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TEACHING NOTE

SERVICE LEARNING: AN EXAMPLE OF EXPERIENTIAL EDUCATION IN THE AREA OF TAXATION LAW

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I INTRODUCTION

Most tax academics would agree that taxation law is a difficult subject to teach, let alone learn from a student perspective. Our taxation system is complicated and in particular the income tax regime is highly regulated by legislation, case law and administrative rulings by the Australian Taxation Office.

Taxation Law is taught to students in both accounting and law schools. At the University of Western Sydney the taxation law unit is called Revenue Law and it is a compulsory unit in the Bachelor of Laws (LLB) program.¹ The content of the unit is focused on the ‘building blocks’ of taxation, namely income (including capital gains) and deductions. It is considered that only when students have such knowledge are they able to explore ways of applying that knowledge. One way that may be used as part of that exploration process is through experiential education.² With experiential education, students are able to ‘challenge the theories canvassed at law school ... and move change within the general law’.³ One form of such experiential education is learning through service to others.⁴ This concept is commonly known as service learning. At

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¹ This is unusual in a Law School Program for Australian Law Schools and has met with mixed reactions from staff and students.

² Deborah Maranville, ‘Infusing Passion and Context into Traditional Law Curriculum through Experiential Learning’ (2001) 51 *Journal of Legal Education* 51. Maranville has examined ways in which experiential learning can generate passion and provide context for students studying law related subjects in a curriculum.

³ See, David Spencer and Geoff Monahan, ‘Alternative Learning Strategies for Legal Skills and Vocational Training’ [2001] *University of Technology, Sydney Law Review* 210, 212.

⁴ See Jason Berv, ‘Service Learning as Experiential Education’s Bridge to Mainstream Education’ (1998) 21 *The Journal of Experiential Education* 119.

the University of Western Sydney a program has been introduced whereby students, having successfully completed Revenue Law, may enrol in an independent study option and are placed in community based Tax Help Centres to assist low income earners with their tax return obligations.⁵ It is this program that is experimenting with the notion of service learning in a taxation law context. Students are placed in realistic work related environments to assist in deeper learning of subject matter, together with the development of life skills such as oral and written communication.

II WHAT IS SERVICE LEARNING?

Service learning is not an easy concept to define. As noted by Hutchison,⁶ definitions for service learning are numerous. One definition from Campus Contact is that service learning is ‘an educational methodology which combines community service with academic learning objectives, preparation for community work, and deliberate reflection’.⁷ The American Association for Higher Education defines the concept as:

a method under which students learn and develop through thoughtfully organised service that: is conducted in and meets the needs of a community and is coordinated with an institution of higher education, and with the community; helps fosters civic responsibility; is integrated into and enhances the academic curriculum of the students enrolled; and includes structured time for students to reflect on the service experience.⁸

A critical element of this definition is the identification of the dual element of community service *in* the context of being integrated into and enhancing the academic curriculum of students. Other definitions also refer to both the community service and the education experience leading students to a broader appreciation of the discipline involved. In this context Hutchison quotes Howard as stating that service learning is primarily a ‘teaching methodology by intentionally bringing together community and campus, integrating experimental and academic learning in a mutually strengthening manner’.⁹ Building upon this concept, it can be said that, from a teaching methodology, service learning falls under the category of experiential education.¹⁰ According to Kraft and Sakofs ‘experiential

⁵ The idea originated from a similar program run by Professor Wayne Tanna at Chaminade University Hawaii.

⁶ Patricia Hutchison, *Service Learning: Challenges and Opportunities* <<http://www.newfoundations.com/OrgTheory/Hutchinson721.html>> at 31 October 2006

⁷ *Ibid* 3.

⁸ *Ibid*.

⁹ Jeffrey PF Howard, ‘Academic Service Learning: A Counternormative Pedagogy’, in Robert A Rhoads and Jeffrey PF Howard (eds), *Academic Service Learning: A Pedagogy of Action and Reflection* (1998) 21.

¹⁰ *Service Learning* <http://www.mywiseowl.com/articles/Service_Learning> at 31 October 2006.

education is the process of actively engaging students in an experience that will have real consequences'.¹¹ From a taxation law perspective, the prospect of being able to be involved in an activity that will have real consequences will have a profound effect upon students. The theoretical foundation of taxation law (legislation and cases) provides an insight into the manner in which the law has developed and this should be taught in the classroom. However actively learning taxation law is better suited to a practical and realistic setting. By undertaking community involvement with low income earners, students learn how to apply the knowledge they obtained in the classroom.

In summary, 'service learning is a form of experiential education where the learning occurs through a cycle of action and reflection as students work with others through a process of applying what they are learning to community problems'.¹²

III SERVICE LEARNING AND CLINICAL LEGAL EDUCATION PROGRAMS

Clinical legal education programs have been utilised in Australian Law Schools since the late 1970s. Such programs have tended to focus on a client model whereby students are dealing directly with legal issues presented by a client under the supervision of academic staff. It would seem that such programs have, in the main, been woven into existing community organisations.¹³ This clinical setting allows for students to be actively involved in real situations to gain practical experience. However the notion of clinical legal education has in more recent times been associated with broader activities. The notion of clinical work can now be seen to incorporate field placements, externships, or legal policy projects.¹⁴ The general context of such programs is that there is still client based work that is real and involves current legal issues.

A particular aspect of this broadened concept of clinical legal education is the category of field placement or externship. In this situation the student is still involved with real clients but the primary supervision lies with a person other than an academic staff member.¹⁵ This type of program allows for students to be placed

¹¹ Ibid.

¹² Janet Eyler and Dwight E Giles, *Where's the Learning in Service-Learning?* (1999) National Service-Learning Clearinghouse <http://www.servicelearning.org/welcome_to_service-learning/service-learning_is/index.php> at 31 October 2006.

¹³ Jeff Giddings, 'A Circle Game: Issues in Australian Clinical Legal Education' (1999) 10 *Legal Education Review* 33, 35.

¹⁴ See, eg, Judith Dickson, '25 years of Clinical Legal Education at La Trobe Uni' (2004) 29(1) *Alternate Law Journal* 41.

¹⁵ Graeme Coss, 'Field Placement (Externship) — A Valuable Application of Clinical Education?' (1993) 4 *Legal Education Review* 29.

in specialist agencies that could be related to the particular course of study.¹⁶ Organisations can include public service organisations and specifically could include the Australian Taxation Office.¹⁷ It has been suggested that an ‘effective externship is an ideal setting for transforming students from their role as passive receptors of information into active learners’.¹⁸

A closer look at the nature and form of a placement or externship indicates that in fact it is possible to categorise the program not only as clinical legal education but also within the concept of service learning as discussed above. In the case where the placement or externship is located within a community based organisation, then it can be seen that not only will the student be learning about the law in practice but will also be contributing to the community partner. If the program has a well structured reflective element and is interlinked with the academic curriculum then it also satisfies the concept of being a service learning project.¹⁹ Furthermore, it provides an opportunity for the development of on-going working relationships with the agency concerned enhancing access to justice.²⁰ Accordingly, even though the concept of service learning is generally new, research in the United States suggests that law schools may already be involved with the concept through their placement or externship programs.²¹

IV SERVICE LEARNING — TAX HELP CENTRE EXPERIMENT

It is in this educational context that the Tax Help Centre program for students has developed. Tax Help Centres are not run by the Australian Tax Office (ATO). In the Tax Help Guide 2004²² it is stated ‘while the Tax office sponsors the Tax Help program and accredits volunteers, it is essentially a service provided by the community for the community’.²³ The role of the ATO is to provide accreditation for volunteers and to assign such volunteers to an appropriate Tax Help Centre. As for the target group, the ‘tax office limits the availability of the Tax Help service to those with a genuine need for it. The aim is to target people on low income, including, but not restricted to,

¹⁶ Ibid 35.

¹⁷ Ibid.

¹⁸ Ibid 34.

¹⁹ Linda Smith, ‘Why Clinical Programs Should Embrace Civic Engagement, Service Learning and Community Based Research’ (2003–2004) 10 *Clinical Law Review* 723, 729.

²⁰ Ibid 731.

²¹ Mary Treuthart, ‘Weaving a Tapestry: Providing Context through Service-Learning’ (2002–2003) 38 *Gonzaga Law Review* 215, 219; Smith, above n 19, 729.

²² An information and support tool prepared by the ATO for volunteers placed in Tax Help Centres.

²³ Ibid 3.

seniors, first time lodgers and people from non-English speaking backgrounds'.²⁴

Accordingly, Tax Help Centres perform a community service for these targeted individuals. There are also limitations on the provision of this community assistance. In essence 'volunteers are trained to assist clients with straightforward tax returns where a taxpayer has a taxable income of \$35,000 or less (adjusted for dependent children)'.²⁵ In essence the service is limited to simple income, deductions and tax offset amounts. In relation to the income and deductions area this links in with the building blocks approach of the compulsory Revenue Law unit taught at the University of Western Sydney. It is a clear opportunity for students to be able to obtain practical experience, implementing knowledge gained, in a community based environment.

V SERVICE LEARNING — STUDENT INVOLVEMENT

Tax Help Centres operate in the tax return preparation period, namely 1 July to 31 October each year. From an academic year point of view the time period falls within the second semester. As Revenue Law is taught at the University of Western Sydney in the first half of each year, the Tax Help Program is ideal for appropriate students. During the teaching of Revenue Law in the first half of 2004, expressions of interest were requested from students as to their possible involvement in the Tax Help Centre program. Generally speaking the law school was looking for students with sound academic backgrounds. As is noted in the ATO Tax Help Volunteer role description, the essential characteristics of a volunteer are the ability to pass the accreditation test and also to 'have superior interpersonal and communication skills and the capacity to work with people from diverse backgrounds and cultures'.²⁶

In addition, from an academic learning perspective it was also essential to identify those students who were prepared to implement the learning process in such a way so as to gain a further understanding of course content (income and deduction) and a broader appreciation of taxation and its place and role in the community. The end result was the selection of 10 students, a number to fit in with Tax Help Centre allocations, who were to be trained and accredited and then placed in various Tax Help Centres in the Greater West of Sydney.

²⁴ Ibid.

²⁵ Ibid 7.

²⁶ Australian Taxation Office, *Tax Help Volunteer Role Description* (2004).

VI SERVICE LEARNING — COMBINING COMMUNITY SERVICE WITH ACADEMIC LEARNING OBJECTIVES

An essential element of the notion of service learning is that there is an appropriate link to academic content.²⁷ Accordingly, those students selected were required to enrol in a unit titled ‘Independent Study’ which, if successfully completed, provided the students with 10 credit points (equivalent to one elective unit in the LLB program). Students were also required to attend a 2½ day training course by the ATO, pass the test and be accredited as a Tax Help Centre Volunteer. From an academic perspective, a student was required to maintain a reflective diary, which was to record details of appointments with each client. For privacy reasons, no name was to be used. Only the various details of the client were to be stated as clearly as possible. Students were also required to attend their allocated Tax Help Centre for a minimum of 40 hours (in line with their normal contact hours for an elective in the LLB Program).

VII STUDENT REFLECTION

A critical and distinguishing feature of service learning is reflection. Kraft notes that there is a need for students to reflect on the experience and that this aspect is a central element in the service learning context.²⁸

With respect to the reflective diary, students were required to ‘identify the key tax issues that have arisen with the preparation of the client return’.²⁹ For example, there may have been some income issues (windfall gains such as a lotto win) or a specific issue relating to deductions (such as self-education). Students were then required to reflect on whether this issue has caused the client difficulty in satisfying their tax obligations under the law. If this was the case, students were asked to reflect and suggest ways that may overcome the relevant difficulties. The idea behind the reflection diary was to provide an opportunity for students to reflect on the service activity (assisting low income earners) in such a way as to hopefully gain a better and fuller understanding of course content emphasised in Revenue Law.

Chaminade University of Honolulu has designed specific service learning student reflection guidelines for students to assist them in the preparation of a reflection paper. Those guidelines spell out some important points to discuss. These include the value of the work done

²⁷ Berv, above n 4, 119

²⁸ Richard Kraft, ‘Service Learning: An Introduction to its Theory, Practice and Effects’ (1996) 28(2) *Education and Urban Society* 131.

²⁹ *Unit Outline for Service Learning Unit ATO Tax Help Centre Placement* (University of Western Sydney Law School) 1.

at the agency, learning about your own value, learning about the needs of the agency, and whether you learnt about yourself (wants, needs, goals and values).³⁰ Such guidelines could be interwoven into the Tax Help Centre Program to enrich the experience for students.

Furthermore, students were required to submit a 1500 word report on their experiences, from a Revenue Law perspective. In essence, the report was to be structured so as to highlight how the Tax Help Centre work had benefited the student's knowledge and understanding of the principles of Revenue Law. Accordingly, the two assessment elements focused on the community service element (reflection on the service experience) in conjunction with a structured academic report focusing on the experience from an educational perspective.

Not all students completed the unit due to various reasons including not being able to be placed into a Tax Help Centre to suit their time and other study commitments. Those students that did complete the unit and submitted their diaries and reports were enriched by the overall experience. Comments from students included:

'I had the knowledge from Revenue Law and now I had to put it to use.'

'It was the practical aspect of completing tax returns that enriched my learning.'

'My experience as a Tax Help Volunteer has provided me with a much appreciated insight into how the tax system works.'

From a community involvement perspective, students also noted that:

'The advice is given at no cost. If a client were to visit an authorised tax agent or accountant, the fees for professional advice and assistance are rather expensive. It is from this point that you become aware that although our tax system relies on a self assessment principle of submitting an income tax return, the potential with the costs that are incurred shows that the compliance costs associated with our tax system can be steep.'

In addition, comments were made about the need for a volunteer to be aware that some clients were trying to claim deductions that they were not entitled to claim under the income tax law. Accordingly, students were exposed to a need to help foster civic responsibility by pointing out that such deductions could not be claimed.

The reflective process is at the centre of the educational experience.³¹

³⁰ As outlined on the Chaminade University website <<http://www.chaminade.edu/serviceLearning/content/reflectionGuidelines.pdf>> at 31 October 2006.

³¹ Kim Lersch, 'Integrating Service Learning in Undergraduate Criminal Justice Courses: Bringing Academics to Life' (1997) 8(2) *Journal of Criminal Justice Education* 253, 257.

VIII ACADEMIC INVOLVEMENT — LINK BETWEEN UNIVERSITY AND STUDENT

There is a real need for a university to be committed to service learning. Appropriate support from senior management of a university will enable any program not only to succeed but will also enable everyone involved to see service learning as an effective pedagogy. Granting internal funds for academics to investigate and implement such service learning programs will enhance the development of the concept and provide a new dimension to the learning process for students. Furthermore, it is necessary for a service learning coordinator (academic) to be provided with an opportunity to have a level of ownership with respect to the service learning program. If this occurs then the coordinator will be in a position to liaise with the community sector as well as providing a real link between the student and the university. In relation to the taxation law experiment, the University of Western Sydney has provided funds for the development of the service learning tax law program with the ultimate aim to develop a structured unit for students. In addition, the university has encouraged the development of a partnership with the Australian Tax Office and the various community centres where the Tax Help Centres function. The aim of this partnership is to ensure appropriate volunteers are available to service the centre involved, as well as providing students with an academic program with a focus on the community. In particular, where Tax Help Centres are located within a university environment and within a student union structure, then it is quite a natural step to have tax students to service such centres. By promoting that process, this academic learning avenue will be available to tax students.

IX SERVICE LEARNING — BENEFITS TO THE COMMUNITY

Another essential element of service learning is that the community has to benefit from the experience.³² In the context of the Tax Help Centre experiment, those centres were run by the community for the community. The centres were not Australian Tax Office call centres but were rather centres established at local community halls or connected with other community based organisations and run by volunteers. On this basis, students were able to be involved in real tax situations (preparing tax returns and providing advice) for the benefit of those taxpayers who satisfied the criteria for assistance. The community also were able to be part of a program that encouraged open communication between students and taxpayers concerning their tax affairs. It is educationally sound

³² National Service-Learning Clearinghouse <http://www.servicelearning.org/welcome_to_service_learning/service_learning_is/index.php> at 31 October 2006.

and provides a framework in which students (and academics) can be more involved in the community and ignite a passion for learning. Service learning can bring the university and community together with mutual benefits.

X EVALUATING THE TAX HELP CENTRE PROJECT — REFLECTING ON THE PROCESS

The project has served a number of purposes. From the student point of view, there is an opportunity to actively participate in a community based program that was linked directly to their taxation studies. From the community centre perspective, the students are well-educated volunteers assisting low income earners with their tax obligations. From the perspective of the ATO, the student volunteers are able to fill vacancies that exist in the Tax Help centres in the Greater West of Sydney.

From an academic perspective, the project enables students to gain practical experience in a service learning environment as well as providing academic credit towards a law degree. It has also meant that appropriate bridges have been built between the University and the ATO and this has allowed for the program to continue but in a more refined manner.³³ The ATO is now generally aware of the number of university students interested in participating in the program and is also aware of the demographics from which Tax Help Centres need volunteers. Likewise, the University is aware that there are only a limited number of volunteer placements available and that the program cannot be made available to all Revenue Law students. On that basis, the University has been required to re-examine the criteria for selecting students for the program and not be limited to previous academic achievement. Factors such as previous community volunteer work, aptitude, attitude and a willingness to consider a possible career in taxation are also considered as part of the selection process for the 2005 and 2006 Tax Help program.

From the perspective of how effective the program has been, three specific issues have emerged:

- Firstly, the ATO has control over the placement of the students. Although the aim is to have students placed in Tax Help Centres in the Greater West of Sydney, this does not always happen as the ATO may already have other volunteers covering such centres. In addition, even where a student is placed in a suitable centre, that centre may not be busy on the days that the student works and so this affects the learning experience for the student.
- Secondly, the tax affairs of a taxpayer are confidential. Due to the privacy elements of the Income Tax Assessment Act such details

³³ Treuhart, above n 21, 231 where the author experienced familiarity with the community partners as part of the ongoing service learning program.

are not able to be disclosed to any person not acting in the capacity of an ATO officer. On that basis, the student is only able to discuss confidential matters with the taxpayer and the ATO supervisor. The teaching academic is not able to discuss specific details of taxpayers. To address such concerns the students are asked to record details of their interviews without names and personal tax details in their journals.

- Thirdly, the ATO supervision is targeted towards ensuring that a correct tax return is prepared for the client. This approach lacks the underlying academic objective of the service learning experience. To accommodate this situation it has become appropriate for the academic supervisor to have students express their thoughts and any concerns relating to the manner of the client experience in their diaries as a reflective memo.³⁴

Addressing these concerns has strengthened the academic integrity of the program and provided appropriate checks and balances for students, university and community partners.

XI EXPERIENTIAL LEARNING, SERVICE LEARNING AND THE IMPACT FOR LAW ACADEMICS

The concept of experiential learning is itself not a new concept for a law school. In fact any law school that is involved with a clinical legal education or a practical legal training program will already be implementing such learning processes.³⁵ In the case where a law school has ventured into a field placement, law academics have an opportunity to enhance the learning processes for students.

As has been suggested by Seibel and Morton, a criminal law professor may teach in the classroom the concept of *mens rea* and discuss how the concept may apply. On the other hand, a clinical teacher may be able to teach the subtle aspects relating to the practical application of the concept. The field placement teacher may be able to discuss with students the fairness of the criminal justice system from the experiential point of view.³⁶

It is a natural extension of such an analysis to incorporate service learning as part of that process for law academics. A well-structured field placement can satisfy the underlying principle of service learning. The result is that law students not only obtain valuable practical experience and learn how lawyers work and function in practice but can be exposed to wider ramifications of law and society. The ATO Tax Help Centre program, being entrenched in a community setting, has been successful in exposing students to the

³⁴ Harold McDougall, 'Lawyering and Public Policy' (1998) 38 *Journal of Legal Education* 369, 386.

³⁵ Spencer, above n 3, 211–216.

³⁶ Robert Seibel and Linda Morton, 'Field Placement Programs: Practices, Problems and Possibilities' (1995–1996) 2 *Clinical Law Review* 413, 420.

issues surrounding the complexities of the tax system and the impact on low income earners. The same approach could be utilised in many other areas of the law curriculum such as property, contract law and professional responsibility and ethics.

Indeed it has been suggested in the literature that such experiential learning is the key to the education of a responsible lawyer. The experience allows for students to 'gain a deeper understanding of lawyering as a human enterprise in which human interests and values are taken to be of primary importance'.³⁷ This may not be the case for all students but there would appear to be sufficient evidence to indicate that it does occur for some students.³⁸ On that basis, it is critical that law academics do seize the opportunities for students to become actively involved in experiential learning programs and particularly service learning programs as part of the teaching in the LLB degree.

XII CONCLUSION

The service learning experience for those students studying taxation law is only the tip of the iceberg. The entire concept of service learning can provide enormous advantages for the teaching of various legal units in a LLB Program. It is a question of ensuring that an academic committed to the process takes appropriate ownership. It will then require identification of various community partners to ensure opportunities arise for students to actively participate in the process. Only then will we be able to achieve the combined service objectives (community involvement) and learning objectives (academic).

³⁷ Homer La Rue, 'Developing an Identity of Responsible Lawyering Through Experiential Learning' (1991-1992) 43 *Hasting Law Journal* 1147, 1148.

³⁸ *Ibid* 1149.