treated differently in the eyes of the tax system. The tax system is overly complex and inefficient as a result.
- Addressing the incentives to engage in tax planning requires a wholesale rethink of taxation in Australia.

**What we knew**

- Australia’s tax system contains many opportunities for taxpayers to adopt legal arrangements that enable them to pay less tax than comparable taxpayers, for similar economic activity.
- The opportunities are a result of two ‘structural’ features of the income tax system: different tax rates apply to different tax vehicles, and some taxpayers can defer their tax liabilities to a later point in time.
- Tax planning arrangements are entirely permissible under Australian law.
- Different opportunities appeal to different taxpayers at different stages of their lives. Not everyone can access tax arbitrage opportunities.

**What we do**

- We provide a definition for tax planning and present some of the simpler tax planning approaches and structures that are available within the tax system:
  - salary packaging;
  - capital gains on the primary residence;
  - basic structuring using a ‘bucket’ company and a trust; and
  - combining a small business with a self-managed superannuation fund.
- We explain why a tax system that includes widespread incentives to tax plan is an affront to the commonly held core principles of good tax design of fairness, efficiency and simplicity. We also highlight that such a structure is ultimately unsustainable.

**What we suggest**

- The approaches and structures we highlight demonstrate that there are significant tax savings available to those who tax plan.
• Tax savings distort real economic decisions. For example, the comparatively light tax treatment of owner occupied housing and superannuation has prompted an over-investment in housing and superannuation assets. This is an allocative inefficiency.

• It’s not a surprise that taxpayers respond to the incentives they face.

• However, at a fundamental level, a taxpayer’s after-tax outcome should be much the same as that of any other broadly equivalent taxpayer. Without this principle, it’s impossible for policymakers to determine if those who have a greater capacity to pay tax actually pay more tax.

What this means for policy

• If Australia is committed to the principle of horizontal equity (and the idea that people in similar positions should be treated similarly in the eyes of the tax system), then policymakers and political leaders need to re-examine every aspect of our personal income tax system and assess:
  – whether they remain appropriate in the modern Australian economy; and
  – their role in the wider context of the tax and transfer system.

• Australia’s tax system cannot be sustained indefinitely in its current structure.

Caveats

• It is impossible, looking at the data, to determine the extent of tax planning in Australia or to reliably estimate the amount of revenue that is at stake as a result of tax planning.

• This fundamentally limits our collective capacity to:
  – understand the extent of the policy challenge tax planning presents relative to other challenges facing the tax system; and
  – know whether policy change that addresses tax planning is an urgent policy priority or instead a longer term consideration; and
  – assess the impact of any policy changes which target tax planning.

Where to now?

• Australia faces a complex choice about what tax system it wishes to have. A coherent tax design—which ‘comprehensive’, ‘schedular’ or ‘dual income’ in nature—is preferable to the current ‘hybrid’ arrangements.

• The evidence base around the extent of tax planning must be built to better inform this decision. This will, in time, require commensurate investments in lifetime distributional analysis.

More information

• Get the
  – Full working paper
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• We would welcome the opportunity to present our research to your team and to discuss potential joint research projects on related or similar topics.

• Contact us at tristram.sainsbury@anu.edu.au or robert.breunig@anu.edu.au