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The Plight of Tax Policy : an East Asian Perspective

Abstract

This article uses the East Asian tax policy experience to shed light on fundamental uncertainties about the future direction of tax policy in the West. It highlights some of the broad questions facing tax policy analysis and suggests that, while the East Asian experience cannot be used as a model for the West, it can provide useful comparative input.

Keywords

East Asian tax policy, tax, tax policy

THE PLIGHT OF TAX POLICY: AN EAST ASIAN PERSPECTIVE

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This article uses the East Asian tax policy experience to shed light on fundamental uncertainties about the future direction of tax policy in the West. It highlights some of the broad questions facing tax policy analysts and suggests that, while the East Asian experience cannot be used as a model for the West, it can provide useful comparative input.

Introduction

Since the dawn of taxation, governments have had a taxation policy. Long ago it was fairly straight forward. There was recurring need for funds to wage war. Rulers had the might to impose taxes. They did so.¹

The business of government grew more complex, especially in the Western World. Governments moved beyond organising armies, police forces and legal systems. They steadily began to provide an increasing array of benefits for their citizens. Step by step, and ultimately with something of a gust, we entered the era of the welfare state. Government benefits were not, in the course of these developments, targeted solely on the indigent segment of the population, however. State assistance permeated all levels of society; farmers, companies, the middle class and

¹ Taxes were not the sole method of raising revenue, of course, and taxes were also used for purposes other than revenue raising. For example, taxes were used during the era of the Roman Empire as a method of colonial subjugation. See, Cooper GS, "The Benefit Theory of Taxation" (1994) 11 *Australian Tax Forum* 397 at 399. The broad picture was, nevertheless, starkly simple compared to modern tax regimes.

(1996) 6 Revenue L J

the rich, all enjoyed its soothing effects.² Probably the three principal galvanising events in the wide-spread development of the modern welfare state were, in order: the First World War; the Depression of the 1930s; and the Second World War. The development of the welfare state has been particularly noticeable since the last War.³ It has, in various forms, emerged in most of the Western World⁴ and in various other parts of the globe as well.

In tandem with these fundamental changes to Western political-economies, a disciplined study of tax policy began. The tax policy literature is now very rich. Principal contributors include academics, politicians, economists, lawyers, accountants and representatives of various interest groups. The boundaries of the discipline and its methodology have been shaped by the conservative-right, the liberal-left and many in-between.⁵

Western tax policy as a discipline has found itself in a crisis over the last decade, at least from the perspective of those advocating continued, strong socio-economic intervention by government. This phenomenon is

² In this article I refer to this achievement as the broad-spectrum welfare state or the modern welfare state.

³ Tanzi V and Schuknecht L, *The Growth of Government and the Reform of the State in Industrial Countries*, December 1995, International Monetary Federation Working Paper, quoted and discussed in "The withering away of the state", *The Economist*, 6 April 1996.

⁴ By the term Western World (or the West) I mean the nations of Western Europe and certain of their colonial offshoots and, particularly, those English speaking former colonies, one of which, the United States of America, is now recognised as the principal Western nation. Historically, the applied Western welfare state dates back to Bismarck's Second German Reich in the second half of the 19th century. Theorising about its desirability began at least 100 years earlier during the Enlightenment. For a review of some of the historical background, see Groves HM and Curran D (eds), *Tax Philosophers: Two Hundred Years of Thought in Great Britain and The United States* (1974 University of Wisconsin Press). See also, Cooper, above n 1 at 398-405.

⁵ The literature is now vast. Early seminal contributions include Smith A, *An Enquiry into the Nature and Causes of the Wealth of Nations* (1976 Clarendon Press), and Simons C, *Personal Income Taxation* (1938 University of Chicago Press). See also, Musgrave RA and Peacock A, *Classics in the Theory of Public Finance* (1958 Macmillan). The post-War literature is still more extensive. Some chronological examples are: Blum WJ and Kalven H, *The Uneasy Case for Progressive Taxation* (1953 University of Chicago Press); Brennan G and Buchanan JM, *The Power to Tax* (1980 Cambridge University Press); and Peters BG, *The Politics of Taxation* (1991 Blackwell).

particularly noticeable today in the United States of America (the USA) where the Congressional arm of the Republican Party has made the quest for smaller, decentralised government something of a sacred pursuit.⁶ However, powerful campaigns to reduce the role of government are running seemingly everywhere in the developed world. In Australia, following the change of Federal Government in March 1996, we can expect to see intensification of existing trends in this direction. It is timely, therefore, to consider the future direction of tax policy. In this article I do so by adding an East Asian⁷ perspective. This perspective can contribute some useful comparative insights.⁸ For reasons which I will explain, I do not think it offers an alternative model for the West nor, I should add, does it constitute some sort of "best practice". It simply is different.

This article tries to identify certain key political-economy factors in both the Western World and in East Asia to form a basis for some limited comparative observations. A principal purpose of the article is to highlight a supplemental perspective on the historical development of Western tax policy. The wider, more difficult task, which this article does not attempt, of applying theoretical perspectives in developing tax policies for the 21st century, can benefit from this. The article concludes that greater cognisance could be taken of the cultural dimension as a

⁶ "The Republican Congress: The evolution of a revolution", *The Economist*, 4 November 1995 at 23-35; "Rivals or partners"? *The Economist*, 4 November 1995 at 15-16.

⁷ I explain below in some detail both what I mean by the term East Asia and why East Asia is relevant. Briefly, East Asia is home both to the so-called "tiger economies" and to their apparent mother culture in China.

⁸ Simon Leys, an acclaimed Belgian-Australian scholar of Chinese literature and culture, has written on Western and East Asian (Chinese) interaction as follows:

From a Western point of view, China is simply the other pole of the human mind. All the other great cultures are either dead (Egypt, pre-Columbian America, and so on), or too exclusively absorbed by the problem of surviving in extreme conditions (primitive cultures), or too close to us (Islamic cultures, India) to present a contrast as total, a revelation as complete an "otherness", as challenging an originality, as illuminating as China. It is only when we contemplate China that we can become exactly aware of our own identity and that we begin to perceive which part of our heritage truly pertains to universal humanity, and which part merely reflects Indo-European idiosyncrasies.

Leys S, *The Burning Forest* (1988 Paladin) 42. It may also be the case, as some claim, that whilst Asian political actors tend to be knowledgeable about the West, their counterparts in the West tend to be poorly informed about the East. See Vitachi N, "Asia's new world order" *South China Morning Post, The Review*, 18 November 1995 at 8.

(1996) 6 Revenue L J

factor in explaining the Western tax policy experience and in addressing the future development of tax policy in the West.

What is tax policy and why is it in trouble?

Let me elaborate a little more on what I understand by the term, tax policy. A precursor to developing any tax policy is having a view of the world as one thinks it should be.⁹

From this one develops a view of the role of government and relates this:

- (a) to the way government raises money;
- (b) to the question of how much money government should raise; and
- (c) to the way in which the tax burden is to be spread across society.¹⁰

This explanation needs some further clarification, however. First, governments use taxes other than for the purpose of raising revenue. Their uses include: influencing the operation of the political-economy generally; redistributing wealth (through progressive taxation systems, especially); and modifying behaviour (for example by imposing heavy taxes on tobacco and alcohol). Secondly, governments do not rely on taxes alone to fund spending. They charge direct fees, they use deficit financing, they borrow and they print money, amongst other things.

⁹ What this view should be is, of course, a matter of the greatest contention, not least of all at present (see n 6 above and accompanying text). Moreover, I realise some dispute the validity of claiming that "a view of the world" is a necessary precursor in developing any tax policy. Certain commentators argue strongly that, contrary to using any "desirable outcome" as a starting point in any such development, we should commence with a recognition that the fundamental precursor is the "Leviathan" nature of government. Government, it is said, has a relentless propensity to maximise revenue collection. It must, therefore, be constrained. See Brennan and Buchanan, above n 5; and Cooper, (commenting on Brennan and Buchanan, principally) above n 1 at 453-458. Nevertheless, the dominant view remains that tax policy is primarily energised by concerns about meeting needs rather than by concerns about shackling government. The two considerations are not mutually exclusive, of course, but they are subject to prioritising.

¹⁰ All of these questions have difficult theoretical and practical dimensions. For example, debate continues regularly on the best means of deciding who ought to bear the burden of taxation and in what proportions such burdens should be borne. For a detailed discussion of competing theories (including the Benefit Theory, the Ability to Pay Theory and the Optimal Tax Theory) see Cooper, above n 1.

Within a decade after the last War, there was reasonably wide agreement across the political spectrum throughout the Western World that governments could and should intervene in managing the well-being of their citizens in many ways. It was a time when government revenues tended to rise steadily; there was a lengthy post-War boom so resourcing new programs was not a particularly difficult problem. Moreover, War-time had conditioned people to higher taxes and activist government. And there was a pent up, post-War appetite for progressive change. In the USA, the implementation of reforms driven by the successes of the civil rights movement added to this impetus.

The problems to be addressed were obvious. Establishing (or enhancing) widely available, guaranteed health and educational services were priorities for post-War governments. Schemes to provide a cushion from misfortunes such as accidental injury and unemployment were also put in place or improved during this era. Another zone of reform was enhanced provision for the aged through various government (or tax-break, subsidised) pension schemes. As time went by, the programs became more complex and more wide-ranging across populations. As noted above, few segments of the population were left untouched by this boom in policy-development. One feature which grew rapidly was the phenomenon of transfer payments. That is, the payment of allowances of various kinds directly to citizens. Typically, these payments relate to unemployment benefits, sickness benefits, educational benefits, pension benefits, disability allowances and so on.

As these reforms were gathering pace, real taxation rates began to rise around the Western World. This led to an explosion in tax planning by those with the most to lose; the wealthy. These taxpayers had the resources to devote to tax planning. Generally speaking, the tax planners (accountants and lawyers usually) and their clients were well ahead of the revenue authorities and they often received considerable assistance from the courts in implementing their strategies.¹¹ The resulting revenue leakage has now been reduced, but at the cost of immensely complex taxation legislation throughout most of the Western World.¹² The tax lawyers and the accountants continue to thrive.

¹¹ The assistance given by the courts varied from jurisdiction to jurisdiction. Perhaps in no advanced economy was this assistance more notable (some say notorious) than in Australia. An overview of these developments and the eventual legislative responses is given in Waincymer J, *Australian Income Tax Principles and Policy* (1991 Butterworths Sydney) ch 17.

¹² Australia also provides a fine example of this complexity problem. In 1982, Dr Gerber (in *Case P132* [1982] ATC 660, 662) made the following

(1996) 6 Revenue L J

During the 1980s, a major shift in the tax policy debate occurred which is still having effects. The reliance on heavy rates of direct taxation became unfashionable. Tax planning reduced their impact on the wealthy. Moreover, as incomes increased and as average taxpayers moved into higher tax brackets, general hostility to high income tax rates increased. The wealthy were thus more readily able to co-opt the support of the middle class in their campaigns against high progressive income tax rates. There was a move towards more indirect taxes such as Value Added Tax. Although the push for these reforms came mostly from the right, they have been embraced by pragmatists on the left.¹³

In the 1990s, raising money through taxes, especially, became yet more difficult for Western governments. The slowing of growth rates is one reason.¹⁴ Global tax competition, matured political-economies, greater voter resistance and mass-marketed tax planning have also hampered increased revenue collection. Another factor has been the wide realisation that various government programs put in place for citizens

observation about the Income Tax Assessment Act 1936 (Cth), Australia's principal taxing instrument:

I suspect that if a million monkeys were put in front of a million typewriters, by Wednesday one of them would come up with an improved version of the Income Tax Act.

This quote is extracted in Krever R, "Structure and Policy of Australian Income Taxation" in Krever R (ed) *Australian Taxation: Principles and Practice* (1987 Longman Cheshire). Professor Krever emphasises the complexity point in his own concluding remarks when he observes that Australian income tax legislation:

has grown by almost geometric proportions in recent years and the technical intricacy of the income tax system has developed at an even , swifter rate.

¹³ From today's perspective, the 1980s have a tinge of comparative simplicity. In 1978 Proposition 13 was voted in, in California, reducing taxes in that State of the USA. It has been described as the first major step in a genuine tax revolt (see Brennan and Buchanan (quoting other commentators), above n 5 at xi). In 1979 the Thatcher Conservative Government came to power in the United Kingdom with avowed tax reform policies, many of which it implemented over the following decade. In 1980 Ronald Reagan became President of the US, again espousing (and implementing) tax reform. The politicians were significantly energised by advocates of reform from the conservative-right. However, these tax reform policies captured the imagination of the electorate to such an extent that Australia and New Zealand, for example, began to follow suit to a significant degree during the 1980s, despite their both having governments from the left of the political spectrum.

¹⁴ Stein H, "Summary: The Value of Warning" in Stein H (ed), *Tax Policy in the Twenty-First Century* (1988 Wiley) 293.

are proving, often, to be more expensive than originally anticipated. This is particularly so with respect to the provision of health services and pensions. Taxpayer voters are becoming more worried than ever about such issues. Arguments about wastage and inefficiency also have been more forcefully put. It is said, for example, that certain government goods and services should not be provided universally because some people are receiving them free when they should pay for them. Others claim that incompetent government administration has resulted in mistaken and wasteful payments and there are constant claims of losses due to welfare fraud.¹⁵ Today, debate continues over the retention of government programs in most Western jurisdictions. There is little popular support for the introduction of new government programs. It is a measure of how far we have travelled in the tax policy debate that this is so. Arguments are often put that taxes cannot be afforded or tax increases cannot be afforded. Taxes increasingly are described as a burden on citizens or a restriction on freedom of choice.¹⁶

One rebuttal of these arguments is to dismiss them as patently self-serving; the plutocrats make these arguments and influence government policy in their own interests. Furthermore, the compliance of the rich with tax laws is greatly softened through the use of paid professionals. Those who are not members of this privileged group have to carry the resulting extra burden.¹⁷ This analysis, although cogent, needs to be extended if it is not to suffer from a lack of completeness. There are problems of government wastage. There are problems of fraud.¹⁸ There are real problems of being able to pay for commitments made by politicians who either wilfully ignored the long term costs, were misled

¹⁵ See, for example, "The Republican Congress, the evolution of a revolution", above n 6; "Taking care of granny", *The Economist*, 3 June 1995 at 53; "The welfare state: Time for reform", *The Economist*, 10 June 1995 at 60; "Farm policy: Snout slimmed but not for long", *The Economist*, 8 July 1995 at 54; Pierson P, *Dismantling the Welfare State?* (1995 Cambridge University Press); "The changing face of the welfare state", *The Economist*, 26 August 1995 at 41-42; and "The hole in your future", *The Economist*, 9 September 1995 at 86.

¹⁶ Professor Neil Brooks catalogues many of the above criticisms in the course of strenuously debunking them. See, Brooks N, "The True Legacy of Tax Cuts", *Australian Financial Review*, 14 August 1995 at 19.

¹⁷ Ibid.

¹⁸ Problems with fraud and wastage occur across the socio-economic, state-citizen interface; they are not confined to indigent welfare recipients. Indeed, it is consistently argued that the greatest wastage occurs in government "welfare" spending on (and tax-breaks for) the middle class and the well-off. See, *Rivals or partners*, above n 6.

(1996) 6 Revenue L J

as to what those costs would be, did not make sufficient enquiries or, simply, did not know what they were getting into.¹⁹

These perceptions have produced a shift in voter understanding of national political realities. The rise of Thatcherism in Britain and its enduring legacy are testimony to this. Radical changes were introduced in Britain to the welfare system. Radical changes were introduced in Britain in terms of the government's direct involvement in the economy. Many of those changes have now being copied elsewhere. These changes have been introduced in many liberal-democratic societies in the West. That is, the general population has, often, been in favour of these changes.²⁰ The reasons that the changes have occurred is not because of the intrinsic wisdom of Thatcherism or its many imitations. Those policies have some appalling flaws. The advocacy of such policies has, however, coincided with changing public perceptions about the role of government in Western society. Non-rich citizens have become more concerned about what governments do and about future spending burdens. Thatcherism and its derivatives proposed (and continue to propose) "answers" to these concerns.²¹

The East Asian tax policy experience

When I speak of East Asia I am talking of that part of Asia which does not include South Asia (Bangladesh, Bhutan, India, Nepal, Pakistan and Sri Lanka), Central Asia (Russia and the other former republics of the Union of Soviet Socialist Republics) or the Middle East. The nation which has had easily the greatest influence over time in East Asia is China. It has had significant cultural influence on the nearby East Asian jurisdictions of Taiwan, Korea and Japan. Through the Chinese diaspora, it has also touched cultures as far away as Indonesia and the Philippines and has given birth to the essentially Chinese city-state of Singapore.²²

¹⁹ See commentaries cited above at n 15. A further example is the Netherlands where just on 13% of the workforce is on disability pay. See, "Too good to be true", *The Economist*, 12 October 1991 at 63.

²⁰ See, also, discussion above at n 13.

²¹ I am not suggesting that through representative-democratic voting the policies of Thatcherism and its derivatives enjoy iron-clad legitimacy. Indeed, this is not the issue. The point is that wide-spread support exists for such policies, notwithstanding their merit or lack thereof. Basically, the conservative-right has been more nimble in capitalising on these visceral societal concerns. (For a discussion of the role of voting as a legitimating factor in tax policy making, see Cooper, above n 1 at 469-475).

²² The influence of Chinese culture, sometimes referred to as the Chinese way, often identified as Confucianism, has at least touched virtually all of East Asia. (See Pann L, *Sons of the Yellow Emperor* (1990 Mandarin) chapters

The economies of East Asia have only begun to emerge as powerful, for the most part, since the 1960s. They have made rapid strides in many cases, since then. Per capita income in Hong Kong and Singapore, for example, now exceeds that in Australia and the United Kingdom. Immediately after the last War, both these tiger economies had per capita incomes below that of India. Countries like Taiwan and Korea are rapidly approaching the same income levels. Growth in most other parts of East Asia is occurring at a high rate.²³

This lack of modern economic maturity helps explain, in part, why welfare systems in East Asia are comparatively under-developed, even in the wealthy East Asian nations.²⁴ It is unlikely that they ever will develop broad-spectrum welfare states in the way that the West has, however. Two things make this so. First, examples from the West demonstrate the difficulties which can arise when commitments are made without knowing the full, long term expenditure consequences. The side effect costs (such as welfare dependency and subsidy addiction)²⁵ of the

1-3 especially; and Wang G, *China and The Chinese Overseas* (1991 Times Academic Press) chapters 3, 4, 5, 11 and 14 especially). This is hardly surprising. The Chinese have been since recorded time, the most numerous ethnic group by far in the region. For a variety of reason they also have been ready, even eager, to migrate. Further, the still highly influential cultural traditions of Confucianism trace back over 2,500 years. They have enjoyed continuous (if often modified) applications for over 2,000 years. (For a succinct perspective on Confucianism see Smith H, *The Religions of Man* (1964 Harper & Row) ch 4 and also, Wang G, *ibid* at 259-266). The Chinese remain, at over 20% of total World population, the single largest ethnic group on the planet by a comfortable margin. They also happen to have developed a more widely-shared value system than most other much smaller ethnic groups. (See also Leys, above n 8).

²³ See Andrews J, *The Asian Challenge* (1991 Longman 1991) xv-xxx and ch 10, especially.

²⁴ The following discussion is based principally on observations of the more advanced economies in East Asia and the rapidly developing economies where, in both cases, growth has created (or is creating) *opportunities* for financing increased government intervention to provide broad-spectrum assistance to citizens. Less developed East Asian economies (some still ideologically communist, such as Vietnam and the People's Republic of China), are far from having the resources to create these sorts of opportunities, though over the next several decades this is likely to change.

²⁵ I use the term "subsidy addiction" as short-hand for the reliance of private enterprise on government assistance. Numbers of East Asian economies already have such patterns in their tax policies as a result of industrial policies adopted to encourage selected businesses. Generally, industrial policy in East Asia has been designed to encourage aggressively export-

(1996) 6 Revenue L J

modern welfare state are another problem. This, as much as ideological leanings, has made East Asian government planners cautious about making such commitments or making any further policy commitments of this sort.

Probably more important, however, is the influence of the cultural values which prevail in much of East Asia and particularly those parts influenced by Chinese culture. The emphasis in Chinese culture on self-help and self-reliance within the family unit is well documented. The practical consequences, inter alia, are a commitment to invest in education and to devote intimidating levels of personal energy and resources to maximising family welfare.²⁶ The consequences for government include a comparatively lower level of demand for government intervention in providing welfare benefits. East Asian citizens certainly appreciate benefits when they come. But they also appreciate the relatively low tax rates which apply in many of these jurisdictions. In Hong Kong, for example, over 62% of wage and salary earners pay no income tax at all,²⁷ and very few taxes apply to goods and services. Other East Asia jurisdictions do usually have a wider, general taxation base than Hong Kong (where there is no Value Added Tax and no formal Capital Gains Tax, for example). They still feature comparatively low government spending and tax rates, however.²⁸

oriented industries (for example, in Japan, South Korea and Taiwan) rather than, principally, to protect often internationally uncompetitive, local-market, manufacturing industries (as was the case in Australia and New Zealand, for example). Probably the most egregious examples of distorted tax policy in Asia (as components in wider policies) occur in primary industry. Rice prices in Japan are twelve times higher than in Australia, for example.

²⁶ These patterns are discussed in: Bond MH, *Beyond the Chinese Face* (1991 Oxford University Press) chs 2, 3, 6 and 8 especially; Lau S, *Society and Politics in Hong Kong* (1984 Chinese University Press) ch 1 and 3 especially; and Wang, above n 22 at ch 15. See also Cullen R, "Hong Kong Revenue Law - The Present, 1997 and Beyond" (1993) 7 *Tax Notes International* 1109 at 1118-1119; and "The withering away of the state", above n 3.

²⁷ Ma J, "Concern at narrowing of tax base", *South China Morning Post Budget Special*, 2 March 1995 at 3.

²⁸ "The withering away of the state", above n 3. It is true that Japanese taxation rates have begun to creep up and are set to rise further. This trend is the product of Japan's quasi-government debt crisis (with railways and troubled banks at its core), together with the rapid ageing of the population, rather than any shift to a fully Westernised Welfare state. See "Thinking the unthinkable", *The Economist*, 27 April 1996 and Mertens B, "JNR privatisation debts could dwarf housing loan debacle" (1996) (July) *Asian Business* 42. This fiscal rectitude does come at some cost to the indigent in

Governments in East Asia tend to spend their money on the direct provision of services rather than the provision of direct transfer payments to citizens. Again, in Hong Kong, less than 5% of government expenditure is typically devoted to transfer payments, whilst about 50% is spent on direct education, health, welfare and housing infrastructure. Recent comparable figures for the USA are approximately 33% and 20% respectively.²⁹ Moreover, although public infrastructure often is not as plush as it is in the West (even in wealthy societies such as Japan) many East Asian public institutions still work comparatively well.

A further crucial factor in the East-Asian economic equation, which influences tax policy, is comparative savings rates. Typically, East Asians save 30% or more of disposable income where they can.³⁰ Western savings levels are commonly below 10% and sometimes well below.³¹ Another feature of possible significance in this equation may be the emphasis which East Asia (and especially Chinese) culture places on preventative medicine. It is arguable that this has helped limit general health expenditure. The historical, comprehensive emphasis on a healthy diet and life style at all levels of the society in (Chinese) East Asia is not replicated on the same scale in the West. This factor likely helps explain, in part, the remarkably high life expectancy in China (around 70 years of age) despite China's Third World income levels.³²

What is striking is the way that numbers of these East Asian patterns contrast with the stress in the West on *individual self actualisation* and, more particularly, with the fiscal outcomes (focused on individuals)

East Asia, though. See Lee N and Szeto W, "Study highlights plight of hidden underclass", *Sunday Morning Post*, 13 October 1996 at 1.

²⁹ "It's already 1997 in Hong Kong", *The Economist*, 18 December 1993 at 27.

Caution must apply to any attempt at precise comparative use of these figures due to differing economic circumstances, tax practices and methods of calculation in different jurisdictions. The figures are, however, useful as indicators of the contrasting broad trends.

³⁰ Personal savings rates in China range between 35-40%. See, Kristof ND and Wudunn S, *China Wakes* (1995 Vintage) 320. In Malaysia, to take another example, they are at 35% of Gross Domestic Product. See, "Asian fund management: The rivals", *The Economist*, 4 November 1995 at 86-87.

³¹ In Australia, savings rates have fallen from 10% of disposable income in 1980 to 3% in 1995. See, "How lucky can you get", *The Economist*, 4 November 1995 at 18-19. The comparable rate in the USA is around 5%.

³² Kristof and Wudunn, above n 30 at 331-335. Spending on health matters has risen sharply in Japan in the wake of growing affluence. Interestingly, the greatest expansion has been in (often prescribed) tonics and preventatives rather than in prescribed remedies, however.

(1996) 6 Revenue L J

arising therefrom. The self evident importance of this key value has persuaded most post-War, Western governments of the worthiness of a wide range of policies promoting its mass realisation. The emphasis in East Asia remains on spending which benefits institutions directly and individuals indirectly. In the West, government spending aimed directly at individuals is comparatively much more widespread.

Conclusion

At least three factors appear to be interacting to produce the current uncertainty about the future direction of tax policy in the West. First, there is the increasingly serious expenditure bind the modern welfare state finds itself in due, *inter alia*, to the growing cost of many programs. Secondly, there is the always present problem of revenue leakage caused by the minting of new tax planning strategies and the refining of older strategies. Thirdly, the process of globalisation of economies has amplified the second problem significantly. Thus, when we blame the plutocrats for self-serving manipulation of expenditure and taxation programs we are not incorrect, but this is an incomplete explanation as to why the debate over tax policy has changed so dramatically since the early 1980s in many Western jurisdictions.

The East Asian tax policy experience does not provide a model which can be copied in the West to find a way out of this fix. There are some fundamental differences which provide greater flexibility for tax policy makers in East Asia. First, there is a consensus (which resonates with cultural practices and is buttressed by reflecting on the Western experience) that keeping taxation rates low is a priority. A related factor is a lower symbiotic relationship between citizens and the State than in the West. The (often extended) family remains the cardinal and overwhelmingly dominant societal building block in East Asia.³³ In the

³³ The importance of the family in East Asian society is difficult to over-stress. One philosopher recently put it this way:

In the case of Kongzi, filial piety and the place of the family in general receives a strong emphasis for the development of ethical values. This is re-emphasised in Mengzi and remains constant throughout the Chinese tradition. One has to genuinely search very hard to find any Western analogue to this emphasis upon family relations as the originating source of ethical values. When one finds any Western counterpart, as in the case of Hegel, the emphasis on the family only occurs because of Hegel's systematic need to fit everything together in one organic whole. For the Chinese mind, the value of the family is self-evident. It is not simply an ingredient in an overall proof structure such that the entire world can be seen as fitting into an overall organic whole. What makes for this difference between East

West, retention of the welfare state is now argued as a crucial form of communitarian glue in societies experiencing increasingly more disparate organisational components.³⁴ Also, as recently maturing economies, the East Asian developed (and developing) nations can learn from the more advanced Western experience, especially by avoiding pitfalls. The West usually faces the more difficult task of adaptation in coping with such pitfalls.

Let us now consider the three factors mentioned above in a little more detail. First, there are the problems related to the modern welfare state. Western governments have built complex, expensive and ambitious relationships with their citizens, especially over the last half century. Much of this complexity was introduced with good intentions. Many of these initiatives are rooted in deep concerns about individual equity and a belief that governments could and should strive to achieve individual equity, within their own jurisdictions at least. Many initiatives have now also been introduced for (or have been converted to) the benefit of non-indigent clusters in society. The cancellation and winding back of various government programs, particularly welfare programs in the West, is causing widespread and serious hardship. It is also leading to increased social breakdown in some jurisdictions. Western nations, today, are more diverse in their make up and the expectations of their citizens more problematic than ever before, adding to the aggravation.

Secondly, on the revenue side of the equation, a growing unfriendly factor for strapped governments is the increasing ease with which money can be moved around the globe to take advantage of lower taxes in particular jurisdictions.³⁵ More and more individual taxpayers now have access to such facilities. The growth in communication systems and their falling cost (consider the Internet) can only accelerate this process. Meanwhile, within jurisdictions, the growth (and use) of "tax shelters" continues apace.³⁶ In practical terms, this means it is becoming increasingly difficult to tax income from capital comprehensively, for example. For national governments, one way they can fight these trends is with yet more tax legislation. The effectiveness of such legislation is far

and West? If my general thesis of at-homeness is correct, then, for the Chinese mind, the family represents a *natural* extension of oneself. There is no need to prove the priority of the family. It is accepted as a given fact.

Allinson RE, in Allinson RE (ed), *Understanding the Chinese Mind* (1995 Oxford University Press) 19.

³⁴ Brooks, above n 16. See also "Home Sweet Home", *The Economist*, 9 September 1995 at 21-25.

³⁵ Stein, above n 14 at 290-291; Peters, above n 5 at 19-20.

³⁶ Stein, *ibid*.

(1996) 6 Revenue L J

from clear in many cases and its growing complexity makes it difficult and expensive to administer. It also gives rise to disenchantment amongst: (a) tax administrators who bear the brunt of the extra work; and (b) ordinary taxpayers who may unwittingly get caught by such legislation (while the demon plutocrats contrive new ways to escape). Finally, globalisation is affecting taxation systems; national sovereignty over revenue regimes is eroding.³⁷ Moreover, the de-nationalisation of economies, like the information revolution to which it is linked, is a process which shows few if any signs of slowing.

Some broad questions facing tax policy analysts throughout the developed world as the new century approaches include:

What is the appropriate role of government in the provision of goods and services and involvement in the economy in the 21st century?

What is the appropriate response to questioning of existing government programs?

Where should the line be drawn in terms of complexity of tax legislation. That is, at what point does the law of diminishing returns apply?

Where should the line be drawn in terms of government rights to impose obligations, audits and searches on taxpayers in the course of seeking full collection of revenues?

What general shape should a future tax regime take in response to reflection on 1-4 above?

These are serious questions. They raise many sensitive issues. Some of them are far from new, though the shift in the tax landscape is adding fresh emphasis to long-standing questions. The answers to these questions are difficult to find. This is particularly so in the absence of any form of comprehensive global taxation and of any likelihood of achieving this. The lessons (and practices) of the past remain relevant informing influences in tackling questions like these. As rigid prescriptions they are flawed, however. The review of tax policy which continues in the West increasingly is forcing an onerous ranking of public policy priorities. This is not the place to enter that discussion, apart from noting that there appears to be near universal agreement that curing long term unemployment is the single most crucial challenge facing Western

³⁷ Peters, above n 5 at 19.

societies. Winding back the tax-related privileges of non-indigent beneficiaries is also widely supported.³⁸

The principal thesis of this article is that the East Asian tax policy experience may form a useful comparative input in the course of tackling these sorts of questions in the West. That East Asian experience suggests that certain cultural factors help explain the present tax policy disarray in the West.³⁹ These factors are deeply embedded in Western society. The West stresses individual self development and actualisation. Tax policy often has been shaped by governmental striving towards the mass realisation of objectives derived from this crucial value. The stress on equity for the mass of individual citizens (not just on assisting the indigent) in the modern Western welfare state has played a role in trying to nourish the cohesiveness of Western societies, as they have grown ever more complex. The successes of the modern welfare state are significant and they can too easily be taken for granted. The achievement of numbers of the objectives of the modern welfare state appears to have long since stalled, even when funding has been maintained, however. There appear to be real limits to what modern welfare-statism can achieve not envisaged by the supportive scholarship of half a century (and more) ago. In any event, the fiscal resources available to maintain and expand this frequently worthy, increasingly expensive enterprise probably are now beyond securing by any government. This appears to be so at least as much because the modern welfare state is in the grip of forces of fundamental change (like so much else in today's world) as because it is prey to manipulative self interest. Those forces are undermining a culturally driven, generally worthy, but, ultimately, over-ambitious quest. Future Western tax policy

³⁸ Of course, reformers typically support reducing the privileges of *others*. See, "The Republican Congress", above n 6; and "Right size, wrong contents", *The Economist*, 11 November 1995 at 16. There is a consistent, genuine plea for improvement in the quality of public spending, however.

³⁹ A recent comparative study of tax policy argues that:

A great deal of tax policy therefore appears to be conditioned by the collective experience and cultures of countries.

See Peters, above n 5 at xii, and see further, Peters' discussion of the influence of political culture at 5-7. See also, Leys, above n 8. Of course, moving beyond broad, qualified descriptions of culture to more specific indicia is difficult. The former Vice Chancellor of the University of Hong Kong, Professor Wang Gungwu, recently highlighted this difficulty. See McLeod B, "Teaching About China", *Window*, 17 November 1995 at 10, where the Vice Chancellor, speaking at a recent conference on teaching about China, is quoted to this effect. This is not a reason to omit the cultural perspective, however. Rather, it is a warning about its limitations.

(1996) 6 Revenue L J

development needs to engage this gloomy likelihood openly and outside of the ruck of partisan politics.