



Examining the Taxation Profession in Australia – A Framework

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Abstract

This paper examines the nature of the taxation profession in Australia and its development over the past three decades and then suggests a framework to analyse important initiatives that have taken place during this period. Using secondary sources and the organizing principles of State, Market and Community (Puxty et al., 1987), we begin with the subject of tax policies and legislation introduced by the state and its impact on the tax profession in Australia. We follow this with a discussion relating to the recognition of Australian tax practice as a profession. The paper then focusses on two key areas of professional development during the last three decades, namely: tax law and tax administration. The paper finds interesting issues relating to professionalization of taxation in Australia. With the involvement of the state, market and the society over the last three decades, there is a requirement to recognise taxation practice as a profession in Australia. The paper suggests that the establishment of the Tax Practitioners Board³, a statutory body to regulate the taxation profession in Australia, in conjunction with approved professional associations, may have enhanced the effective maintenance of the tax profession which has contributed to social, political and economic development in Australia.

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Keywords: Australia, Taxation Profession, Australian Tax Office, Australian Taxation Institute, State, Market, Community

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³ The Minister for Revenue and Financial Services appoint the Board, so there is some degree of control by the state.

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Introduction

The taxation profession in Australia is a significant contributor to the wellbeing of Australian society, given the need for the Government to raise sufficient revenue to fund worthwhile programs, yet there is little research into its development. One starting point is to determine who is a tax professional? Section 25-5 *Income Tax Assessment Act 1997* (Cth) (ITAA1997) provides taxpayers with a tax deduction for fees paid to a “Recognised Tax Advisor”. A Recognised Tax Adviser is defined in s. 995-1 ITAA1997 as: (a) A registered tax agent or Business Activity Statement (BAS) agent; or (b) A legal practitioner. Section 995-1 ITAA1997 then defines a legal practitioner to mean a person who is enrolled as a barrister, a solicitor or a barrister and solicitor of: (a) A federal court; or (b). A court of a state or territory. A BAS agent is essentially a person who is registered to complete Goods and Services Tax (GST) returns (see s.90.10 *Tax Agents Services Act 2009* (Cth)). The concept of a registered tax agent in Australia was first introduced into the *Income Tax Assessment Act 1936* (Cth) (ITAA36) in 1943. For the next 40 years the tax agent regime was regulated by state tax agent boards. At that time, the requirements for registration were not onerous. Graduates with a commerce/accounting degree who had completed an approved introductory tax subject could register to be tax agents, without any work experience. Furthermore, it was not necessary to be a member of a professional association.

The legal profession in Victoria, for instance, has also been always tightly monitored and currently regulated under the *Legal Profession Uniform Law Application Act 2014* (Vic) (LGPULAA2014). Anyone holding themselves out to be a barrister or solicitor who is not appropriately qualified and registered is subject to criminal sanctions in the LGPULAA2014. This contrasts significantly with the accounting profession. Unless the accountant is also a Registered Tax Agent. Registered Tax Agents are now much more highly regulated than was the case 30 years ago.

Over recent decades, there has been a tightening of oversight of tax agents including the qualifications and experience needed for registration, as a result of the enactment of the *Tax Agents Services Act 2009* (Cth) (TASA2009). It established a single national Tax Practitioners Board as a statutory authority. However, the Board reports to the Minister of Revenue and Financial Services, who also appoints the members of the Board. The legislation also introduced a Code of Professional Conduct to govern tax agents as well as requirements, prescribed by regulations, relating to educational qualifications and relevant work experience. Tax agents, BAS service providers and the nominees of tax agents are collectively referred to as “tax practitioners”. The scheme also enhanced the role of Professional Associations. Membership of a recognised professional association such as CPA Australia or the Taxation Institute of Australia (TIA) is important as it assists the Board by providing Board-recognised courses for ongoing professional education.

Since the new scheme was introduced, the terms “tax practitioner” and “tax professional” are now used to describe all qualified individuals who provide advice to their clients on their tax obligations. The Australian Taxation Office (ATO) now refers to Registered Tax Agents and

BAS providers as Tax Professionals and provides resources for Tax Professionals on the ATO web site. Historically, the tax advice industry comprised lawyers and accountants who operated in the tax field. The new scheme has introduced the concept of a tax practitioner and regardless of their legal or accounting background; they can register and be recognised as a “tax agent”. This in turn means the tax professional who is a tax agent or a lawyer is also a recognised tax advisor under section 995-1 ITAA1997.

The certification of tax practitioners as tax agents has captured the professional identity of tax advisors. It is an identity that is backed by standards of entry and a code of conduct. It is based on respect and understanding of the work performed by tax professionals and the role they play. This role is specialized and is important to the Australian community. Motivated by the relative lack of attention to the Australian tax profession, in this paper we have raised the question – “how has the taxation profession in Australia progressed with the state, market and the community (society) reforms that have taken place in the last three decades?” The paper examines this question through the perspective of the changing balance between the guiding principles of the ‘State’, ‘Market’ and ‘Community’ and the regulating power of the state (see Streeck & Schmitter, 1985; Puxty *et al.*, 1987; Seal *et al.*, 1996; Hao, 1999) during the last three decades. In a comparative study (Puxty *et al.*, 1987) of four nation-states (Germany, UK, Sweden and US), the ‘State’ refers to the hierarchy of authority and control (Puxty, *et al.*, 1987, p. 287). Therefore, the ‘state’ is the instrument of hierarchical control that exercises its power to manage accounting/taxation practices through regulations (See Miller, 1990). The market represents dispersed competition, which includes demand and supply for accounting/tax services. Finally, the community refers to the accounting community, where accountants/tax advisors share some common, collective identity and value (Streeck & Schmitter, 1985; Willmott, 1986; Puxty, *et al.*, 1987; Seal *et al.*, 1996; Hao, 1999).

This paper makes several contributions. This historical taxation enquiry is interdisciplinary and interpretive (Collingwood, 1946; Iggers, 2005; Gaffikin, 2011; White, 1973, 1999; Willmott, 2008; Hoyley, 1982; West, 1996). It adds new literature on taxation history in Australia. As taxation reflects the environment in which it operates (Hines, 1988; Hopwood, 1989), we outline the development of the Australian taxation profession for the last three decades. Secondly, unlike other studies, we examine the influence of state, market and the community (society) within the Australian taxation profession. We show the development of taxation in Australia and its domination of the taxation system by the state (without much influence from external sources) during the period covered in this paper. Third, we consider whether the development of taxation profession is more likely to be a consequence of external, rather than internal pressures.

The paper is organized as follows: the literature review is outlined in the next section, followed by a theoretical framework and research method in the third section which describes the research method and how data has been collected using secondary sources such as extant literature evidence to support the analysis of the study. Section four analyzes tax laws and tax administration in Australia in the light of the various issues associated with organization principles (State, Market and Community) within the taxation profession during the past decades. The last section concludes the paper.

Literature Review

During the last few decades, there has been a growing awareness by accounting researchers of the relationship between states and accounting associations (Willmott, 1986; Puxty *et al.*, 1987). Some scholars have drawn explicitly on the critical frameworks of Marx (Johnson, 1972, 1982; Armstrong, 1985, 1987) and Foucault (Loft, 1986), and also on work in the neo- Weberian theory of market closure to analyse the professionalization projects of accountants (Macdonald, 1984, 1985, 1995; Willmott, 1986; Richardson, 1987, 1997; 2010; Lee, 1990; Walker, 1991, 1995; Neu & Wright, 1992; Chua & Poullaos, 1993, 1998, 2002). Some reviews of work within a critical model in the sociology of professions indicate the need for two forms of future research, namely investigations of the profession–state axis and historical analyses of professionalization that capture historical specificities (Uche, 2002, Yapa *et al.*, 2016).

The professionalism is viewed as a strategy for controlling an occupation to market, involving solidarity, closure and regulation of the supply of professional workers (Parry & Parry, 1977). Accordingly, professional bodies are seen as agents for a body of knowledge for the accounting profession. There seems to have been very little research into these areas in Australasia as a means of achieving collective social mobility by seeking control over a niche within the market for skilled labour (Larson, 1977; Parkin, 1979). These studies mainly focus on the role of barriers to entry such as apprenticeship, examination and entry qualifications that professions enforce to achieve social expectations.

A recent study of professionalization in accounting has examined the development of professional bodies in settler colonies where associations were established by a self-selected elite to close off market opportunities from non-elite practitioners (Chua & Poullaos, 1998). In non-settler colonies, the setting up of professional bodies was often part of wider, state-sponsored, human resource development programs (Annisette, 2000; Yapa, 1999). The evidence on the accounting profession in Asia indicates that even for non-settler colonies within the same geographic region, there has been distinctly different historical evidence and outcomes. For example, the dominant role of the state in the market has severely constrained the growth of the Brunei Institute of Certified Public Accountants (BICPA) (Annisette, 2000). Thus, the state was seen as a mode of accessing opportunities by those who were previously left without access to the profession. In the case of BICPA, ethnic factors prevented the professional association from acquiring state patronage for its members (Yapa, 1999). Studies of other former colonies have identified a profound dependence on overseas qualifying associations for the training and certification of professional accountants, thus demonstrating the operation of contemporary imperialism (Annisette, 2000; Chua & Poullaos, 2002). Annisette (2000), for example, showed that the emerging accounting professions in Tobago and Trinidad consistently marginalized the indigenous university, which appeared eager to participate in the education and certification of the country's accountants. The Institute of Chartered Accountants of Tobago and Trinidad (ICATT) surrendered control of its knowledge functions to the UK based Association of Chartered Certified Accountants (ACCA).

While the central justification and public argument for professional recognition of accountants tend to be couched in terms of public interest, Lee (1996) – is argued that the global rise of accounting in the UK and the USA was driven by personal and economic interest, where the

process was “essentially as economic text with a cover entitled the public interest” (p. 193). The basis of this self-interest has been the maintenance and transfer of class privilege which was central to both the historical emergence of the English professional bodies (Walker, 1991, 1995). Hines (1988) makes the point that it is the claim to possess, rather than the actual possession, of a body of knowledge that lies at the basis of the social recognition of the profession. In this light, Willmott (1986) claims that the professional body is perceived as a basic organizational instrument for defining a respectable and valued social identity.

Preston *et al.*, (1995) argue that by pledging to political and moral ideals of the day, the accounting profession sought to legitimize its activities and the status and privilege of a profession in the USA. O’Leary and Boland (1987) and Ramirez (2001), also emphasize the social standing and perception of accountants in professional status. Accounting is, thus, seen as essentially political; policies are influenced by ruling elites and dominant ideologies, and accounting practices, in turn, affect the distribution of income and power within society (Arnold, 2009).

However, not all countries have followed the same pathway. Some made an early transition while others only transitioned from agrarian to industrialized societies recently. A number of countries (notably Russia and China) experienced a significant period of communist or Stalinist rule. Bailey (1992) illustrates that there were serious efforts to refine accounting practice and to establish accounting bodies under Tsarist pre-soviet Russia. Yet, accountants were devastated by the Stalinist attacks on ‘bourgeois specialists in all spheres of public life’ (Bailey, 1992, p. 20). Despite this incident, Lenin declared that both accountants and accounting were a fundamental part of the first phase of the communist society under the socialist revolution (Lenin, 1917). A study by Jaruga (1990) implies that Lenin’s proposals were implemented, but were not temporary in the way that Lenin had claimed. Rather, there were extensive budgetary, control and monitoring functions performed and while autonomous associations were discouraged, there were forms of State certification of accountants in a number of the Soviet countries. Similar processes are evident in Seal’s *et al.*, (1996) analysis of the accountancy profession in the Czech Republic and in Hao (1999), Hao and Yapa, (2007) and Yee’s (2001,2009,2012) studies of the accounting in China.

In a study (Puxty *et al.*,1987) of four nation-states (Germany, UK, Sweden and US), the ‘State’ refers to the hierarchy of authority (Puxty, *et al.*, 1987, p. 287). Therefore, the ‘state’ refers to the ‘authority of hierarchical control, as operationalized by career civil servants’. This, for example, is vested in agreed rules and procedures backed up by the state’s monopoly of legitimate coercion’ as explained by Puxty *et al.*, (1987, p. 275). It plays a crucial role in the creation of accounting regulations, for example passing Company Acts, Commercial Codes and accounting regulations (Miller, 1990). The market represents dispersed competition, which includes demand and supply for accounting services. Finally, the community refers to the accounting community, where accountants share some common, collective identity and value (Streeck & Schmitter, 1985; Puxty, *et al.*, 1987; Seal *et al.*, 1996). Thus, one of the most common pathways for post-colonial change in the accounting profession was the intervention of the State in establishing a professional accounting body charged with the registration of accounting practitioners.

Due to the intricate political and economic involvement of the taxation profession, it is argued that the state, market and the community framework (Puxty *et al.*, 1987) is appropriate to understand the development of taxation over the last three decades in Australia. The uniqueness of the Australian taxation regulations provides an interesting case, where the development of the accounting process associated with the state and the pressure from various international agencies. The Australian taxation system has been able to maintain its strong position within its state agencies without passing the control to any self-regulated accountancy organizations. Even though the Tax Practitioners Board in Australia, is a separate statutory authority, its Board members are appointed by the State, namely the Minister for Revenue and Financial Services, and its staff are drawn from the Australian taxation Office.

It is anticipated that the complexity of taxation law in Australia and the power imbalance between the ATO and the Australian taxpayer has been the main catalysts which has driven the evolution of the tax profession in Australia. As explained by Julie Smith (2013), at federation, income taxes raised only 6 per cent of Australian tax revenues. By 1939–40 this was 34 per cent, but three quarters was still raised by the States. In 2013–14, the personal income tax, with the Fringe Benefits Tax and superannuation fund taxes, raised about \$173.7 billion, while company income tax (including petroleum resource rent tax) raised \$68.6 billion (Australian Government, Budget 2015–16, Paper No. 1, Statement 5 (Revenue), Table 7). The total of \$242 billion comprises 70 per cent of federal tax revenues, and is about five times the revenues raised by the Goods and Services Tax. The income tax revenues are enough to fund our cash transfer (social security and welfare) system, defence and federal government expenditure on health, in the current budget (Stewart, 2014). Indeed, the Australian federal individual and company income tax have come to provide the lion's share of tax revenues in Australia: today, and for much of the 20th century, it is by far our most important tax by revenue.

Theoretical Underpinning and Methodology

This paper draws upon the theoretical framework of State, Market and Community originally developed by Streeck and Schmitter (1985) and later Puxty *et al.*, (1987), Seal *et al.*, (1996), Hao (1999), Pholkeo (2013). Streeck and Schmitter (1985) introduced four valuable principles in their work, namely, the State, Market, Community and institutional order (Associationism), to analyze accounting regulations. However, this framework has been criticized with regard to its ability to analyze accounting/taxation regulations in the context of advanced capital markets because it lacks historical perspective, social dimension, the role of human agency and transnational power (Puxty, *et al.*, 1987; Seal, *et al.*, 1996). Puxty *et al.*, (1987, p. 277) recognized the fourth principle of Streeck and Schmitter as a crucial factor in understanding the influence of guided principles on accounting/taxation regulations.

In analyzing these four principles independently, Puxty *et al.*, (1987) integrated the fourth principle to investigate the outcome of the intersection of the State, Market and Community in a comparative study of four nation-states (Germany, the UK, Sweden and the US), where accounting is regulated differently. As a result, Puxty *et al.*, (1987) developed their framework by emphasizing the relationship between professional development and three key factors. This framework provides a better understanding of the analysis of accounting/taxation regulation. As explained by Puxty *et al.*, (1987, p. 275), 'state' refers to the 'authority of hierarchical control, as

operationalized by career civil servants. This, for example, is vested in agreed rules and procedures backed up by the state's monopoly of legitimate coercion'. It plays a crucial role in the creation of accounting regulations, for example, passing Company Acts, Commercial Codes and accounting regulations.

During the last three decades, a number of studies have placed emphasis on the relationship between the state and the profession (Bakre, 2005; Ballas, 1998; De Beelde, 2002; Larson, 1977; Puxty, *et al.*, 1987; Sian, 2006; Uche, 2002; Yapa & Hao, 2007). The state was a central factor in the accounting professionalization processes in Europe (Caramanis, 2002; Ramirez, 2001; De Beelde, 2002), whereas it is considered generally neutral in Anglo-America (Caramanis, 2005). The state has initiated the formation of professional bodies to serve the public interest and to protect the profession (Freidson, 1970, 1973; Johnson, 1972; Larson, 1977; Perera, 1989; Yapa, 1999).

Like the UK and the USA, Australia uses a common law legal system in respect to taxation practice. In this study, the state is perceived as government authorities and its agencies with authority to protect and manage the taxation system by enacting appropriate laws and regulations to maintain an enforcement mechanism in Australian economic operations. Therefore, the early development of taxation in Australia was recognized as a strategy of the state to improve Australian society, as opposed to any occupational group mobility for jurisdictional control, as in other countries (UK).

In summary, this paper is concerned with the state's involvement in the development of the taxation profession in Australia. For instance, many professional accounting bodies in the U.K. have been working toward self-regulation and autonomy from the state to preserve their independent professional status to offer accounting/taxation services to corporate and other sectors (Walker, 1995, Yapa, 2006, Yapa *et al.*, 2016). The Australian taxation profession was mainly under the control of the State (i.e. the Australian Tax Office – a government department) during most of the period covered in this study. The Tax Practitioners Board was not established until 2009, but the State indirectly controls this Board by vesting the power of appointment to the Board with the Minister for Revenue and Financial Services. Furthermore, the Treasury Department imposes Statements of Expectations on Statutory Authorities such as Tax Practitioners, and Board staff are drawn from the ATO.

According to Puxty *et al.*, (1987), the second principle is the market principle (dispersed competition as an agent of capitalism in markets), and it involves the accountancy practice in a variety of ways through its demand and supply (accountants, tax advisors, clients, and employers). The term of market in this study refers to the influence of the politico-economic milieu, including the pressure from the capital market that creates the demand for accountants and auditors.

The third principle (Puxty *et al.*, 1987) is the community (spontaneous solidarity or organized interest groups), which is a broad term that refers to accounting/taxation environments where accountants/tax agents share some common identity and values. The meaning of community used in this study refers to occupations organized in an institutional form, whose practitioners have committed explicitly to serve the public interest and who offer client services related directly to

an intellectually based body of knowledge (Elliott, 1972; Lee, 1995; Puxty, *et al.*, 1987; Willmott, 1986). In this light, a professional association plays a significant role in shaping and identifying as a 'community' to create an effective profession with an appropriate course of training to maintain professional status and make legitimate claims (West, 2003; Yapa, 1999, Yapa *et al.* 2016). For example, the members of the accounting/taxation profession in the U.K. have been working for a long time toward self-regulation and autonomy from the state to preserve their independent status (Walker, 1991;1995). Puxty *et al.*, (1987) claimed that 'the institutions and processes of accounting regulation in different nation-states cannot be understood independently of the historical and politico-economic contexts of their emergence and development'. In addition, Willmott (1986) confirmed that:

The success of professionalization as a strategy of collective social advancement depends upon a range of conditions, including the structure of the relationship of professions with the consumers of their services; their relationship with the agencies; their relationship with the agencies empowered to legitimate and extend their occupational domain and control; and finally, the sections of their membership whose material position and social identity is affected by the activities of their association (Willmott, 1986, p. 561).

This implies that the State, Market and Community are predominantly significant factors in the development of the taxation profession in Australia. It is argued that the State, Market and Community principles are the most appropriate framework to investigate, understand and explain the development of the taxation profession in Australia during the last three decades.

The data for this study was gathered from secondary sources in various taxation acts and legislation available in libraries and the publications of ATO. The interpretive literature analysis is augmented with a longitudinal case study. The use of case studies can contribute additional knowledge about complicated social issues (Yin, 2003) and can offer deeper insights into the phenomenon under observation (Bergen and While, 2000). A case study approach was adopted to study the professionalization of accountants in Sri Lanka (Ukwatte and Yapa, 2013). The Tax Agent Regulations specify that a registered tax agent must be a member of an approved professional body. There are professional bodies representing Accounting Professionals in Australia, such as CPA Australia and the Institute of Chartered Accountants of Australia and New Zealand (CAANZ). However, these two bodies represent accountants, many of whom do not work in the taxation field. The majority of their members work as auditors and financial accountants.

Taxation Laws and Administration

Many countries are seeking to improve their tax laws and tax administration as a way to advance national prosperity. While some researchers have argued that 'externally imposed initiatives in tax administration are likely to be resisted, if not rejected, by societal interests', they fail to explore the potential acceptability of a less radical proposal aimed at 'foreign interests' as opposed to 'local interests'. The examination of the tax profession in Australia may provide lessons of wide application which could help develop more efficient tax administration which in turn will enhance the economic prosperity of the country and assist authorities to identify the

strengths and weaknesses of the current regulatory environment.

The tax profession has evolved slowly in Australia since the initial introduction of the concept of a registered tax agent in the early 1940's. Since the introduction of TASA2009 in 2009, the terms "tax professional" and "tax practitioner" are increasingly used to describe lawyers and tax agents who provide tax advice. The Taxation Institute of Australia (TIA) is a Recognized Professional Association under the Tax Agents Services Act 2009 (Cth) and Regulations. This body represents accountants and lawyers working as tax professionals in Australia. It has introduced the designation of "Chartered Tax Advisor". This is the highest qualification offered by the Tax Institute. Tax professionals who attain this qualification gain credentials recognised in the UK, Europe and Ireland. The designation is a motif to give Australian tax professionals international recognition.

In the ATO's centenary year, 2010, Pravin Gordhan, a former Minister of Finance and a former Commissioner of the South African Revenue Service, was gracious in his praise:

The ATO is highly regarded amongst its peers around the world and in many instances has been the world leader both in terms of thought processes, strategic leadership, and, indeed, implementing those in day to day practice (Pravin Gordhan, 'ATO Centenary Message', October 2010).

Similarly, generous, was the accolade provided by Doug Schulman, former Commissioner of the United States Internal Revenue Service:

The ATO is one of the best Tax Agencies in the world in both words and deeds and one on the forefront of modern tax administration pushing forward innovative ideas to meet the challenges and opportunities of the future.(Doug Schulman, 'ATO Centenary Message', October 2010).

For Australia, the effectiveness and integrity of the ATO provided the country with a comparative advantage in the reliable collection of taxes with which to fund the policies and vision of respective governments; and helps to build trust and confidence in Australia's democracy. If these ideas are extrapolated and applied to the evolution of the present Tax Agent Regime, it could be argued that the government has enacted legislation which is designed to pursue a high level of control over the qualifications and ethical behaviour of the tax profession in order to more efficiently promote its own self-interest, namely the collection of revenue from taxpayers. Support for this view can be found in the extremely wide powers that the government has vested in the Taxation Commissioner in respect of the assessment and collection of tax revenue.

These powers are contained in a number of pieces of legislation; namely the ITAA1936, ITAA1997 and the *Tax Administration Act 1953 (Cth)* TAA1953. For instance, the Commissioner can make an assessment of a taxpayer's tax liability based on his own judgement in circumstances where no tax return has been lodged. That is, Commissioner makes an "educated guess as to the taxpayer's tax liability. The Commissioner can do this pursuant to s.167 ITAA1936. This assessment is then deemed to be correct pursuant to s.350 TAA53. After this occurs, s.14ZZK TAA1953 reverses the burden of proof. This means the taxpayer has the burden of proving the assessment is incorrect. The Tax Commissioner does not have to prove the

assessment is correct. The legislation merely deems it to be correct. The taxpayer has a right to appeal against the assessment under s.14TAA1953 and have the assessment altered by the court after an appeal. However, this process can sometimes take years. Section 255-5 TAA1953 deems the tax outstanding to be a debt due to the Commonwealth which can be recovered in a court of competent jurisdiction. This enables the Commissioner to sue the taxpayer for the outstanding tax. During these proceedings the taxpayer is prevented from arguing that the assessment is incorrect because s.350 TAA 1953 deems it to be correct. The consequence is that the Commissioner can obtain judgment against the taxpayer for the outstanding tax and then proceed to bankrupt the individual taxpayer or liquidate a corporate taxpayer. This debt recovery process can be completed before any separate appeal against the correctness of the assessment has been concluded. It could be argued that these extraordinarily wide assessment and recovery powers have been formulated in the self-interest of the regulators, namely the Government and the ATO. These powers may be so extreme, that it is difficult to argue that the regulator is acting in the best interest of society.

Given the powers vested by parliament in the regulator, in this case the ATO, the question arises as to whether the regulator should be more accountable. For instance, should the ATO have the burden of proving that the assessments which it issues are correct, instead of the burden falling on the tax payer. The ATO has enormous resources and powers relative to the average individual taxpayer. For instance, s.353 TAA1953 gives the Commissioner power to enter and search premises without the need for a search warrant issued by a Court. This can be compared to the police who are required by s.3 Crimes Act 1958(Cth) to firstly obtain a court warrant. In the course of a tax investigation s.353 TAA1953 also allows a tax officer to question a taxpayer about his (or anyone else's tax affairs) and s.8D TAA1953 states that the taxpayer must answer. There is no right to silence, such as the common law right to silence, which is embodied in criminal law.

Analysis and Discussion

The ATO and the Australian government need to improve the fairness of the tax system, a finding generally supported by the literature (for example, Hite and Roberts, 1992; Chan, Troutman, and O'Bryan, 2000; Tan, 1998). Specifically, the ATO continues to pursue and address issues of horizontal, vertical and exchange inequity, as well as the problems associated with taxpayers legally avoiding payment of their fair share of tax. There has been research into accountability (Burritt and Welch, 1997). Bovens *et al.*, (2014) stated that public accountability is concerned with decisions governments make to take and spend public funds and the way public powers are exercised or public institutions are handled. It could be argued that the Tax Office should be more accountable for its actions. This could be partially achieved by imposing a legal obligation on the Tax Office to justify the assessments they issue before they are able to sue a taxpayer to collect an outstanding tax debt. Alternatively, the legislation should be amended to prevent the Tax Office suing a taxpayer to collect a tax debt before the appeal process is completed (Gumley and Wyatt, 1996).

The qualifications, ethical rules and work experience requirements now formally imposed on tax agents partially redress the imbalance of power between the tax office and the taxpayer. This in turn can make it easier for a taxpayer to make tax officials more accountable for their actions. However, a contrary argument can be advanced. Section 169A ITAA1936 states that the

Commissioner of Taxation may rely on the information provided in Tax returns in order to issue an assessment to a taxpayer pursuant to the powers vested in the Commissioner under s.166 ITAA1936. An assessment can also be issued under s. 167 ITAA1936 in situations where the taxpayer has not even lodged a tax return. The Commissioner does not initially check the correctness of the information supplied by the taxpayer, although the Commissioner may subsequently do so in the course of a tax audit. This self-assessment process presupposes that the taxpayer has sufficient knowledge of taxation law to correctly ascertain his income and deductions. The reality is that the legislation is many thousands of pages in length and extremely complex. Tax professionals who are expert in this complex area of law are needed to assist the public with appropriate technical advice using their professional knowledge. In this, there is an opportunity to connect with the community and seek various opinions on the taxation matters (Puxty *et al.*, 1987). It could be argued that the State, Market and the Community approach, would justify the regulation of the tax profession, as it is in the best interest of society that the general public have access to competent tax professionals. This approach may help explain the design of the system that now currently regulates Tax Practitioners in Australia. As outlined above, an individual cannot register as a tax agent unless they are a member of an approved professional body in Australia. These bodies are predominately accounting bodies. The self-interest of individuals who manage these organizations and the wealth of these organizations is enhanced if they can expand their membership. It is therefore possible to argue that the Puxty *et al.*, (1987) model not only has an application in the accounting profession, but may help explain how the regulation of Tax Practitioners has evolved in Australia.

There has been a significant amount of Case Law that relates to the registration of tax agents. For instance, cases such as *Re Civiti* 90 ATC 2039 and *Re Webb* 92 ATC 210, analysed regulation 156 of ITAA36 Regulations and the importance of satisfying the required work experience qualifications needed for registration purposes. Tax complexity is at a crisis point (Krever, 2003). This escalating complexity has led to compliance problems (Wallis, 2006). Public organizing principles (Puxty *et al.*, 1987) may help explain this unique situation. However, to understand the evolution of the tax profession it is necessary to carefully explore and describe the very large body of legislation and case law that have impacted on the evolution and professionalization of the tax profession over the last 30 years. This includes legislation such as the Income Tax Assessment Act 1936 (Cth), the Income Tax Assessment Act 1997 (Cth), the Taxation Administration Act 1953 (Cth) and the Administrative Decisions (Judicial Review) Act (Cth) 1977.

Conclusion

In this paper, we raised the research question, how has the taxation profession in Australia evolved in tandem with the state, market and the community (society) reforms that have taken place in the last three decades? Many studies in the extant literature on the accounting/taxation profession have followed the colonial or imperial roots to trace the influence of western accounting. In this paper, we examine, the influence of the organizing principles of State, Market, and Community (Puxty, *et al.*, 1987), which provided the theoretical framework, to help understand the factors underpinning the development of the taxation profession in Australia.

The Australian taxation profession provides an interesting new perspective on the professional development in taxation. The professional bodies such as CPA Australia, CAANZ and The Taxation Institute of Australia appear to play a much more important role in the regulation of the tax profession in Australia than was the case under the old regime dating back to the 1940s. What impact has each of these bodies had in the developments that have taken place, particularly in the last 30 years? The role played by the ATO in the professionalization of tax profession is also unclear. The extent to which social, economic and legal factors may have influenced the professionalization process is also unclear. In this paper we suggest that its development was strongly influenced by interdependent factors, which included the State, Market and Community. Historically, the state has played a key role in the formation of the tax regulation and the profession with the assistance of state agencies to ensure and maintain the status of the local taxation system to serve local needs. As a result, local taxation institutes jointly worked toward the certification, recognition, training and registration of locally qualified CPAs for local and international accounting and auditing services.

As mentioned in the literature review, we found that the principles of State, Market and Community (Puxty *et al.*, 1987) are appropriate to explain and understand the development of Australian tax profession. The dynamics among these organizing principles and the Australian tax profession explain the transformation of taxation from an unregulated background to a state-controlled professional body of knowledge, protocols, regulations and procedures. The subsequent development of a local professional association such as the Taxation Institute of Australia, evolved without influence from any global imperial professional accounting body.

According to the Puxty model, the State refers to the authority of hierarchical control, which plays a crucial role in the creation of accounting practices and related services. An example is the passage of the regulations and legislations (Puxty, *et al.*, 1987). This paper has outlined a framework for the study of the Australian taxation profession during the last three decades. The paper argues that the state has played a dominant role by introducing appropriate taxation regulations in order to shape the development of local taxation profession keeping the balance between the society and the market.

Market principles of supply and demand determine the taxation practice in a variety of ways (Puxty, *et al.*, 1987). The development of the capital market and the growth of international and domestic businesses in Australia has created a demand for taxation services. Empirical evidence indicates that this market requirement has been successfully fulfilled with locally qualified professionals (supply) with a vision of the state using the dynamics of Market and Community principles, without seeking any assistance from any other agencies.

With open economic policies, the external market for taxation services also emerged in this period under the direct influence of the large accounting firms as a result of the capitalist society in Australia, as evidenced in the case of the Czech Republic (Seal, *et al.*, 1996). This suggests that the changes of institutional structures and practices that have taken place during the three decades have been influenced by the growing agency of globalization in the form of professional firms. This challenge was addressed by Australian authorities proactively with locally trained CPAs and CAs, ensuring the status and place of local tax agents.

The community refers to accounting environments where accountants share some common identity and values (Hao, 1999; Puxty, *et al.*, 1987; Streeck & Schmitter, 1985). In Australia, registered tax agents are recognized and play a significant role in ensuring the quality of professional tax advice provided to the public. In their examination of accounting regulations in four nation states (Germany, the U.K., Sweden, U.S.A), Puxty *et al.*, (1987) explained the diversity in the accounting/taxation profession in different country settings. In the case of Australia, all three organizing principles (State, Market and Community) are deemed present, but the extent and type of strategic development in taxation depends on the interaction among and relative dominance of each of these principles. The interconnectedness of national policies with global pressures and the implications of such interaction for the regulation of the tax profession in Australia have at least been partially achieved through its evolution and development over the last 30 years.

By looking at the secondary materials, there are several implications for the taxation profession. First, the state dynamics that have contributed to the development of the local taxation profession have created a positive outcome with a high degree of control by the state agencies through the taxation regulations. Second, the central role of the Australian state in the taxation profession through state agencies suggests that accounting/taxation professional development is intertwined with state ideology and its open economic and social initiatives. It indicates that taxation plays a dominant role in overseeing and monitoring economic policy measures that assists the state in its market mechanisms. Despite the fact that the profession has power to protect and control its members under state regulations (Puxty, *et al.*, 1987, p. 278), the Australia taxation profession has been controlled by the state from its very inception. This implies that the state has had a strong unique role in the development of this profession in Australia. More research is required into the professionalization of taxation in Australia, using qualitative methods such as interviews, in order to explore further opportunities in relation to the development of the taxation profession. In regard to the future of this profession, researchers are encouraged to examine the continued interaction among these three principles (State, Market and Community) to examine how they will accelerate the development of the taxation profession in Australia.

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